

## **City Commission Meeting**

**City Hall, Commission Chambers, 3rd Floor, 1700 Convention Center Drive**

**March 18, 2009**

Mayor Matti Herrera Bower  
Vice-Mayor Edward L. Tobin  
Commissioner Victor M. Diaz, Jr.  
Commissioner Saul Gross  
Commissioner Jerry Libbin  
Commissioner Deede Weithorn  
Commissioner Jonah Wolfson

City Manager Jorge M. Gonzalez  
City Attorney Jose Smith  
City Clerk Robert E. Parcher

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### **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.**

### **REGULAR AGENDA**

#### **R2 - Competitive Bid Reports**

- R2A Request For Approval To Award A Contract To Horizon Contractors, Inc., Pursuant To Invitation To Bid 28-07/08, For Construction Services For Water Mains, Sanitary Sewer Mains, Milling, And Resurfacing Improvements Along Indian Creek Drive Between 26<sup>th</sup> And 41<sup>st</sup> Streets, Based On A Total Lump Sum Bid Of \$4,289,725.40. (Page 176)  
(Public Works)

**R5 - Ordinances**

- R5A Application Requirement For Appointment To A Land Use Board  
An Ordinance Amending The Land Development Regulations Of The Miami Beach City Code, Chapter 118, "Administration And Review Procedures", Article II, "Boards," Division 1 "Generally," By Creating A New Section 118-32, "Application Requirement For Land Use Boards" To Require The Filing Of An Application For Membership On Any Of The Four Land Use Boards Not Less Than Ten Days Before Appointment, Providing For Waiver By The City Commission; And Providing For Repealer, Severability, Codification, And An Effective Date. **10:15 a.m. Second Reading Public Hearing** (Page 187)  
(Planning Department)  
(First Reading on February 25, 2009)
- R5B Accessory Bars And Restaurants In RPS Districts  
An Ordinance Amending The Code Of The City Of Miami Beach, By Amending Chapter 142, "Zoning Districts And Regulations," Article II, "District Regulations", Division 18, "PS Performance Standard District," Section 142-693 "Permitted Uses", By Restricting The Size Of Bars And Restaurants As Accessory Use To A Main Permitted Use In The R-PS1, R-PS2, R-PS3 And R-PS4 Zoning Districts; Providing For Repealer, Severability, Codification And An Effective Date. **10:20 a.m. Second Reading Public Hearing** (Page 194)  
(Planning Department)  
(First Reading on February 25, 2009)
- R5C An Ordinance Amending Chapter 70 Of The Miami Beach City Code Entitled "Miscellaneous Offenses"; By Amending Article III Entitled "Graffiti"; By Amending Division I, Entitled "Generally"; By Amending Section 70-121 Entitled "Reserved" To Provide Provisions Declaring Graffiti A Nuisance; By Amending Section 70-122 Entitled "Definitions" To Provide Additional And Amended Definitions Relative To Graffiti; By Amending Section 70-123 Entitled "Prohibitions" By Amending The Acts Prohibited And Amending Enforcement And Penalty Provisions; By Amending Section 70-124 Entitled "Possession Of Spray Paint And Markers" By Amending Enforcement And Penalty Provisions; By Amending And Renumbering Section 70-125 Entitled "Graffiti Declared A Nuisance" By Moving Said Section To Section 70-121; By Amending And Renumbering Section 70-126 Entitled "Responsibility Of Property Owner(s); Graffiti Removal And Notice" By Amending The Responsibilities Of Property Owners With Regard To The Removal Of Graffiti And Amending Enforcement Provisions; By Amending And Renumbering Section 70-127 Entitled "Appeal" By Providing For Penalty And Lien Provisions; By Amending And Renumbering Section 70-128 Entitled "Cost Of Graffiti Removal As Lien On Property, Collection; Foreclosure And Sale" By Amending City Lien Procedures; By Renumbering Section 70-129 Entitled "Interested Persons May Petition To Dispute Assessed Costs"; By Renumbering Sections 70-130 Through 70-145, Entitled "Reserved;" By Amending Division II Entitled "Spray Paint, Broad-Tipped Indelible Markers" By Amending Section 70-146, Entitled "Sale Prohibited," And Section 70-147, Entitled "Signs Required," By Adding Etching Acid To The Items Prohibited For Sale To Minors And Signage Requirements; By Amending Section 70-148, Entitled "Penalties; Procedures For Administration," By Amending The Enforcement And Penalty Provisions; Providing For Repealer; Severability; Codification; And An Effective Date. **First Reading**  
(Page 207)  
(City Manager's Office)

**R5 - Ordinances** (Continued)

R5D Green Building Ordinance

An Ordinance Amending The City Code Of The City Of Miami Beach, By Creating New Chapter 100, Entitled "Sustainability," By Creating New Article I, "Green Building Ordinance," Establishing Definitions, Standards, Procedures And Incentives Providing For Property Owner Voluntary Participation, And City Mandatory Participation, In The LEED Certification Program As Established By The U.S. Green Building Council Or Other Recognized Rating System, For New Construction Or Substantial Renovations As Provided In The Ordinance, Providing For A Bond To Guarantee Participation In The Program If A Property Owner Receives Incentives, And Procedures For Use Of The Bond For Failure To So Participate; Providing For Repealer; Severability; Codification; And An Effective Date. **First Reading** (Page 226)  
(City Manager's Office)

R5E Amend "Standard Of Conduct" For Public Officers & Employees (Page 259)

1. An Ordinance Amending Miami Beach City Code Chapter 2, Article VII Thereof, By The Addition Of City Code Section 2-450.1 To Be Entitled "Prohibited Conflicting Employment Or Contractual Relationships Of Mayor And City Commissioners," Prohibiting Said Elected Officials From Directly Or Indirectly Having An Employment Or Contractual Relationship With Any City Vendor, Bidder Or Proposer, Establishing Definitions, Waiver Of Prohibition And Prospective Application; Providing For Repealer; Severability; Codification; And An Effective Date. **First Reading**
2. An Ordinance Amending Miami Beach City Code Chapter 2, Article VII, Section 2-458 Thereof Entitled "Supplemental Abstention And Disclosure Requirements" By Requiring Public Officials To Disclose Compensation Received From Individuals Who Are The Subject Of Conflicting Relationships, Said Disclosures To Be Made From Original Date Of Election/ Appointment Of Public Official; Providing For Repealer; Severability; Codification; And An Effective Date. **First Reading**  
(Requested by Commissioner Jonah Wolfson)

R5F An Ordinance Amending Miami Beach City Code Chapter 2, Article VII, Division 2 Entitled "Officers, Employees And Agency Members," Section 2-459 Entitled "Certain Appearances Prohibited," By Amending Subsection (B) Thereof Establishing This Code Section's Exclusion For Lobbyists Who Represent Non-Profit Entities Without Special Compensation By Narrowing This Exclusion To Only Certain Representatives Of Non-Profit Entities; Providing For Repealer, Severability, Codification, And An Effective Date. **First Reading** (Page 265)  
(Requested by Commissioner Victor M. Diaz, Jr.)

**R7 - Resolutions**

R7A A Resolution Granting A Certificate Of Appropriateness For The Demolition Of The Flamingo Park Tennis Center And Courts, Located At 1200 Meridian Avenue. **10:20 a.m. Public Hearing**  
(Page 269)  
(Capital Improvement Projects)  
(Continued from February 25, 2009)

**R7 - Resolutions** (Continued)

- R7B A Resolution Approving On Second And Final Reading Subsequent To Duly Noticed Public Hearing, La Gorce Country Club's Request (And Related City Application) For Vacation Of A Portion Of West 57<sup>th</sup> Street Easterly Of Alton Road In The City Of Miami Beach, Waiving The Application Fee And Waiving By 5/7ths Vote The Competitive Bidding And Appraisal Requirements Pursuant To City Code Section 82-39, Finding Such Waiver To Be In The Best Interest Of The City, And Further Authorizing The Mayor And City Clerk To Execute Any And All Documents To Effectuate This Vacation, Including A Quit Claim Deed And Utility Easement. **10:30 a.m. Second Reading Public Hearing**  
(Page 274)

(City Attorney's Office)  
(First Reading on February 25, 2009)

- R7C A Resolution Approving On First Reading, A Lease Agreement Between The City And Moon Thai South Beach, Inc., For The Lease Of Approximately 2216 Square Feet Of City Owned Property, Located At 22 Washington Avenue, Miami Beach, Florida, For The Purpose Of An Outdoor Café Associated With A Restaurant Operation Located At 816 Commerce Street, Which Is Directly Adjacent To And West Of The Subject City Property; Said Lease Having An Initial Term Of Five Years, With An Option To Renew For Four Years And 364 Days, At The City's Sole Discretion; Waiving By 5/7ths Vote, The Competitive Bidding And Appraisal Requirements, As Required By Section 82-39 Of The Miami Beach City Code; Further Setting A Public Hearing On April 22, 2009, For The Second Reading (And Final Approval) Of The Lease Agreement. **First Reading**  
(Page 291)

(Real Estate, Housing & Community Development)

- R7D A Resolution Approving A Roadway Configuration For 16<sup>th</sup> Street From Alton Road To Lenox Court That Consists Of No Parking On The North Side, Parking On The South Side, Two Travel Lanes, A Left Turn Lane, And Bike Lanes, Which Best Supports The Goals Established In The Approved 16<sup>th</sup> Street Operational Improvement And Enhancement Project Basis Of Design Report And Which Was Presented At The Neighborhoods/Community Affairs Committee On January 21, 2009. (Page 302)

(Public Works)  
(Deferred from February 25, 2009)

- R7E A Resolution Approving The City's Planned Use Of And Related Application For Neighborhood Stabilization Program (NSP) Funds, In The Amount Of \$2,545,511, To Purchase And Rehabilitate, As Necessary, One Or More Foreclosed Or Abandoned Multi-Family Buildings In The City Of Miami Beach As Determined By The City's Greatest Need, To Be Made Available As Rental Properties For Income Qualified Households In Accordance With NSP Rules, As Promulgated By The Florida Department Of Community And The United States Department Housing And Urban Development.  
(Page 325)

(Real Estate, Housing & Community Development)

**R7 - Resolutions** (Continued)

- R7F A Resolution Approving On First Reading, In Accordance With The Requirements Of Sections 163.3220 – 163.3243, Florida Statutes, Also Referred To As The “Florida Local Government Development Act,” A Second Addendum (“Second Addendum”) To The Development Agreement Between The City Of Miami Beach (“City”) And The New World Symphony (“NWS”), Dated January 5, 2004 (The Development Agreement), As Amended By That Certain First Addendum To Development Agreement, Dated February 20, 2007 (The First Addendum) (Collectively, The January 5, 2004 Development Agreement And The First Addendum May Also Collectively Be Referred To As The “NWS Development Agreement”); Said Second Addendum Providing For The Following: 1) Approval Of The Final Garage Budget, In The Amount Of \$16,798,000; 2) Amending The Preliminary Park Project Budget From \$14,960,000, To \$13,372,000; 3) Deleting The Reference In The First Addendum Specifying Gehry Partners, LLC, As The Architectural Consultant For The Park Project, And Also Waiving The Requirement Under Section 26.20 Of The Development Agreement (“Key Man” Clause) And Section 9 Of The First Addendum But Only As It Pertains To Gehry Partners, LLC’s Participation As The Architectural Consultant For The Park Project; 4) Authorizing NWS To Proceed With The Selection Of A New Architectural Consultant And/Or Architectural Engineering (A/E) Firm For The Design Of The Park Project, With NWS’s Selection Process Therefore Subject To The Prior Written Approval Of The City Manager (Prior To Implementation By NWS); 5) In Conjunction With The City Commission’s Future Consideration And Review Of The Park Project Concept Plan, Directing NWS To Also, At That Time, Bring To The City Commission, For Review And Consideration, The Pending Issue Of Whether To Add Certain Architectural Treatments (As Discussed At The City’s Finance Committee Meeting On March 10, 2009 And Including, Without Limitation, The Stainless Steel Mesh And Led Lighting) For The East Façade Elevation Of The NWS Garage, With The Final Decision On Whether To Add Such Treatments To Be Subject To The Approval Of The City Commission At That Time; 6) Amending Section 23.2.1 Of The Development Agreement (“Garage”) Deleting The Reference That The NWS Garage Accommodate Approximately 320 Cars And, Further, Amending The Definition Of “Garage” In Section 2(J) Of The First Addendum To Include That The Garage, As Contemplated By The Parties, Shall Contain Approximately 535 Spaces (But No Less Than 520 Spaces) And Shall Be Designed, Developed, And Constructed By Developer In Accordance And Consistent With That Certain Order Of The City’s Design Review Board (File No. 22010), Approved On March 3, 2009; And 7) That The Final Garage Budget Will Not Include Funding For The Two (2) Elevators In The Middle Of The Garage (On The East Side), And Having A Construction Value Of \$275,000, Which Have Been Designed To Primarily Access NWS’ Building, However, Said Elevators Will Be Included In The Garage And Funded At The Sole Cost And Expense Of NWS; And Further Authorizing NWS To Proceed With Design And Engineering Of The Garage Upon Approval Of First Reading Of The Second Amendment Of The Development Agreement. **11:00 a.m. First Reading Public Hearing**

(Page 346)

(City Manager’s Office)

**R9 - New Business and Commission Requests**

- R9A Board And Committee Appointments. (Page 369)  
(City Clerk's Office)
- R9A1 Board And Committee Appointments - City Commission Appointments. (Page 373)  
(City Clerk's Office)
- R9B1 Dr. Stanley Sutnick Citizen's Forum. (1:30 p.m.) (Page 391)  
R9B2 Dr. Stanley Sutnick Citizen's Forum. (5:30 p.m.)
- R9C Discussion Regarding A Resolution Approving The Issuance Of Revocable Permits To Applicants Wishing To Display The Rainbow/Pride Flag During The Month Of April 2009, In Support Of The City Of Miami Beach's First Ever, Annual Gay Pride Event, Which Will Be Held In The City On April 18th, 2009; Provided Further That The Display Of Such Flag(s) Shall Comply With The Requirements Of Section 138-72 Of The City Code (Which Requirements Are Also Attached And Incorporated As Exhibit "A" To This Resolution); And Provided Further That The Term Of Said Permit Shall Automatically Expire On April 30th, 2009. (Page 393)  
(Requested by Commissioner Victor M. Diaz, Jr.)
- R9D Discussion Regarding A Resolution Authorizing The City Administration And City Attorneys Office To Prepare An Ordinance Making The Mayor's Gay Business Development Committee, Which Is Currently An Ad Hoc Committee, Into A Standing City Committee, To Be Known As The City Of Miami Beach Gay, Lesbian, Bisexual And Transgender (GLBT) Community Relations Committee; Further Including The Initial Terms For Establishment, As Set Forth In This Resolution; And Extending The Duration Of The Mayor's Gay Business Development Committee (Commencing Retroactively On March 15, 2009) Until Such Time As The Mayor And City Commission Approve The Ordinance Establishing The GLBT Community Relation Committee On Second And Final Reading.  
(Page 397)  
(Requested by Mayor Matti Herrera Bower)
- R9E Discussion Regarding A Consideration To Cancel The Parking Contract Issued To Impark.  
(Page 401)  
(Requested by Commissioner Jerry Libbin)  
(Deferred from March 2, 2009)

**R10 - City Attorney Reports**

- R10A Notice of Closed Executive Session. (Page 403)  
Pursuant To Section 447.605, Florida Statutes, A Closed Executive Session Will Be Held During Recess Of The City Commission Meeting On Wednesday, March 18, 2009 In The City Manager's Large Conference Room, Fourth Floor, City Hall, For A Discussion Relative To Collective Bargaining.

**Reports and Informational Items**

- A City Attorney's Status Report. (Page 405)  
(City Attorney's Office)
- B Parking Status Report - January 2009. (Page 415)  
(Parking Department)
- C Status Report Of The Normandy Shores Golf Course Club House. (Page 435)  
(Capital Improvement Projects)
- D Informational Report To The Mayor And City Commission, On Federal, State, Miami-Dade County,  
U.S. Communities, And All Existing City Contracts For Renewal Or Extensions In The Next 180 Days.  
(Page 437)  
(Procurement)
- E Non-City Entities Represented By City Commission:
1. Minutes From The Miami-Dade County Tourist Development Council Meeting On November  
6, 2008. (Page 439)  
(Requested by Mayor Matti Herrera Bower)
  2. Minutes From The Bicycle/Pedestrian Advisory Committee Of The Metropolitan Planning  
Organization For The Miami Urbanized Area Meeting On January 28, 2009. (Page 451)  
(Requested by Mayor Matti Herrera Bower)

**End of Regular Agenda**



## HOW A PERSON MAY APPEAR BEFORE THE CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA

THE REGULARLY SCHEDULED MEETINGS OF THE CITY COMMISSION ARE ESTABLISHED BY RESOLUTION. SCHEDULED MEETING DATES ARE AVAILABLE ON THE CITY'S WEBSITE, DISPLAYED ON CABLE CHANNEL 77, AND ARE AVAILABLE IN THE CITY CLERK'S OFFICE. COMMISSION MEETINGS COMMENCE NO EARLIER THAN 9:00 A.M. GENERALLY THE CITY COMMISSION IS IN RECESS DURING THE MONTH OF AUGUST.

1. DR. STANLEY SUTNICK CITIZENS' FORUM will be held during the first Commission meeting each month. The Forum is split into two (2) sessions, 1:30 p.m. and 5:30 p.m., or as soon as possible thereafter, provided that the Commission Meeting has not already adjourned prior to the time set for either session of the Forum. In the event of adjournment prior to the Stanley Sutnick Citizens' Forum, notice will be posted on Cable Channel 77, and posted at City Hall. Approximately thirty (30) minutes will be allocated for each session, with individuals being limited to no more than three (3) minutes or for a time period established by the Mayor. No appointment or advance notification is needed in order to speak to the Commission during this Forum.
2. Prior to every Commission meeting, an Agenda and backup material are published by the Administration. Copies of the Agenda may be obtained at the City Clerk's Office on the Monday prior to the Commission regular meeting. The complete Agenda, including all backup material, is available for inspection beginning the Monday prior to the Commission meeting at the City Clerk's Office and at the following Miami Beach Branch Libraries: Main, North Shore, and South Shore. The information is also available on the City's website: [www.miamibeachfl.gov](http://www.miamibeachfl.gov) the Friday prior to a Commission Meeting.
3. Any person requesting placement of an item on the Agenda must provide a written statement with his/her complete address and telephone number to the Office of the City Manager, 1700 Convention Center Drive, 4th Floor, Miami Beach, FL 33139, briefly outlining the subject matter of the proposed presentation. In order to determine whether or not the request can be handled administratively, an appointment may be scheduled to discuss the matter with a member of the City Manager's staff. "Requests for Agenda Consideration" will not be placed on the Agenda until after Administrative staff review. Such review will ensure that the issue is germane to the City's business and has been addressed in sufficient detail so that the City Commission may be fully apprised. Such written requests must be received in the City Manager's Office no later than noon on Tuesday of the week prior to the scheduled Commission meeting to allow time for processing and inclusion in the Agenda package. Presenters will be allowed sufficient time, within the discretion of the Mayor, to make their presentations and will be limited to those subjects included in their written requests.
4. Once an Agenda for a Commission Meeting is published, persons wishing to speak on item(s) listed on the Agenda, other than public hearing items and the Dr. Stanley Sutnick Citizens Forum, should call or come to City Hall, Office of the City Clerk, 1700 Convention Center Drive, telephone 673-7411, before 5:00 p.m., no later than the day prior to the Commission meeting and give their name, the Agenda item to be discussed, and if known, the Agenda item number.
5. All persons who have been listed by the City Clerk to speak on the Agenda item in which they are specifically interested, and persons granted permission by the Mayor, will be allowed sufficient time, within the discretion of the Mayor, to present their views. When there are scheduled public hearings on an Agenda item, IT IS NOT necessary to register at the City Clerk's Office in advance of the meeting. All persons wishing to speak at a public hearing may do so and will be allowed sufficient time, within the discretion of the Mayor, to present their views.
6. If a person wishes to address the Commission on an emergency matter, which is not listed on the Agenda, there will be a period allocated at the commencement of the Commission Meeting when the Mayor calls for additions to, deletions from, or corrections to the Agenda. The decision as to whether or not the matter will be heard, and when it will be heard, is at the discretion of the Mayor. On the presentation of an emergency matter, the speaker's remarks must be concise and related to a specific item. Each speaker will be limited to three minutes, or for a longer or shorter period, at the discretion of the Mayor.

**2009 Schedule of City of Miami Beach  
City Commission and Redevelopment Agency (RDA) Meetings**

Meetings begin at 9:00 a.m., and are held in the City Commission Chambers, Third Floor, City Hall, 1700 Convention Center Drive, Miami Beach, Florida.

**CITY COMMISSION MEETINGS**

January 28 (Wednesday)

February 25 (Wednesday)

March 18 (Wednesday)

April 22 (Wednesday)

May 13 (Wednesday)

June 3 (Wednesday)

July 15 (Wednesday)

August - City Commission in Recess

September 9 (Wednesday)

October 14 (Wednesday)

November 4\* (Wednesday)

December 9 (Wednesday)

**ALTERNATE MEETINGS**

No alternate meeting scheduled

No alternate meeting scheduled

March 25 (Wednesday)

April 29 (Wednesday)

May 20 (Wednesday)

No alternate meeting scheduled

July 22 (Wednesday)

September 16 (Wednesday)

October 21 (Wednesday)

November 18\* (Wednesday)

December 16 (Wednesday)

\* Election related meeting

The "alternate" City Commission meeting dates have been reserved to give the Mayor and City Commission the flexibility to carry over a Commission Agenda item(s) to the "alternate" meeting date, if necessary. Any Agenda item(s) carried over will be posted on the City's website, aired on MBTV 77, or you may call the City Clerk's Office at 305-673-7411.

Dr. Stanley Sutnick Citizens' Forum will be held during the first Commission meeting each month. The Forum will be split into two (2) sessions, 1:30 p.m. and 5:30 p.m. Approximately thirty (30) minutes will be allocated per session for each of the subjects to be considered, with individuals being limited to no more than three (3) minutes. No appointment or advance notification is needed in order to speak to the Commission during the Forum.



## CITY CLERK'S OFFICE LOBBYISTS LIST REPORT

March 18, 2009

ITEM NO	LOBBYIST NAME	DATE REGISTERED	DISCLOSURE
<b>R5B</b> Accessory Bards And Restaurants In RPS Districts 10:20 a.m. 2 <sup>nd</sup> Rdg			
	<b>Neisen Kasdin</b>	<b>02/12/2008</b>	<b>\$495/hour</b>
<b>R7F</b> 1 <sup>st</sup> Rdg, Approve 2 <sup>nd</sup> Addendum to the Development Agreement w/ New World Symphony			
	<b>Mark Alhadeff</b>	<b>09/25/2006</b>	<b>\$400/hour</b>
	<b>Patricia Welles</b>	<b>09/25/2006</b>	<b>\$400/hour</b>
<b>R9E</b> Discuss: Consideration to Cancel the Parking Contract Issued to Impark			
	<b>Mitchell A. Bierman</b>	<b>03/04/2009</b>	<b>\$450/hour</b>
	<b>Chester Escobar</b>	<b>03/05/2009</b>	<b>\$0</b>
	<b>Esteban Ferreiro</b>	<b>03/02/2009</b>	<b>\$7,500 flat fee</b>
	<b>Teye Kutasi</b>	<b>03/10/2009</b>	<b>\$22,500 flat fee</b>
<b>C</b> Status Report of the Normandy Shores Golf Course Club House			
	<b>Carlos Gimenez</b>	<b>02/24/2008</b>	<b>\$350/hour</b>

**Condensed Title:**

Request for Approval to Award a Contract to Horizon Contractors, Inc., Pursuant to Invitation to Bid No. 28-07/08, for Construction Services for Water Mains, Sanitary Sewer Mains, Milling, and Resurfacing Improvements along Indian Creek Drive between 26<sup>th</sup> and 41<sup>st</sup> Streets, Based on a Total Lump Sum of \$4,289,725.40.

**Key Intended Outcome Supported:**

Ensure Well-maintained infrastructure and ensure Well-designed quality capital projects

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

According to the City's 2007 Community Satisfaction Survey, 48% and 37% of City residents and businesses respectively believe that the City's road conditions are is either "good" or "excellent."

**Issue:**

Shall the City Commission approve the award of the contract?

**Item Summary/Recommendation:**

On October 31, 2007, the City entered into a joint partnership agreement with the Florida Department of Transportation (FDOT) for the construction of roadway improvements along Indian Creek Drive between 26<sup>th</sup> and 41<sup>st</sup> Streets. The work specified in this bid consists of furnishing all labor, machinery, tools, means of transportation, supplies, equipment, materials, services necessary for the construction work along Indian Creek Drive between 26<sup>th</sup> and 41<sup>st</sup> Streets.

The work under this Project includes, but is not limited to: Installing approximately 4,558 linear feet of 12-inch, 1,600 linear feet of 8-inch, 246 linear feet of 16-inch, 208 linear feet of 6-inch, and 80 linear feet of 4-inch ductile iron pipe and fittings; furnishing and installing approximately 3,160 linear feet of 30-inch and 260 linear feet of 24-inch PVC pipe and fittings for gravity sewers; furnishing and installing pre-cast concrete manholes with frames and covers; milling and resurfacing approximately 20,494 square yards of road, 1,213 square yards of sidewalk, 412.5 linear feet of guardrail; introduction of bulbs-outs and trench drains to facilitate the construction of pedestrian ramps to comply with ADA standards, upgrade existing pedestrian features at the signalized intersections with count-down pedestrian signal heads; upgrade the existing signing and pavement markings; traffic control; and all appurtenant and miscellaneous work for a complete project.

It is the intent of the City to obtain a complete functional and satisfactory installation under this project, and any items of labor, equipment or materials which may be reasonably assumed as necessary to accomplish this end shall be supplied whether or not they are specifically shown on the plans or stated in the specifications. The contractor shall provide all sheeting, shoring, bracing and all other labor, material or equipment required to preclude damage to, or loss of functionality of, any existing facility or system.

On January 20, 2009, the Committee convened, evaluated, and ranked the companies. The Committee discussed their individual perceptions of each prospective Proposer's qualifications, experience, and competence, and ranked the firms accordingly. Horizon Contractors, Inc. was unanimously selected as the best proposer.

On March 10, 2009, the Administration met with Horizon Contractors, Inc. to review Horizon's bid and reaffirm their base bid price. Horizon Contractors, Inc. confirmed it was confident in its base bid price and noted that the project shall also be completed on schedule prior to the 2010 Boat Show. The Administration also reviewed the past performance surveys for each company submitted to the Procurement Division, including Horizon Contractors, Inc., and determined that Horizon's past performance does not demonstrate any instances of project defaults or any other negative indicators.

**Advisory Board Recommendation:**

**Financial Information:**

Source of Funds:	Amount	Account	Approved	
	1	\$1,822,732.94	PW 423-2580-065357 WW – W&S (Gulf Breeze 2006)	
	2	\$1,501,000.00	PW 303-2521-069357 – Grant Funded – Capital Projects	
	3	\$895,554.06	PW 423-2949-069357 – W&S (Gulf Breeze 2006)	
	4	\$499,411.00	PW 424-2521-069357 – W&S Bond 2000	
<b>OBPI</b>	<b>Total</b>	<b>\$4,718,698.00</b>	(Includes set aside contingency of 10%)	

**Financial Impact Summary:**

**City Clerk's Office Legislative Tracking:**

Fernando Vazquez, ext. 6399

**Sign-Offs:**

Department Director		Assistant City Manager		City Manager
GL	RCM 	TH	PDW 	JMG 

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# MIAMI BEACH

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

## COMMISSION MEMORANDUM

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

FROM: Jorge M. Gonzalez, City Manager

DATE: March 18, 2009

SUBJECT: **REQUEST FOR APPROVAL TO AWARD A CONTRACT TO HORIZON CONTRACTORS, INC., PURSUANT TO INVITATION TO BID 28-07/08, FOR CONSTRUCTION SERVICES FOR WATER MAINS, SANITARY SEWER MAINS, MILLING, AND RESURFACING IMPROVEMENTS ALONG INDIAN CREEK DRIVE BETWEEN 26<sup>TH</sup> AND 41<sup>ST</sup> STREETS, BASED ON A TOTAL LUMP SUM BID OF \$4,289,725.40.**

### ADMINISTRATION RECOMMENDATION

Approve the award of contract.

### KEY INTENDED OUTCOMES SUPPORTED

Ensure well-maintained infrastructure  
Ensure well-designed quality capital projects

### FUNDING

\$1,822,732.94	PW 423-2580-065357 WW – Water and Sewer (Gulf Breeze 2006)
\$1,501,000.00	PW 303-2521-069357 – Grant Funded – Capital Projects
\$895,554.06	PW 423-2949-069357 – Water and Sewer (Gulf Breeze 2006)
\$499,411.00	PW 424-2521-069357 – Water and Sewer Bond 2000
<b>\$4,718,698.00</b>	<b>Total (includes set aside contingency of 10%)</b>

### ANALYSIS

On October 31, 2007, the City entered into a joint partnership agreement with the Florida Department of Transportation (FDOT) for the construction of roadway improvements along Indian Creek Drive between 26<sup>th</sup> and 41<sup>st</sup> Streets. FDOT provided the scope of services and the construction plans prepared by the Corradino Group. As part of this agreement, FDOT is providing \$1,501,000 towards project costs.

The work specified in this bid consists of furnishing all labor, machinery, tools, means of transportation, supplies, equipment, materials, services necessary for the construction work on the Water Mains, Sanitary Sewer Mains, and Milling and Resurfacing Improvements along Indian Creek Drive between 26<sup>th</sup> and 41<sup>st</sup> Streets.

The work under this Project includes, but is not limited to: Installing approximately 4,558 linear feet of 12-inch, 1,600 linear feet of 8-inch, 246 linear feet of 16-inch, 208 linear feet of 6-inch, and 80 linear feet of 4-inch ductile iron pipe and fittings; furnishing and installing approximately 3,160 linear feet of 30-inch and 260 linear feet of 24-inch PVC pipe and fittings for gravity sewers; furnishing and installing pre-cast concrete manholes with frames and covers; milling and resurfacing approximately 20,494 square yards of road, 1,213 square yards of sidewalk, 412.5

linear feet of guardrail; introduction of bulbs-outs and trench drains to facilitate the construction of pedestrian ramps to comply with ADA standards, upgrade existing pedestrian features at the signalized intersections with count-down pedestrian signal heads; upgrade the existing signing and pavement markings; traffic control; and all appurtenant and miscellaneous work for a complete project.

It is the intent of the City to obtain a complete functional and satisfactory installation under this project, and any items of labor, equipment or materials which may be reasonably assumed as necessary to accomplish this end shall be supplied whether or not they are specifically shown on the plans or stated in the specifications.

The contractor shall provide all sheeting, shoring, bracing and all other labor, material or equipment required to preclude damage to, or loss of functionality of, any existing facility or system.

### **BID PROCESS**

ITB No. 28-07/08 was issued on June 26, 2008, with an opening date of December 5, 2008. Pre-bid conferences were held on July 10 and August 7, 2008.

BidNet and RFPDepot issued bid notices to 64 and 2,011 prospective proposers respectively, which resulted in the receipt of following five (5) bids:

1. Central Florida Equipment Rentals, Inc.
2. Horizon Contractors, Inc.
3. Lanzo Construction Company Florida
4. MCM Corp.
5. Ric-Man International, Inc.

Central Florida Equipment Rentals, Inc. was disqualified for failing to provide proof of FDOT certification for underground utility work.

As a result, the following is a bid tabulation of all responsive bidders:

<b>Company</b>	<b>Grand Total Bid</b>
Horizon Contractors, Inc.	\$ 4,289,725.40
Ric-Man International, Inc.	\$ 5,439,380.60
MCM Corp.	\$ 5,798,247.91
Lanzo Construction Co. Florida	\$ 5,815,052.05

The Technical Review Committee ("the Committee") met on January 20, 2009 and evaluated and ranked the companies based on the following criteria:

- **10 Points** – Risk Assessment Plan/Value Added Submittals
- **10 Points** – Past performance evaluation surveys
- **30 Points** – Presentation and interview of key personnel
- **50 Points** – Base Bid Price

The Committee discussed their individual perceptions of each prospective Proposer's qualifications, experience, and competence, and ranked the firms accordingly. Horizon Contractors, Inc. was unanimously selected as the best proposer as demonstrated below:

On March 10, 2009, the Administration, including the Special Assistant to the City Manager from

the City Manager's office, met with Horizon Contractors, Inc. to review Horizon's bid and reaffirm their base bid price. Horizon Contractors, Inc. confirmed it was confident in its base bid price and noted that the project shall also be completed on schedule prior to the 2010 Boat Show. The Administration also reviewed the past performance surveys for each company submitted to the Procurement Division, including Horizon Contractors, Inc., and determined that Horizon's past performance does not demonstrate any instances of project defaults or any other negative indicators.

Horizon Contractors, Inc.

Horizon Contractors, Inc. was incorporated in 1993 and holds the following licensing:

- State of Florida General Contractor: CGC008543
- State of Florida Underground Utility & Excavation Construction: CUC1224022
- Miami-Dade County Engineering Contractor: E-874

Horizon Contractors, Inc. is also approved by FDOT for the following work classes:

- Debris Removal
- Drainage
- Flexible Paving
- Hot Plant-Mixed Bitum
- Courses
- Underground Utilities

The Project Manager, Xavier Salvat, has three (3) years of experience as a project manager with Horizon Contractors, Inc. He has managed several heavy roadway construction projects which involved drainage, roadway, signalization, concrete, maintenance of traffic, and sanitary sewer facilities (see resume attached).

The Superintendent, Michael Serrano, has almost eight (8) years of experience with Horizon Contractors, Inc. overseeing half of all of their projects. Prior experience consists of multiple assignments of various sewer and water line improvements undertaken in a variety of neighborhoods throughout Miami-Dade County. He has extensive experience in supervising and organizing work crews on several projects. He is currently managing the City of Miami Beach Normandy Isles project currently in progress (see resume attached).

**CITY MANAGER'S REVIEW**

After considering the review and recommendation of City staff, the City Manager exercised his due diligence which included the review and input from the Special Assistant to the City Manager who reviewed the cost proposal and qualifications of the contractor. His review concurred with that of the Technical Review Panel, therefore the City Manager is recommending to the Mayor and City Commission the bid that the City Manager deems to be in the best interest of the City.

**CONCLUSION**

It should be noted that the City's regular process of considering the price for projects and its standard process for bidding construction projects has resulted in a price that is reflective of the current market. At present, it appears that the market is very competitive and that the City will continue to receive bids that are lower than those received in the past year or so. The public

procurement process, which is an open and competitive, transparent process, has again served the City to provide a competitive price for this project, as it has in the past.

The Administration recommends the award of contract to Horizon Contractors, Inc., pursuant to Invitation to Bid 28-07/08, for construction services for water mains, sanitary sewer mains, milling, and resurfacing improvements along Indian Creek Drive between 26<sup>th</sup> and 41<sup>st</sup> Streets, based on a total lump sum of \$4,289,725.40. The Administration has allocated as part of the total appropriation for the project, ten percent (10%) of the contract value (\$428,972.60), as a contingency to address any equitable adjustments in the contract resulting from any unforeseen field changes or additional warranted work incurred to successfully complete the contract. The total budgeted amount including the 10% contingency is \$4,718,698.00.

**CITY OF MIAMI BEACH**  
**WATER MAINS, SANITARY SEWER MAINS AND MILLING AND RESURFACING ALONG INDIAN CREEK**  
**DRIVE BETWEEN 26TH AND 42ND STREETS**

SUMMARY OF ITEMS WATER MAIN (UPDATED 10/08)						
ITEM #	ITEM DESCRIPTION	UNIT	HORIZON	LANZO	MCM*	RIC-MAN
1	BARRIER 1 SIDE (SHT 4-10)	LF	\$ 18,996.00	\$ 50,656.00	\$ 95,518.22	\$ 43,000.00
2	BARRIER 2 SIDES (SHT 11-14)	LF	\$ 19,656.00	\$ 52,416.00	\$ 15,724.80	\$ -
3	BARRIER SIDE STREETS ( 14 EA) (ASSUME 1 SIDE) (SHT 15-21)	LF	\$ 7,536.00	\$ 20,096.00	\$ 68,263.60	\$ -
4	TRENCH SAFETY ACT	DA	\$ 27,600.00	\$ 21,160.00	\$ 38,697.96	\$ 7,000.00
5	MAINTENANCE OF TRAFFIC	DA	\$ 23,100.00	\$ 35,420.00	\$ 70,568.96	\$ 9,100.00
6	BARRICADE @ 6' OC (AVG PHASE LENGTH(916 LF) /6= 153 EA	DA	\$ 7,700.00	\$ 27,104.00	\$ 240.24	\$ 4,900.00
7	TRAFFIC LINES & MARKINGS (REMOVAL/TEMPORARY/NEW)	LF	\$ 6,388.00	\$ 38,328.00	\$ 6,004.72	\$ 2,800.00
8	SAW CUT	LF	\$ 127.76	\$ 25,552.00	\$ 1,405.36	\$ -
9	ASPHALT DEMO (@ 6' WIDE)	SY	\$ 4,259.00	\$ 63,885.00	\$ 31,297.00	\$ 13,183.80
10	EXCAVATION (6' WIDE X 7' DEEP)	CY	\$ 62,464.00	\$ 124,928.00	\$ 123,132.16	\$ -
11	BACKFILL	CY	\$ 35,916.00	\$ 197,538.00	\$ 331,055.73	\$ 42,924.00
12	LIME BASE	SY	\$ 84,330.00	\$ 93,700.00	\$ 187,212.60	\$ 104,244.00
13	1" ASPHALT	SY	\$ 31,304.00	\$ 35,776.00	\$ 75,089.00	\$ 58,136.00
14	DEWATERING	DA	\$ 9,200.00	\$ 76,268.00	\$ 38,697.96	\$ 9,100.00
15	REMOVE 6" WATER MAIN	LF	\$ 2,800.00	\$ 1,260.00	\$ 6,256.60	\$ -
16	16" DIP WM	LF	\$ 22,140.00	\$ 41,574.00	\$ 12,934.68	\$ -
17	16" 45 BEND	EA	\$ 3,600.00	\$ 4,444.00	\$ 3,785.64	\$ -
18	12" DIP WM	LF	\$ 218,784.00	\$ 546,960.00	\$ 234,873.74	\$ 597,270.00
19	12" 90 BEND	EA	\$ 600.00	\$ 665.00	\$ 552.07	\$ 1,600.00
20	12" 45 BEND	EA	\$ 24,650.00	\$ 35,380.00	\$ 28,970.42	\$ 87,000.00
21	12" 22-1/2 BEND	EA	\$ 3,400.00	\$ 4,880.00	\$ 3,995.92	\$ 12,000.00
22	12" 11-1/4 BEND	EA	\$ 850.00	\$ 1,210.00	\$ 998.98	\$ 3,000.00
23	12" X 12" TEE	EA	\$ 1,400.00	\$ 1,740.00	\$ 1,472.20	\$ 4,400.00
24	12" X 8" TEE	EA	\$ 10,200.00	\$ 12,801.00	\$ 10,010.96	\$ 30,800.00
25	12" X 6" TEE	EA	\$ 1,200.00	\$ 1,414.00	\$ 1,177.76	\$ 4,200.00
26	12" X 4" TEE	EA	\$ 500.00	\$ 689.00	\$ 567.85	\$ 2,100.00
27	12" X 8" REDUCER	EA	\$ 1,400.00	\$ 976.00	\$ 1,346.02	\$ 3,800.00
28	12" GATE VALVE	EA	\$ 3,000.00	\$ 2,400.00	\$ 2,418.60	\$ 3,800.00
29	12" BUTTERFLY VALVE	EA	\$ 35,000.00	\$ 23,500.00	\$ 24,186.00	\$ 34,100.00
30	12" X 16" TS&V	EA	\$ 22,000.00	\$ 13,450.00	\$ 12,618.78	\$ -
31	8" DIP WM	LF	\$ 56,000.00	\$ 256,000.00	\$ 94,224.00	\$ 174,400.00
32	8" GV	EA	\$ 57,600.00	\$ 46,240.00	\$ 43,744.96	\$ 46,000.00
33	8" X 6" REDUCER	EA	\$ 3,060.00	\$ 6,444.00	\$ 4,732.02	\$ 11,060.00
34	8" X 6" TEE	EA	\$ 2,700.00	\$ 3,474.00	\$ 3,501.72	\$ 6,720.00
35	8" X 6" 90 BEND	EA	\$ -	\$ 392.00	\$ -	\$ 960.00
36	8" X 8" TEE	EA	\$ 4,200.00	\$ 6,036.00	\$ 5,047.56	\$ 8,800.00
37	8" X 8" CROSS	EA	\$ 1,500.00	\$ 1,848.00	\$ 1,577.34	\$ 2,400.00
38	8" 90 BEND	EA	\$ 300.00	\$ 504.00	\$ 325.99	\$ 730.00
39	8" 45 BEND	EA	\$ 8,775.00	\$ 19,656.00	\$ 12,303.33	\$ 27,690.00
40	8" 22-1/2 BEND	EA	\$ 1,125.00	\$ 2,520.00	\$ 1,577.35	\$ 3,550.00
41	8" 11-1/4 BEND	EA	\$ 675.00	\$ 1,512.00	\$ 946.41	\$ 2,130.00
42	8" X 12" TAP SLEEVE	EA	\$ 9,000.00	\$ 11,738.00	\$ 3,290.02	\$ 13,600.00
43	6" DIP WM	LF	\$ 7,280.00	\$ 28,080.00	\$ 9,842.56	\$ 21,840.00
44	6" 90 BEND	EA	\$ 850.00	\$ 1,655.00	\$ 1,314.45	\$ 2,250.00
45	6" 45 BEND	EA	\$ 800.00	\$ 1,655.00	\$ 1,235.60	\$ 2,820.00
46	6" 11-1/4 BEND	EA	\$ -	\$ -	\$ -	\$ 470.00
47	6" X 6" TEE	EA	\$ 2,000.00	\$ 3,160.00	\$ 2,607.92	\$ 4,900.00
48	6" GV	EA	\$ 6,300.00	\$ 6,755.00	\$ 8,833.16	\$ 14,000.00
49	6" TIE IN TO XSTG	EA	\$ 330.00	\$ 10,520.00	\$ 31,546.96	\$ 8,800.00
50	CUT AND PLUG XTG WM	EA	\$ 800.00	\$ 4,658.00	\$ 6,309.40	\$ 5,600.00
51	4" DIP	LF	\$ 4,000.00	\$ 10,560.00	\$ 2,524.00	\$ 14,400.00
52	4" GATE VALVE	EA	\$ 650.00	\$ 908.00	\$ 1,051.57	\$ 1,100.00
53	4" X 4" TEE	EA	\$ 225.00	\$ 342.00	\$ 262.89	\$ 560.00
54	RECONNECT METER	EA	\$ 1,350.00	\$ 2,880.00	\$ 4,206.25	\$ 1,710.00
55	2" WATER MAIN POLYLINE	LF	\$ 3,300.00	\$ 10,340.00	\$ 4,626.60	\$ 6,380.00
56	CONNECT TO WM	EA	\$ 15,000.00	\$ 15,110.00	\$ 42,062.60	\$ 7,200.00

**CITY OF MIAMI BEACH**  
**WATER MAINS, SANITARY SEWER MAINS AND MILLING AND RESURFACING ALONG INDIAN CREEK**  
**DRIVE BETWEEN 26TH AND 42ND STREETS**

ITEM #	ITEM DESCRIPTION	UNIT	HORIZON	LANZO	MCM*	RIC-MAN
57	CONNECT TO FH	EA	\$ 48,000.00	\$ 41,600.00	\$ 50,475.20	\$ 48,000.00
58	REINF CONC. SLAB (6")	SF	\$ 640.00	\$ 16,480.00	\$ 2,524.00	\$ 20,608.00
59	SAMPLING POINTS	EA	\$ 4,000.00	\$ 9,024.00	\$ 1,682.56	\$ 6,720.00
60	WATER METERS 1"	EA	\$ 4,000.00	\$ 4,680.00	\$ 4,206.28	\$ 5,200.00
61	WATER METERS 2"	EA	\$ 2,500.00	\$ 1,972.00	\$ 3,154.70	\$ 1,200.00
62	AIR RELEASES VALVES -WS4 SHT 23	EA	\$ 1,400.00	\$ 12,530.00	\$ 4,206.26	\$ 3,000.00
63	RELO 6" GAS LINE	LS	\$ -	\$ 23,000.00	\$ 21,031.30	\$ -
64	ALL PIPE POLY WRAPPED	SF	\$ 25,545.00	\$ 38,317.50	\$ 53,644.50	\$ 17,881.50
65	12x6 CROSS	EA	\$ 1,400.00	\$ 715.00	\$ 1,183.02	\$ 4,800.00
66	8X6 CROSS	EA	\$ 2,000.00	\$ 776.00	\$ 867.54	\$ 7,800.00

<b>SUB-TOTAL</b>	<b>\$ 967,405.76</b>	<b>\$ 2,158,251.50</b>	<b>\$ 1,859,744.55</b>	<b>\$ 1,583,737.30</b>
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SUMMARY OF ITEMS SANITARY SEWER (UPDATED 10/08)						
ITEM #	ITEM DESCRIPTION	UNIT	HORIZON	LANZO	MCM*	RIC-MAN
1	BARRIER SIDE STREETS (EA) (ASSUME 1SIDE)	LF	\$ 20,412.00	\$ 54,432.00	\$ 34,700.40	\$ 43,000.00
2	TRENCH SAFETY ACT	DA	\$ 76,000.00	\$ 17,480.00	\$ 31,967.88	\$ 14,000.00
3	MAINTENANCE OF TRAFFIC	DA	\$ 25,500.00	\$ 58,650.00	\$ 51,793.90	\$ 18,200.00
4	BARRICADE @ 6' OC (AVG PHASE LENGTH(227 LF) /6= 38 EA	DA	\$ 8,500.00	\$ 88,740.00	\$ 2,575.50	\$ 11,900.00
5	TRAFFIC LINES & MARKINGS (REMOVAL/TEMPORARY/NEW)	LF	\$ 3,402.00	\$ 34,020.00	\$ 2,789.64	\$ 2,800.00
6	SAW CUT	LF	\$ 68.04	\$ 13,608.00	\$ 748.44	\$ -
7	ASPHALT DEMO (@ 6' WIDE)	SY	\$ 2,381.00	\$ 11,905.00	\$ 12,524.06	\$ 10,238.30
8	EXCAVATION (6' WIDE X 7' DEEP)	CY	\$ 91,680.00	\$ 91,680.00	\$ 96,386.24	\$ -
9	BACKFILL	CY	\$ 42,174.00	\$ 133,551.00	\$ 246,858.48	\$ 66,729.00
10	LIME BASE	SY	\$ 47,160.00	\$ 52,400.00	\$ 104,695.20	\$ 110,010.00
11	1" ASPHALT	SY	\$ 20,000.00	\$ 20,000.00	\$ 25,250.00	\$ 47,671.00
12	DEWATERING	DA	\$ 136,800.00	\$ 125,932.00	\$ 31,967.88	\$ 53,200.00
13	TEMP RECONNECTION	EA	\$ 240,000.00	\$ 49,845.00	\$ 6,309.45	\$ 16,100.00
14	REM EXIST 18" TC-PIPE	EA	\$ 576.00	\$ 110,784.00	\$ 5,047.68	\$ 37,920.00
15	REM EXIST MH	EA	\$ 600.00	\$ 1,732.00	\$ 1,892.82	\$ 15,840.00
16	TIE INTO EXISTING	EA	\$ 31,500.00	\$ 45,654.00	\$ 77,290.08	\$ 29,400.00
17	24" PVC	LF	\$ 26,000.00	\$ 65,000.00	\$ 53,315.60	\$ 49,400.00
18	30" PVC	LF	\$ 316,000.00	\$ 1,106,000.00	\$ 697,822.80	\$ 663,600.00
19	SANITARY MANHOLE	EA	\$ 72,000.00	\$ 76,992.00	\$ 235,550.56	\$ 88,000.00
20	STORM CONFLICT MH	EA	\$ 70,000.00	\$ 143,248.00	\$ 294,438.20	\$ 266,000.00

<b>SUB-TOTAL</b>	<b>\$ 1,230,753.04</b>	<b>\$ 2,301,653.00</b>	<b>\$ 2,013,924.81</b>	<b>\$ 1,544,008.30</b>
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SUMMARY OF ITEMS MILLING AND RESURFACING (UPDATED 10/08)						
ITEM #	ITEM DESCRIPTION	UNIT	HORIZON	LANZO	MCM*	RIC-MAN
1	MOBILIZATION	LS	\$ 11,000.00	\$ 23,000.00	\$ 2,628.91	\$ 4,200.00
2	MAINTENANCE OF TRAFFIC	LS	\$ 25,000.00	\$ 6,900.00	\$ 70,479.51	\$ 8,100.00
3	TRAFFIC CONTROL OFFICER	MH	\$ 14,400.00	\$ 9,600.00	\$ 12,619.20	\$ 39,840.00
4	WORK ZONE SIGNS	ED	\$ 1,085.60	\$ 5,428.00	\$ 515.66	\$ 1,628.40
5	BARRICADE, TEMPORARY, TYPES I, II, DI, VP & DRUM	ED	\$ 4,687.00	\$ 18,748.00	\$ 1,687.32	\$ 7,416.40
6	ADVANCE WARNING ARROW PANEL	ED	\$ 2,277.00	\$ 2,484.00	\$ 505.08	\$ 3,519.00
7	HIGH INTENSITY FLASHING LIGHTS, TEMP, TYPE B	ED	\$ 207.00	\$ 414.00	\$ 302.22	\$ 1,350.00
8	REFLECTIVE PAVEMENT MARKER, TEMPORARY	EA	\$ 1,428.00	\$ 1,904.00	\$ 2,503.76	\$ 1,404.20
9	CHANGEABLE-VARIABLE MESSAGE SIGN, TEMPORARY	ED	\$ 5,400.00	\$ 4,140.00	\$ 33,123.60	\$ 15,120.00
10	ROCK BAGS	EA	\$ 1,652.00	\$ 1,652.00	\$ 43,893.64	\$ 1,899.80

**CITY OF MIAMI BEACH**  
**WATER MAINS, SANITARY SEWER MAINS AND MILLING AND RESURFACING ALONG INDIAN CREEK**  
**DRIVE BETWEEN 26TH AND 42ND STREETS**

ITEM #	ITEM DESCRIPTION	UNIT	HORIZON	LANZO	MCM*	RIC-MAN
11	FIELD OFFICE, 900 SQ FT	DA	\$ 40,320.00	\$ 18,400.00	\$ 33,629.40	\$ 62,370.00
12	CLEARING & GRUBBING	LS	\$ 16,000.00	\$ 17,306.00	\$ 36,458.30	\$ -
13	PREPARED SOIL LAYER- FINISH SOIL LAYER, 6"	SY	\$ 1,974.00	\$ 3,948.00	\$ 22,082.48	\$ -
14	MILLING EXIST ASPH PAVT, 2" AVG DEPTH	SY	\$ 30,741.00	\$ 81,976.00	\$ 66,810.44	\$ 41,244.00
15	SUPERPAVE ASPHALTIC CONC, TRAFFIC C	TN	\$ 167,636.25	\$ 165,152.75	\$ 189,342.04	\$ 191,100.00
16	ASPHALT CONCRETE FRICTION COURSE, TRAFFIC C, FC-9.5,	TN	\$ 166,908.75	\$ 170,460.00	\$ 186,712.89	\$ 195,150.00
17	MISCELLANEOUS ASPHALT PAVEMENT	TN	\$ 3,808.00	\$ 3,916.80	\$ 2,494.24	\$ 2,040.00
18	INLETS, DITCH BOTTOM, TYPE C, PARTIAL	EA	\$ 525.00	\$ 230.00	\$ 3,149.14	\$ 1,800.00
19	INLETS, ADJUST	EA	\$ 300.00	\$ 1,150.00	\$ 1,417.89	\$ 150.00
20	MANHOLE, ADJUST	EA	\$ 6,080.00	\$ 18,400.00	\$ 45,372.48	\$ 4,800.00
21	DESILTING PIPE, 0 - 24"	LF	\$ 6,740.00	\$ 33,700.00	\$ 54,164.00	\$ 7,919.50
22	DESILTING PIPE, 25 - 36"	LF	\$ 595.00	\$ 2,550.00	\$ 1,892.00	\$ 603.50
23	TRENCH DRAIN, SPECIAL	LF	\$ 283,500.00	\$ 31,775.00	\$ 291,440.30	\$ 317,750.00
24	PEDESTRIAN, BICYCLE RAILING, ALUMINUM ONLY, 42" PICKET RAIL	LF	\$ 10,185.00	\$ 14,453.00	\$ 9,921.16	\$ 10,670.00
25	CONCRETE CURB & GUTTER, SPECIAL	LF	\$ 19,160.00	\$ 39,228.00	\$ 76,513.28	\$ 32,572.00
26	CONCRETE CURB, TYPE D	LF	\$ 24,836.00	\$ 58,542.00	\$ 41,440.64	\$ 56,000.00
27	VALLEY GUTTER- CONCRETE	LF	\$ 1,224.00	\$ 2,244.00	\$ 2,068.56	\$ 1,734.00
28	SIDEWALK CONCRETE, 4" THICK	SY	\$ 69,069.00	\$ 58,900.00	\$ 103,039.66	\$ 77,924.00
29	SIDEWALK CONCRETE, 6" THICK	SY	\$ 3,734.50	\$ 2,205.00	\$ 6,063.75	\$ 3,332.00
30	PATTERNED / TEXTURED PAVEMENT, CONCRETE	SY	\$ -	\$ 184,968.00	\$ -	\$ 82,208.00
31	DETECTABLE WARNING ON WALKING SURFACE, RETROFIT	EA	\$ -	\$ 1,845.00	\$ 1,419.63	\$ 9,200.00
32	GUARDRAIL -ROADWAY	LF	\$ 15,262.50	\$ 14,437.50	\$ 10,997.25	\$ 16,892.00
33	GUARDRAIL POST SPECIAL	EA	\$ 1,560.00	\$ 1,824.00	\$ 1,861.26	\$ 2,160.00
34	GUARDRAIL REMOVAL	LF	\$ 112.00	\$ 296.00	\$ 185.12	\$ 344.00
35	GUARDRAIL END ANCHORAGE ASSEMBLY- FLARED	EA	\$ 3,500.00	\$ 3,024.00	\$ 2,628.91	\$ 3,600.00
36	GUARDRAIL END ANCHORAGE ASSEMBLY- PARALLEL	EA	\$ 3,800.00	\$ 3,990.00	\$ 2,839.23	\$ 4,700.00
37	GUARDRAIL END ANCHORAGE ASSEMBLY- TYPE II	EA	\$ 1,200.00	\$ 989.00	\$ 841.25	\$ 1,200.00
38	PERFORMANCE TURF, SOD	SY	\$ 1,974.00	\$ 7,896.00	\$ 1,072.54	\$ 3,882.20
39	PAINTED PAVEMENT MARKINGS, STANDARD, WHITE, SOLID, 6"	NM	\$ 20,247.00	\$ 11,557.50	\$ 7,812.03	\$ 14,472.00
40	INITIAL CONTINGENCY AMOUNT, DO NOT BID	LS	\$ -	\$ -	\$ -	\$ -
41	SPEED & LAW ENFORCEMENT OFFICER, STATE FURNISHED,	MH	\$ 14,400.00	\$ 9,600.00	\$ -	\$ 44,820.00
42	SINGLE POST SIGN, F&I, LESS THAN 12 SF	AS	\$ 13,200.00	\$ 17,226.00	\$ 8,848.95	\$ 10,560.00
43	SINGLE POST SIGN, F&I, 12-20 SF	AS	\$ 1,900.00	\$ 820.00	\$ 1,261.88	\$ -
44	SINGLE POST SIGN, REMOVE	AS	\$ 1,876.00	\$ 2,156.00	\$ 1,030.40	\$ 1,708.00
45	DELINEATOR SINGLE UNIT	EA	\$ 1,540.00	\$ 5,502.00	\$ 1,619.38	\$ -
46	PAINTED PAVEMENT MARKINGS, FINAL SURFACE	LS	\$ 46,000.00	\$ 115,000.00	\$ 44,565.55	\$ -
47	CONDUIT - SIGNALS, FURNISH & INSTALL, UNDER EXISTING	LF	\$ 1,072.00	\$ 1,600.00	\$ 841.28	\$ 1,584.00
48	CABLE, SIGNAL, FURNISH & INSTALL	PI	\$ 4,200.00	\$ 7,200.00	\$ 6,309.39	\$ 8,700.00
49	PULL & JUNCTION BOXES, F&I, PULL BOX	EA	\$ 10,400.00	\$ 17,120.00	\$ 6,730.08	\$ 20,800.00
50	PEDESTRIAN SIGNAL, F&I, LED - COUNT DOWN, 1 DIRECTION	AS	\$ 11,200.00	\$ 6,090.00	\$ 8,833.16	\$ 9,100.00
51	PEDESTRIAN SIGNAL, F&I, LED - COUNT DOWN, 2 DIRECTIONS	AS	\$ 3,200.00	\$ 1,640.00	\$ 2,523.75	\$ 2,400.00

**CITY OF MIAMI BEACH**  
**WATER MAINS, SANITARY SEWER MAINS AND MILLING AND RESURFACING ALONG INDIAN CREEK**  
**DRIVE BETWEEN 26TH AND 42ND STREETS**

ITEM #	ITEM DESCRIPTION	UNIT	HORIZON	LANZO	MCM*	RIC-MAN
52	LOOP ASSEMBLY- F&I, TYPE A	AS	\$ 1,800.00	\$ 2,660.00	\$ 1,367.04	\$ 3,600.00
53	PEDESTRIAN DETECTOR, F&I, DETECTOR STATION, POLE OR	EA	\$ 1,400.00	\$ 1,512.00	\$ 1,104.18	\$ 2,240.00
54	SIGNAL PEDESTRIAN ASSEMBLY REMOVAL	EA	\$ 385.00	\$ 1,133.00	\$ 289.19	\$ 814.00
55	DETECTOR PEDESTRIAN ASSEMBLY REMOVE	EA	\$ 385.00	\$ 1,133.00	\$ 289.19	\$ 814.00
56	SIGNAL EQUIPMENT MISCELLANEOUS REMOVE	PI	\$ 3,300.00	\$ 4,920.00	\$ 2,523.75	\$ 7,200.00
57	TMS INDUCTIVE LOOP ASSEM, F&I, 2 LOOPS / LANE	AS	\$ 2,400.00	\$ 2,402.00	\$ 1,892.82	\$ 3,600.00
58	TMS CABINET, F&I, TYPE IV, BASE MOUNT, 1 BACKPLANE	EA	\$ 4,000.00	\$ 4,300.00	\$ 3,154.70	\$ 6,400.00

<b>SUB-TOTAL</b>	<b>\$ 1,090,786.60</b>	<b>\$ 1,231,647.55</b>	<b>\$ 1,465,113.46</b>	<b>\$ 1,354,635.00</b>
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SUMMARY OF PROPOSALS TOTAL CONSTRUCTION COST (UPDATED 10/08)						
PROP. #	PROPOSAL DESCRIPTION	UNIT	HORIZON	LANZO	MCM*	RIC-MAN
1	WATER MAIN	LS	\$ 967,405.76	\$ 2,158,251.50	\$ 1,859,744.55	\$ 1,583,737.30
2	SANITARY SEWER	LS	\$ 1,230,753.04	\$ 2,301,653.00	\$ 2,013,924.81	\$ 1,544,008.30
3	MILLING AND RESURFACING	LS	\$ 1,090,786.60	\$ 1,231,647.55	\$ 1,465,113.46	\$ 1,354,635.00
	MOBILIZATION AND GENERAL CONDITIONS	LS	\$ 990,000.00	\$ 123,500.00	\$ 448,685.10	\$ 957,000.00
	ALLOWANCE FOR PERMIT FEES		\$ 10,755.00	\$ 10,755.00	\$ 10,755.00	\$ 10,755.00
	INDEMNIFICATION FOR LUMP SUM		\$ 25.00	\$ 25.00	\$ 25.00	\$ 25.00
<b>TOTAL CONSTRUCTION COST</b>			<b>\$ 4,278,945.40</b>	<b>\$ 5,815,052.05</b>	<b>\$ 5,787,467.92</b>	<b>\$ 5,439,380.60</b>
<b>GRAND TOTAL</b>			<b>\$ 4,289,725.40</b>	<b>\$ 5,825,832.05</b>	<b>\$ 5,798,247.92</b>	<b>\$ 5,450,160.60</b>

**\*\*AWARD WILL BE BASED ON TOTAL LUMP SUM BID. UNIT PRICING IS FOR INFORMATIONAL PURPOSES ONLY.\*\***

\*The milling and resurfacing subtotal submitted by MCM totalled \$1,465,113.45 to reflect the submitted \$5,787,467.91 total construction cost and \$5,798,247.91 grand total. In fact, the actual milling and resurfacing sub-total is \$1,465,113.46 which amounts to a \$5,787,467.92 total construction cost and \$5,798,247.92 grand total, a difference of \$0.01.

# XAVIER SALVAT, E.I.

## EXPERIENCE

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- 2004- Present      Horizon Contractors, Inc.      Miami, FL  
*Project Manager*
- Administration of heavy roadway construction projects for both local municipality and state agencies.
  - Ensure construction conforms to contract documents, project plans, and standard design specifications
  - Supervise and coordinate all drainage, roadway, signalization, lighting, concrete, maintenance of traffic, installation of sanitary sewer facilities as well as water distribution infrastructures.
  - Logistical coordination of equipment, personal, supplies, and subcontractors.
  - Ensure proper billing and fund disbursements of subcontractors.
  - Processing of regulatory forms, submittals, and project data.
  - Maintain strict records and tabulations of all quantitative data related to construction.
  - Ensured timely completion and budget restraints for numerous projects for both local and state agencies.

## EDUCATION

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- 1998-2002      Miami Dade College      Miami, FL  
■ Associates of Arts
- 2002-2004      University of Florida      Gainesville, FL  
■ Pursued B.A., Civil Engineering Science
- 2004-2007      Florida International University      Miami, FL  
■ Bachelor of Science in Civil Engineering  
■ Active member of American Society of Civil Engineers  
■ Active member of Society of Hispanic Professional Engineers

## QUALIFICATIONS

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### Quality Control Construction Certifications

- Quality Control Manager
- Earthworks Technician, Level I & II
- Asphalt Paving Technician, Level I & II
- ATSSA Construction Worksite Traffic Supervisor
- Radioactive Safety Officer
- Nuclear Gauge Operator



8175 West 32nd Avenue, Suite #1, Hialeah, Florida 33018  
Phone: (305) 828-2050 Fax: (305) 820-0905

Michael Serrano  
Superintendent

### **Experience**

Horizon Contractors, Inc.  
August 2001 to Present

Michael has a widespread experience in the supervision of 50% of all of our projects over the last 7 years with Horizon Contractors, Inc. Prior responsibilities consist of multiple assignments to various sewer and water line improvements undertaken in a variety of neighborhoods throughout Miami-Dade County. He has extensive experience in supervising and organizing work crews on several projects. He is currently managing the City of Miami Beach Normandy Isles project in progress.

**Condensed Title:**

An Ordinance proposing an amendment to Chapter 118, Article II, "Boards" of the City Code requiring that an application be filed with the City Clerk prior to the City Commission making appointments to a Land Use Board.

**Key Intended Outcome Supported:**

Not Applicable - Regulatory

**Supporting Data (Surveys, Environmental Scan, etc)**  
Not Applicable - Regulatory

**Issue:**

Should the City Commission adopt the proposed ordinance which would require that a person interested in serving on a Land Use Board first would have to file an application with the City Clerk?

**Item Summary/Recommendation:**

**SECOND READING PUBLIC HEARING**

This ordinance will require a person who would like to serve on a land use board to file an application with the City Clerk prior to the Commission considering his/her appointment to any such board.

The Administration recommends that the City Commission adopt the ordinance.

**Advisory Board Recommendation:**

At the September 22, 2008 meeting, the LUDC recommended in favor of the ordinance with a modification that would allow the City Commission to waive the application requirement by a 5/7ths vote, provided such waiver is only instituted one time per board per meeting.

At the January 27, 2009 meeting the Planning Board recommended adoption of the ordinance.

**Financial Information:**

Source of Funds:		Amount	Account
<div style="border: 1px solid black; width: 40px; height: 40px; display: flex; align-items: center; justify-content: center;">  </div> OBPI	1		
	2		
	3		
	Total		

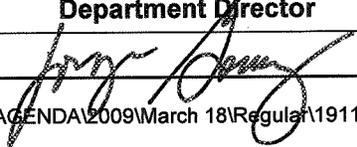
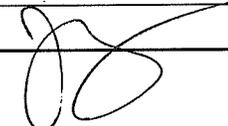
**Financial Impact Summary:**

The proposed Ordinance is not expected to have any fiscal impact upon the resources of the City.

**City Clerk's Office Legislative Tracking:**

Jorge Gomez or Mercy Lamazares

**Sign-Offs:**

Department Director	Assistant City Manager	City Manager
		

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# MIAMI BEACH

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

## COMMISSION MEMORANDUM

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

FROM: Jorge M. Gonzalez, City Manager 

DATE: March 18, 2009 **Second Reading Public Hearing**

SUBJECT: **Application requirement for appointment to a Land Use Board**

**AN ORDINANCE OF THE MAYOR AND CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA, AMENDING THE LAND DEVELOPMENT REGULATIONS OF THE MIAMI BEACH CITY CODE, CHAPTER 118, "ADMINISTRATION AND REVIEW PROCEDURES", ARTICLE II, "BOARDS," DIVISION 1 "GENERALLY," BY CREATING A NEW SECTION 118-32, "APPLICATION REQUIREMENT FOR LAND USE BOARDS" TO REQUIRE THE FILING OF AN APPLICATION FOR MEMBERSHIP ON ANY OF THE FOUR LAND USE BOARDS NOT LESS THAN TEN DAYS BEFORE APPOINTMENT, PROVIDING FOR WAIVER BY THE CITY COMMISSION; AND PROVIDING FOR REPEALER, SEVERABILITY, CODIFICATION, AND AN EFFECTIVE DATE.**

### ADMINISTRATION RECOMMENDATION

The Administration recommends adoption of the ordinance.

### ANALYSIS

Several months ago the City Commission requested comments regarding ways to improve the City's current Board and Committee System. At the Land Use and Development Committee (LUDC) meeting of September 22, 2008, a group of interested citizens proposed that the City Commission require that a person who would like to serve on a land use board file an application with the City Clerk prior to the Commission considering his/her appointment to any such board. They explained that the filing of the application would ensure that the members of the City Commission have the information available in advance. In addition, the information would be useful to the various organizations that are enlisted by provisions in the City Code to identify candidates for these boards. The LUDC recommended in favor of the ordinance with a modification that would allow the City Commission to waive the application requirement by a 5/7ths vote, provided such waiver is only instituted one time per board per meeting.

### PLANNING BOARD ACTION

At the January 27, 2009 meeting, the Planning Board recommended adoption of the ordinance by a vote of 7-0.

**CITY COMMISSION ACTION**

At the February 25, 2009 meeting, the City commission approved the proposed ordinance on first reading.

**FISCAL IMPACT**

The proposed Ordinance is not expected to have any fiscal impact upon the resources of the City.

**CONCLUSION**

The Administration recommends that the City Commission adopt the ordinance.

Pursuant to Section 118-164 of the City Code, when a request to amend the Land Development Regulations does not change the actual list of permitted, conditional or prohibited uses in a zoning category the proposed ordinance may be read by title or in full on at least two separate days and shall, at least ten days prior to adoption, be noticed once in a newspaper of general circulation in the city. The notice of proposed enactment shall state the date, time and place of the meeting; the title of the proposed ordinance; and the place or places within the city where such proposed ordinances may be inspected by the public. The notice shall also advise that interested parties may appear at the meeting and be heard with respect to the proposed ordinance.

Immediately following the public hearing at the second reading, the City Commission may adopt the ordinance. An affirmative vote of five-sevenths of all members of the city commission shall be necessary in order to enact any amendment to the Land Development Regulations.

ORDINANCE NO. \_\_\_\_\_

AN ORDINANCE OF THE MAYOR AND CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA, AMENDING THE LAND DEVELOPMENT REGULATIONS OF THE MIAMI BEACH CITY CODE, CHAPTER 118, "ADMINISTRATION AND REVIEW PROCEDURES", ARTICLE II, "BOARDS," DIVISION 1 "GENERALLY," BY CREATING A NEW SECTION 118-32, "APPLICATION REQUIREMENT FOR LAND USE BOARDS" TO REQUIRE THE FILING OF AN APPLICATION FOR MEMBERSHIP ON ANY OF THE FOUR LAND USE BOARDS NOT LESS THAN TEN DAYS BEFORE APPOINTMENT, PROVIDING FOR WAIVER BY THE CITY COMMISSION; AND PROVIDING FOR REPEALER, SEVERABILITY, CODIFICATION, AND AN EFFECTIVE DATE.

**WHEREAS**, the City Code provides for the appointment by the City Commission of the members of the Planning Board, Design Review Board, Historic Preservation Board, and Board of Adjustment (the "Land Use Boards"); and

**WHEREAS**, the City Code establishes membership requirements for each of the Land Use Boards; and

**WHEREAS**, an application requirement would facilitate conformance in the appointment process with the prescribed membership requirements; and

**WHEREAS**, the availability of information about applicants for appointment to the Land Use Boards serves an important public policy and governmental interest in transparency.

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

**Section 1.** That Chapter 118, "Administration and Review Procedures", Article II, "Boards," Division 1, "Generally," is hereby amended by creating a new Section 118-32, "Application Requirement For Land Use Boards", as follows:

**Sec. 118-32. Application Requirement for Land Use Boards.**

No person shall be appointed to the Planning Board, Design Review Board, Historic Preservation Board, or the Board of Adjustment unless he or she has filed an application with the City Clerk on the form prescribed, not less than ten days before the date of appointment. The City Commission may waive this requirement by a 5/7ths vote, provided such waiver shall only be granted one time per board, per meeting, provided further that any applicant granted such a waiver files his or her application prior to being sworn in as a member of these boards.

**SECTION 2. Repealer.**

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

**SECTION 3. Codification.**

It is the intention of the City Commission, and it is hereby ordained that the provisions of this ordinance shall become and be made part of the Code of the City of Miami Beach as amended; that the sections of this ordinance may be renumbered or relettered to accomplish such intention, and that the word "ordinance" may be changed to "section" or other appropriate word.

**SECTION 4. Severability.**

If any section, subsection, clause or provision of this Ordinance is held invalid, the remainder shall not be affected by such invalidity.

**SECTION 5. Effective Date.**

This Ordinance shall take effect ten days following adoption.

**PASSED and ADOPTED** this \_\_\_\_ day of \_\_\_\_\_, 2009.

\_\_\_\_\_  
**MAYOR**

**ATTEST:**

\_\_\_\_\_  
**CITY CLERK**

APPROVED AS TO  
FORM AND LANGUAGE  
& FOR EXECUTION

  
\_\_\_\_\_  
City Attorney

2/18/09  
\_\_\_\_\_  
Date

First Reading:  
Second Reading:

Underscore denotes new language.

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# MIAMI BEACH

## CITY OF MIAMI BEACH NOTICE OF PUBLIC HEARINGS

**NOTICE IS HEREBY** given that second readings and public hearings will be held by the Mayor and City Commission of the City of Miami Beach, Florida, in the Commission Chambers, 3<sup>rd</sup> floor, City Hall, 1700 Convention Center Drive, Miami Beach, Florida, on **Wednesday, March 18, 2009**, to consider the following:

**10:15 a.m.**

An Ordinance Amending The Land Development Regulations Of The Miami Beach City Code, Chapter 118, "Administration And Review Procedures", Article II, "Boards," Division 1 "Generally," By Creating A New Section 118-32, "Application Requirement For Land Use Boards" To Require The Filing Of An Application For Membership On Any Of The Four Land Use Boards Not Less Than Ten Days Before Appointment, Providing For Waiver By The City Commission.

Inquiries may be directed to the Planning Department at (305) 673-7550.

**10:20 a.m.**

An Ordinance Amending The Code Of The City Of Miami Beach, By Amending Chapter 142, "Zoning Districts And Regulations," Article II, "District Regulations", Division 18, "PS Performance Standard District," Section 142-693 "Permitted Uses", By Restricting The Size Of Bars And Restaurants As Accessory Use To A Main Permitted Use In The R-PS1, R-PS2, R-PS3 And R-PS4 Zoning Districts.

Inquiries may be directed to the Planning Department at (305) 673-7550.

**INTERESTED PARTIES** are invited to appear at this meeting, or be represented by an agent, or to express their views in writing addressed to the City Commission, c/o the City Clerk, 1700 Convention Center Drive, 1<sup>st</sup> Floor, City Hall, Miami Beach, Florida 33139. Copies of these ordinances are available for public inspection during normal business hours in the City Clerk's Office, 1700 Convention Center Drive, 1<sup>st</sup> Floor, City Hall, and Miami Beach, Florida 33139. This meeting may be continued and under such circumstances additional legal notice would not be provided.

Robert E. Parcher, City Clerk  
City of Miami Beach

Pursuant to Section 286.0105, Fla. Stat., the City hereby advises the public that: if a person decides to appeal any decision made by the City Commission with respect to any matter considered at its meeting or its hearing, such person must ensure that a verbatim record of the proceedings is made, which record includes the testimony and evidence upon which the appeal is to be based. This notice does not constitute consent by the City for the introduction or admission of otherwise inadmissible or irrelevant evidence, nor does it authorize challenges or appeals not otherwise allowed by law.

To request this material in accessible format, sign language interpreters, information on access for persons with disabilities, and/or any accommodation to review any document or participate in any city-sponsored proceeding, please contact (305) 604-2489 (voice), (305) 673-7218 (TTY) five days in advance to initiate your request. TTY users may also call 711 (Florida Relay Service).

Ad #526

SATURDAY, FEBRUARY 28, 2009 | 5B

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**Condensed Title:**

An Ordinance proposing an amendment to Section 142-693 of the Land Development Regulations of the City Code restricting the size of bars and restaurants as accessory use to a main permitted use in the R-PS1, R-PS2, R-PS3 and R-PS4 zoning districts in proportion to the number of hotel/apartment units through administrative approval.

**Key Intended Outcome Supported:**

Satisfaction with quality of life.

**Supporting Data (Surveys, Environmental Scan, etc**

Quality of life in the City is rated highly, the City is seen as an 'excellent' or 'good' place to live, work, play or visit (and the majority feel it's getting better) and over ¾'s of residents would recommend it to others as a place to live.

**Issue:**

Should the City Commission adopt the proposed ordinance restricting the size of bars and restaurants as accessory use to a main permitted use in the R-PS1, R-PS2, R-PS3 and R-PS4 zoning districts in proportion to the number of hotel/apartment units without conditional use approval?

**Item Summary/Recommendation:**

**SECOND READING PUBLIC HEARING**

The proposed ordinance restricts the number of seats for accessory restaurants and bars to 1.25 seats per hotel or apartment unit for the entire site, and the patron occupant load to 1.5 persons per hotel or apartment unit. It also permits a hotel or apartment property with 20 units or more but less than 32 units, to have a restaurant or bar with a maximum of 40 seats in the aggregate for the entire site. The approvals for these restaurants or bars would be administrative for a Business Tax Receipt and would not require Conditional Use approval as in the current regulations.

The Administration recommends that the City Commission adopt the ordinance as originally referred to the Planning Board.

**Advisory Board Recommendation:**

At the September 22, 2008 meeting, the LUDC recommended in favor of the ordinance with a modification that would allow the City Commission to waive the application requirement by a 5/7ths vote, provided such waiver is only instituted one time per board per meeting.

At the January 27, 2009 meeting the Planning Board recommended adoption of the ordinance with amendments to the original referral.

**Financial Information:**

Source of Funds:		Amount	Account
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	2		
	3		
	Total		

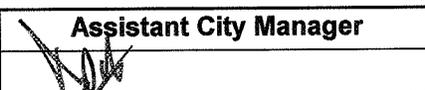
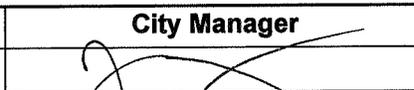
**Financial Impact Summary:**

The proposed Ordinance is not expected to have any fiscal impact upon the resources of the City. However, a slight reduction in potential fees collected via Business Tax Receipt is anticipated as the ordinance will reduce the size of the accessory restaurants in the subject area.

**City Clerk's Office Legislative Tracking:**

Jorge Gomez or Mercy Lamazares

**Sign-Offs:**

Department Director	Assistant City Manager	City Manager
		

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# MIAMI BEACH

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

## COMMISSION MEMORANDUM

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

FROM: Jorge M. Gonzalez, City Manager

DATE: March 18, 2009

Second Reading Public Hearing

SUBJECT: **Accessory Bars and Restaurants in RPS Districts**

**AN ORDINANCE OF THE MAYOR AND CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA, AMENDING THE CODE OF THE CITY OF MIAMI BEACH, BY AMENDING CHAPTER 142, "ZONING DISTRICTS AND REGULATIONS," ARTICLE II, "DISTRICT REGULATIONS", DIVISION 18, "PS PERFORMANCE STANDARD DISTRICT," SECTION 142-693 "PERMITTED USES", BY RESTRICTING THE SIZE OF BARS AND RESTAURANTS AS ACCESSORY USE TO A MAIN PERMITTED USE IN THE R-PS1, R-PS2, R-PS3 AND R-PS4 ZONING DISTRICTS; PROVIDING FOR REPEALER, SEVERABILITY, CODIFICATION AND AN EFFECTIVE DATE.**

### ADMINISTRATION RECOMMENDATION

The administration recommends that the City Commission adopt the proposed ordinance.

### BACKGROUND

At the March 12, 2008 meeting, the City Commission adopted an ordinance that restricted the number of seats for accessory restaurants or bars that serve alcohol in the R-PS1, 2, 3 and 4 districts. That regulation limited the number of seats to a maximum of one seat per hotel or apartment unit for the entire site, and the patron occupant load for all accessory restaurants and bars that serve alcohol on the entire site not to exceed 150 percent of the number of hotel and/or apartment units. Through the Conditional Use process, an applicant was able to apply for additional seats not to exceed twice the number of hotel or apartment units.

At the November 17, 2008 meeting, the Land Use and Development Committee reviewed a request to amend the above regulations, which after public discussion was referred to the Planning Board via the City Commission meeting of December 10, 2008.

### ANALYSIS

The referral from the City Commission seeks to further limit the number of seats in a restaurant or bar that is accessory to a main permitted use such as hotels or apartments in districts where these main uses are permitted.

As shown on the table below, neither hotels nor commercial uses are permitted in the R-PS1 and R-PS2; however, hotels and apartments are permitted in the R-PS3 and R-PS4, as well as in all CPS districts. What is not permitted in any of the RPS districts is an outdoor bar counter or neighborhood impact establishment except in hotels with more than 250 rooms in the R-PS4. The prohibition of outdoor bar counters and neighborhood impact establishment generally protects the neighborhood from intrusive collateral effects such as noise and litter.

Although the current regulations have a provision that relate the size of the accessory use restaurant or bar to the size of the main use through the Conditional Use process, the City Commission believes that these restrictions are not enough to protect the residential neighborhoods from the adverse impact of large venues in the area. The proposed ordinance would further reduce the number of seats permitted in an accessory use restaurant or bar serving alcoholic beverages.

Section 142-693 of the City Code lists the permitted uses in the PS districts (those areas that are generally south of 6<sup>th</sup> Street). The table below depicts in general terms what those main permitted uses and accessory uses are.

General Use Category	R-PS 1, 2	R-PS 3, 4	C-PS 1, 2, 3, 4	RM-PS1
Single-family; townhome; apartment; apartment/hotel	P	P	P	P Apartment/hotel not permitted
Hotel	N	P	P	N
Commercial	N	N	P	P 8% of floor area
Institutional	C	C	C	C 1.25% of floor area
Accessory outdoor bar counters, provided that the accessory outdoor bar counter is not operated or utilized between midnight and 8:00 a.m.; however, for an accessory outdoor bar counter which is adjacent to a property with an apartment unit, the accessory outdoor bar counter may not be operated or utilized between 8:00 p.m. and 8:00 a.m.	N	However, accessory outdoor bar counters are permitted in oceanfront hotels with at least 100 hotel units in the R-PS4 district*	P*	N
Outdoor entertainment establishments and open air entertainment establishments	N	N	N	N

General Use Category	R-PS 1, 2	R-PS 3, 4	C-PS 1, 2, 3, 4	RM-PS1
Neighborhood impact establishments	N	N However, in the R-PS4 district, this use is permitted, as an accessory use in oceanfront hotels with 250 or more hotel units, as a Conditional Use. Access to the establishment shall be only from the interior lobby of the hotel and not from the street.	C	N
Accessory	P*	P*	P*	P*

P--Main permitted use; C--Conditional use; N--Not permitted  
 \* -- Accessory use only

The proposed ordinance restricts the number of seats for accessory restaurants and bars to 1.25 seats per hotel or apartment unit for the entire site, and the patron occupant load to 1.5 persons per hotel or apartment unit. It also permits a hotel or apartment property with 20 units or more but less than 32 units, to have a restaurant or bar with a maximum of 40 seats in the aggregate for the entire site. The approvals for these restaurants or bars would be administrative for a Business Tax Receipt and would not require Conditional Use approval as in the current regulations. The information below in a table format compares what is currently in today's Code and what is being proposed in this new amendment to the City Code:

	Code Prior to 2008	Existing Code (amended 3/12/08 by Ordinance No. 2008-3602)	Proposed Ordinance
# seats	Unlimited Accessory use no more than 49% of main use area. Neighborhood impact or entertainment establishments south of 5 <sup>th</sup> Street prohibited.	1 seat per unit up to 2 seats per unit with Conditional Use approval	1.25 seats per unit No Conditional Use approval required. Exception: a property with twenty (20) units or more, but less than thirty two (32) units, the restaurant or bar may have a maximum of forty (40) seats
Occupant. Load	As per Fire Marshall	1.5 persons per unit up to 2 persons per unit with Conditional Use approval	1.5 persons per unit No Conditional Use approval required.

The area affected by this regulation is shown in the map on the last page of this memorandum.

**PLANNING BOARD ACTION**

At the January 27, 2009 meeting, the Planning Board recommended adoption of the ordinance by a vote of 7-0. The Board requested that the ordinance provide for restoration of contributing structures in a historic district such that if an existing contributing structure

that qualifies for the minimum number of seats but through a restoration that is consistent with the U. S. Secretary of the Interior Standards as may be approved by the Historic Preservation Board results in a reduction of no more than 15% of the number of units, the structure shall still be eligible for the minimum of 40 seats.

### **CITY COMMISSION ACTION**

At the February 25, 2009 meeting, the City Commission approved on first reading the version of the ordinance recommended by the Administration, as originally referred to the Planning Board.

### **FISCAL IMPACT**

The proposed Ordinance is not expected to have any fiscal impact upon the resources of the City. However, a slight reduction in potential fees collected via Business Tax Receipt is anticipated as the ordinance will reduce the size of the accessory restaurants in the subject area.

### **CONCLUSION**

The Administration recommends that the City Commission adopt the ordinance as originally referred to the Planning Board.

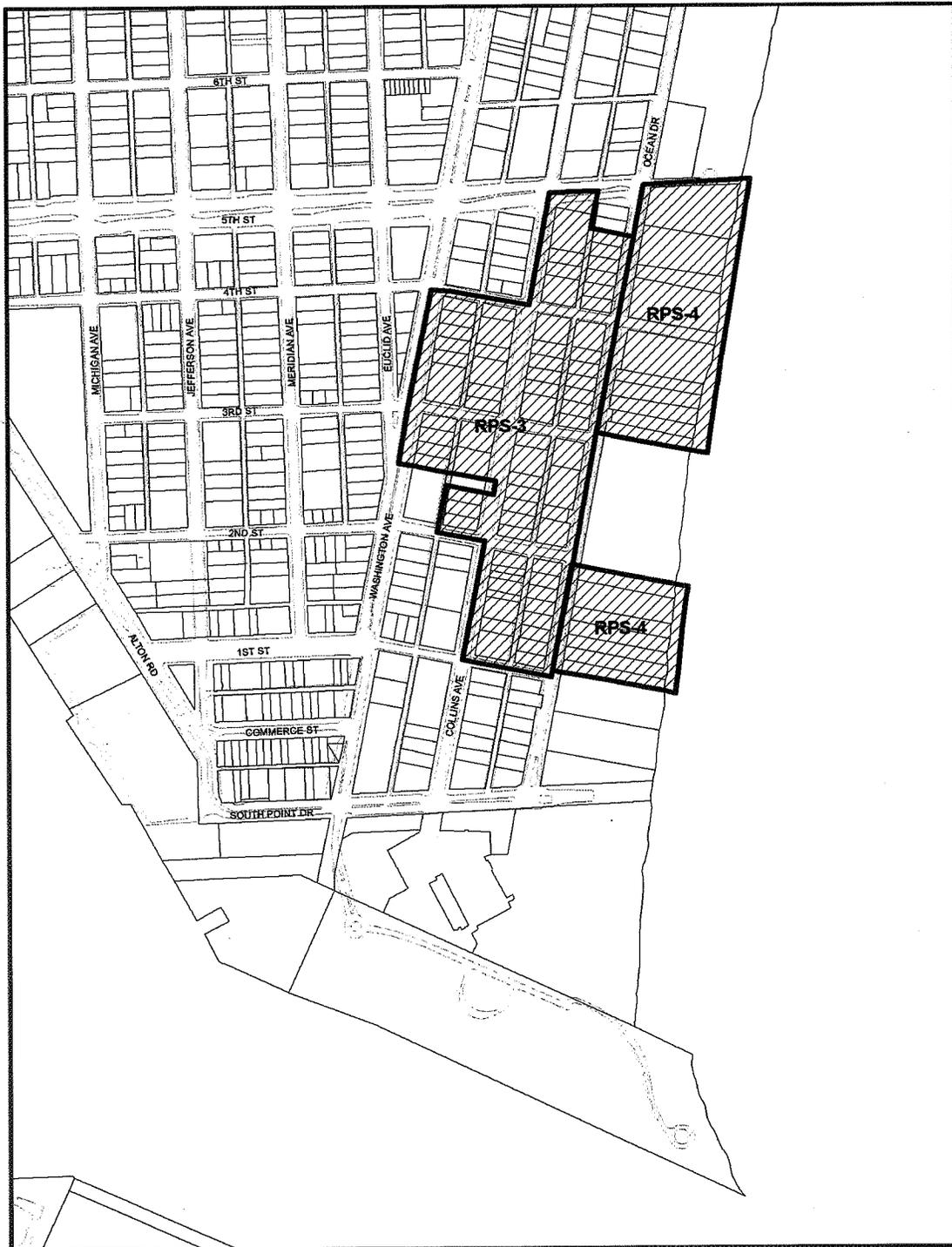
Pursuant to Section 118-164 of the City Code, when a request to amend the Land Development Regulations does not change the actual list of permitted, conditional or prohibited uses in a zoning category the proposed ordinance may be read by title or in full on at least two separate days and shall, at least ten days prior to adoption, be noticed once in a newspaper of general circulation in the city. The notice of proposed enactment shall state the date, time and place of the meeting; the title of the proposed ordinance; and the place or places within the city where such proposed ordinances may be inspected by the public. The notice shall also advise that interested parties may appear at the meeting and be heard with respect to the proposed ordinance.

Immediately following the public hearing at the second reading, the City Commission may adopt the ordinance. An affirmative vote of five-sevenths of all members of the city commission shall be necessary in order to enact any amendment to the Land Development Regulations.

JMG/TH/JGG/ML

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**Affected Zoning Districts – RPS-3 and RPS-4**



**Accessory Bars and Restaurants in RPS Districts**

ORDINANCE NO. \_\_\_\_\_

AN ORDINANCE OF THE MAYOR AND CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA, AMENDING THE CODE OF THE CITY OF MIAMI BEACH, BY AMENDING CHAPTER 142, "ZONING DISTRICTS AND REGULATIONS," ARTICLE II, "DISTRICT REGULATIONS", DIVISION 18, "PS PERFORMANCE STANDARD DISTRICT," SECTION 142-693 "PERMITTED USES", BY RESTRICTING THE SIZE OF BARS AND RESTAURANTS AS ACCESSORY USE TO A MAIN PERMITTED USE IN THE R-PS1, R-PS2, R-PS3 AND R-PS4 ZONING DISTRICTS; PROVIDING FOR REPEALER, SEVERABILITY, CODIFICATION AND AN EFFECTIVE DATE.

**WHEREAS**, the City of Miami Beach Land Development Regulations contain regulations that permit restaurants and bars as an accessory use to hotels and apartment buildings; and

**WHEREAS**, the size of restaurants or bars that are accessory to a main permitted use should be in proportion to the size of that main permitted use; and

**WHEREAS**, the current regulations do not create a relationship between the size to a hotel or apartment in terms of units, and the size of the accessory restaurant in terms of number of seats; and

**WHEREAS**, it is in the best interest of the city and the general health, safety and welfare of its residents to control the size of accessory restaurants in direct proportion to the main use.

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

**SECTION 1.** Chapter 142, "Zoning Districts and Regulations," Article II, "District Regulations," Division 18, "PS Performance Standard District," is hereby amended to read as follows:

**Sec. 142-693. Permitted uses.**

\* \* \*

- (d) In the R-PS1, 2, 3 and 4 districts, the number of seats for accessory restaurants or bars that serve alcohol shall be limited to a maximum of ~~one (1)~~ 1.25 seats per hotel or apartment unit for the entire site. The patron occupant load, as determined by the Planning Director or designee, for all accessory restaurants and bars that serve alcohol on the entire site shall not exceed ~~150%~~ 1.5 persons ~~of the number of per~~ hotel and/or apartment units. For a hotel or apartment property of twenty (20) units or more, but less than thirty two (32) units, the restaurant or bar may have a maximum of forty (40) seats in the aggregate on

~~the site. The number of units shall be those that result after any renovation. An applicant may apply for additional seats or patron occupant load in excess of the numbers as determined in this subsection (d) through the conditional use procedures in Chapter 118, Article IV, and subject to the review criteria listed in Section 142-1362 (a). However, conditional use approvals under the forgoing referenced procedure shall not exceed twice the number of seats or patron occupant load allowable under this section.~~

- (d e) Commercial and noncommercial parking lots and garages shall be considered as a conditional use in the R-PS1, 2, 3 and 4 districts.
- (e f) Video game arcades shall be considered as a conditional use in the C-PS1, C-PS2, C-PS3, and C-PS4 districts.

## **SECTION 2. REPEALER**

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

## **SECTION 3. SEVERABILITY**

If any section, subsection, clause or provision of this Ordinance is held invalid, the remainder shall not be affected by such invalidity.

## **SECTION 4. APPLICABILITY.**

Notwithstanding the provisions of Section 118-168(a) of the City Code regarding the enforcement of amendments to the land development regulations, for purposes of this ordinance only, those projects that have received approval (land use board approval, building permit, or license) as of the effective date of this ordinance shall be entitled to apply for any extensions of time that may have been permitted at the time of such approval based upon the plans approved, and shall be treated for purposes of consistency with this ordinance, as conforming uses and structures for purposes of Chapter 118, Article IX, "Non-conformances" for as long as the licenses are maintained.

## **SECTION 4. 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 part of the Code of the City of Miami Beach, Florida. The sections of this Ordinance may be renumbered or relettered to accomplish such intention, and the word "ordinance" may be changed to "section," "article," or other appropriate word.

## **SECTION 5. EFFECTIVE DATE**

This Ordinance shall take effect ten days following adoption.

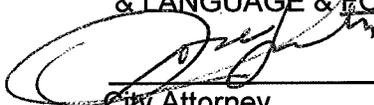
PASSED AND ADOPTED this \_\_\_\_\_ day of \_\_\_\_\_, 2009.

ATTEST:

\_\_\_\_\_  
MAYOR

\_\_\_\_\_  
CITY CLERK

APPROVED AS TO FORM  
& LANGUAGE & FOR EXECUTION

  
\_\_\_\_\_  
City Attorney

  
2/18/09  
Date

First Reading:  
Second Reading:

Verified by: \_\_\_\_\_  
Jorge G. Gomez, AICP  
Planning Director

Underscore denotes new language  
~~Strikethrough~~ denotes deleted language

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**Accessory Bars and Restaurants in RPS Districts**

ORDINANCE NO. \_\_\_\_\_

AN ORDINANCE OF THE MAYOR AND CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA, AMENDING THE CODE OF THE CITY OF MIAMI BEACH, BY AMENDING CHAPTER 142, "ZONING DISTRICTS AND REGULATIONS," ARTICLE II, "DISTRICT REGULATIONS", DIVISION 18, "PS PERFORMANCE STANDARD DISTRICT," SECTION 142-693 "PERMITTED USES", BY RESTRICTING THE SIZE OF BARS AND RESTAURANTS AS ACCESSORY USE TO A MAIN PERMITTED USE IN THE R-PS1, R-PS2, R-PS3 AND R-PS4 ZONING DISTRICTS; PROVIDING FOR REPEALER, SEVERABILITY, CODIFICATION AND AN EFFECTIVE DATE.

WHEREAS, the City of Miami Beach Land Development Regulations contain regulations that permit restaurants and bars as an accessory use to hotels and apartment buildings; and

WHEREAS, the size of restaurants or bars that are accessory to a main permitted use should be in proportion to the size of that main permitted use; and

WHEREAS, the current regulations do not create a relationship between the size to a hotel or apartment in terms of units, and the size of the accessory restaurant in terms of number of seats; and

WHEREAS, it is in the best interest of the city and the general health, safety and welfare of its residents to control the size of accessory restaurants in direct proportion to the main use.

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

SECTION 1. Chapter 142, "Zoning Districts and Regulations," Article II, "District Regulations," Division 18, "PS Performance Standard District," is hereby amended to read as follows:

**Sec. 142-693. Permitted uses.**

\* \* \*

- (d) In the R-PS1, 2, 3 and 4 districts, the number of seats for accessory restaurants or bars that serve alcohol shall be limited to a maximum of ~~one (1)~~ 1.25 seats per hotel or apartment unit for the entire site. The patron occupant load, as determined by the Planning Director or designee, for all accessory restaurants and bars that serve alcohol on the entire site shall not exceed ~~150%~~ 1.5 persons of the number of per hotel and/or apartment units. For a hotel or apartment property of twenty (20) units or more, but less than thirty two (32) units, the restaurant or bar may have a maximum of forty (40) seats in the aggregate on

the site. The number of units shall be those that result after any renovation. If a contributing structure containing between 20 and 32 units (which qualifies for 40 seats) is renovated pursuant to a Certificate of Appropriateness resulting in a reduction of no more than 15% of the number of units, the structure shall remain eligible for the 40 seat maximum. An applicant may apply for additional seats or patron occupant load in excess of the numbers as determined in this subsection (d) through the conditional use procedures in Chapter 118, Article IV, and subject to the review criteria listed in Section 142-1362 (a). However, conditional use approvals under the forgoing referenced procedure shall not exceed twice the number of seats or patron occupant load allowable under this section.

- (d e) Commercial and noncommercial parking lots and garages shall be considered as a conditional use in the R-PS1, 2, 3 and 4 districts.
- (e f) Video game arcades shall be considered as a conditional use in the C-PS1, C-PS2, C-PS3, and C-PS4 districts.

## **SECTION 2. REPEALER**

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

## **SECTION 3. SEVERABILITY**

If any section, subsection, clause or provision of this Ordinance is held invalid, the remainder shall not be affected by such invalidity.

## **SECTION 4. APPLICABILITY.**

Notwithstanding the provisions of Section 118-168(a) of the City Code regarding the enforcement of amendments to the land development regulations, for purposes of this ordinance only, those projects that have received approval (land use board approval, building permit, or license) as of the effective date of this ordinance shall be entitled to apply for any extensions of time that may have been permitted at the time of such approval based upon the plans approved, and shall be treated for purposes of consistency with this ordinance, as conforming uses and structures for purposes of Chapter 118, Article IX, "Non-conformances" for as long as the licenses are maintained.

## **SECTION 4. 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 part of the Code of the City of Miami Beach, Florida. The sections of this Ordinance may be renumbered or relettered to accomplish such intention, and the word "ordinance" may be changed to "section," "article," or other appropriate word.

**SECTION 5. EFFECTIVE DATE**

This Ordinance shall take effect ten days following adoption.

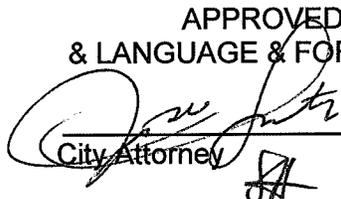
**PASSED AND ADOPTED** this \_\_\_\_ day of \_\_\_\_\_, 2009.

ATTEST:

\_\_\_\_\_  
MAYOR

\_\_\_\_\_  
CITY CLERK

APPROVED AS TO FORM  
& LANGUAGE & FOR EXECUTION

  
\_\_\_\_\_  
City Attorney

2/18/09  
\_\_\_\_\_  
Date

First Reading:  
Second Reading:

Verified by: \_\_\_\_\_  
Jorge G. Gomez, AICP  
Planning Director

Underscore denotes new language  
~~Strikethrough~~ denotes deleted language

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# MIAMI BEACH

## CITY OF MIAMI BEACH NOTICE OF PUBLIC HEARINGS

**NOTICE IS HEREBY** given that second readings and public hearings will be held by the Mayor and City Commission of the City of Miami Beach, Florida, in the Commission Chambers, 3<sup>rd</sup> floor, City Hall, 1700 Convention Center Drive, Miami Beach, Florida, on **Wednesday, March 18, 2009**, to consider the following:

**10:15 a.m.**

An Ordinance Amending The Land Development Regulations Of The Miami Beach City Code, Chapter 118, "Administration And Review Procedures", Article II, "Boards," Division 1 "Generally," By Creating A New Section 118-32, "Application Requirement For Land Use Boards" To Require The Filing Of An Application For Membership On Any Of The Four Land Use Boards Not Less Than Ten Days Before Appointment, Providing For Waiver By The City Commission.

Inquiries may be directed to the Planning Department at (305) 673-7550.

**10:20 a.m.**

An Ordinance Amending The Code Of The City Of Miami Beach, By Amending Chapter 142, "Zoning Districts And Regulations," Article II, "District Regulations", Division 18, "PS Performance Standard District," Section 142-693 "Permitted Uses", By Restricting The Size Of Bars And Restaurants As Accessory Use To A Main Permitted Use In The R-PS1, R-PS2, R-PS3 And R-PS4 Zoning Districts.

Inquiries may be directed to the Planning Department at (305) 673-7550.

**INTERESTED PARTIES** are invited to appear at this meeting, or be represented by an agent, or to express their views in writing addressed to the City Commission, c/o the City Clerk, 1700 Convention Center Drive, 1<sup>st</sup> Floor, City Hall, Miami Beach, Florida 33139. Copies of these ordinances are available for public inspection during normal business hours in the City Clerk's Office, 1700 Convention Center Drive, 1<sup>st</sup> Floor, City Hall, and Miami Beach, Florida 33139. This meeting may be continued and under such circumstances additional legal notice would not be provided.

Robert E. Parcher, City Clerk  
City of Miami Beach

Pursuant to Section 286.0105, Fla. Stat., the City hereby advises the public that: if a person decides to appeal any decision made by the City Commission with respect to any matter considered at its meeting or its hearing, such person must ensure that a verbatim record of the proceedings is made, which record includes the testimony and evidence upon which the appeal is to be based. This notice does not constitute consent by the City for the introduction or admission of otherwise inadmissible or irrelevant evidence, nor does it authorize challenges or appeals not otherwise allowed by law.

To request this material in accessible format, sign language interpreters, information on access for persons with disabilities, and/or any accommodation to review any document or participate in any city-sponsored proceeding, please contact (305) 604-2489 (voice), (305) 673-7218(TTY) five days in advance to initiate your request. TTY users may also call 711 (Florida Relay Service).

Ad #526

SATURDAY, FEBRUARY 28, 2009 | 5B

**Condensed Title:**

An Ordinance amending Chapter 70 of the Miami Beach City Code entitled "Miscellaneous Offenses" by amending Article III entitled "Graffiti."

**Key Intended Outcome Supported:**

Ensure Well Maintained Infrastructure; Ensure Compliance with Code Within Reasonable Time Frame; Improve Cleanliness of Miami Beach Rights of Way Especially in Business Areas; & Increase Resident Satisfaction With Level of Code Enforcement

**Supporting Data (Surveys, Environmental Scan, etc.):** 2008 Environmental Scan shows that the Number of Warnings for Property Maintenance Decreased by 39%; and that the Overall City Cleanliness Score has improved by 15.4% compared to the base 2005/06 year; The 2007 Community Survey Suggests that 61% of the City's residents are very satisfied or satisfied with the fairness and consistency of the enforcement of codes and ordinances in their neighborhoods; The same survey suggests that 61% of the City's residents and 52% of the City's Businesses rate cleanliness of streets in residential/business areas as good or excellent.

**Issue:**

Shall the Mayor and the City Commission Approve The Amendments to the Ordinance?

**Item Summary/Recommendation:**

**FIRST READING**

At the City Commission meetings on September 8, 2008 and October 7, 2008 discussion was held regarding the problem of graffiti in the City and the City's response to graffiti on public and private property. As discussed, unabated graffiti is a major concern, especially as it frequently triggers the "broken window" theory. In the broken window theory, it is believed that when behaviors such as graffiti or litter are left unabated, these issues trigger further acts of the same behavior or accelerates other acts of vandalism. At that time, Commissioner Jerry Libbin requested that the matter of amending the graffiti ordinance be referred to the Neighborhoods/Community Affairs Committee for discussion.

At the Neighborhood/Community Affairs Committee Meeting on October 22, 2008, a further discussion occurred concerning the current situation with graffiti in the City, and the need to update the City's existing anti-graffiti ordinance. Of particular concern was what appeared to be a possible disconnect between the criminal cases opened by the Police Department, and City Code cases that would be handled by the Special Master. There was concern expressed about the need to ensure that violators (persons caught in the act of placing graffiti) are assigned community service hours on Miami Beach. The Committee instructed the Administration to make changes to the existing ordinance to among other things, update the definitions to reflect current trends in graffiti vandalism; amend the fine schedule for violators, including a requirement to perform community service within Miami Beach; and adjust the period for private property compliance, to ensure that private property graffiti was handled in a more timely manner.

The proposed draft ordinance has been developed by the Administration together with the City Attorney's Office pursuant to the instruction by the Neighborhood/Community Affairs Committee. The amendments to the City's existing anti-graffiti ordinance provide updated definitions and modernized terminology as well as more effective fine and penalty schedules. The proposed changes add requirement for community service and restitution to victims for code prosecutions in court, provide the City with a means to recover unpaid fines, and reduce compliance time for graffiti removal. The mentioned changes should make the City's endeavors to fight graffiti more effective.

The Administration recommends approving the ordinance on the first reading and setting a second reading public hearing.

**Advisory Board Recommendation:**

Neighborhoods/Community Affairs Committee, 10/22/08.

**Financial Information:**

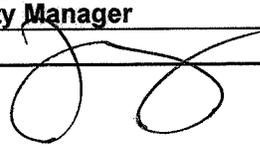
Source of Funds:	Amount		Account
	1		
OBPI	Total		

**Financial Impact Summary:** The proposed amendment includes fines and penalties that could produce revenues for the City. The change to a shorter timeframe for private property to remediate the graffiti prior to the City remediating the graffiti may result in an increase in the number of properties remediated by the City on behalf of private property owners. While there are provisions for liens to be attached to private property owners, the City will incur the hard costs (labor and paint) until such time as the reimbursement to the City is made. Additionally, the ordinance provides that penalties can include restitution to the victim, which would include the private property owner, or the public property owner (such as the City).

**City Clerk's Office Legislative Tracking:**

Hilda Fernandez, ACM

**Sign-Offs:**

Department Director	Assistant City Manager	City Manager
		

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# MIAMI BEACH

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

## COMMISSION MEMORANDUM

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

FROM: Jorge M. Gonzalez, City Manager

DATE: March 18, 2009

FIRST READING

**SUBJECT: AN ORDINANCE OF THE MAYOR AND CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA, AMENDING CHAPTER 70 OF THE MIAMI BEACH CITY CODE ENTITLED "MISCELLANEOUS OFFENSES"; BY AMENDING ARTICLE III ENTITLED "GRAFFITI"; BY AMENDING DIVISION I, ENTITLED "GENERALLY"; BY AMENDING SECTION 70-121 ENTITLED "RESERVED" TO PROVIDE PROVISIONS DECLARING GRAFFITI A NUISANCE; BY AMENDING SECTION 70-122 ENTITLED "DEFINITIONS" TO PROVIDE ADDITIONAL AND AMENDED DEFINITIONS RELATIVE TO GRAFFITI; BY AMENDING SECTION 70-123 ENTITLED "PROHIBITIONS" BY AMENDING THE ACTS PROHIBITED AND AMENDING ENFORCEMENT AND PENALTY PROVISIONS; BY AMENDING SECTION 70-124 ENTITLED "POSSESSION OF SPRAY PAINT AND MARKERS" BY AMENDING ENFORCEMENT AND PENALTY PROVISIONS; BY AMENDING AND RENUMBERING SECTION 70-125 ENTITLED "GRAFFITI DECLARED A NUISANCE" BY MOVING SAID SECTION TO SECTION 70-121; BY AMENDING AND RENUMBERING SECTION 70-126 ENTITLED "RESPONSIBILITY OF PROPERTY OWNER(S); GRAFFITI REMOVAL AND NOTICE" BY AMENDING THE RESPONSIBILITIES OF PROPERTY OWNERS WITH REGARD TO THE REMOVAL OF GRAFFITI AND AMENDING ENFORCEMENT PROVISIONS; BY AMENDING AND RENUMBERING SECTION 70-127 ENTITLED "APPEAL" BY PROVIDING FOR PENALTY AND LIEN PROVISIONS; BY AMENDING AND RENUMBERING SECTION 70-128 ENTITLED "COST OF GRAFFITI REMOVAL AS LIEN ON PROPERTY, COLLECTION; FORECLOSURE AND SALE" BY AMENDING CITY LIEN PROCEDURES; BY RENUMBERING SECTION 70-129 ENTITLED "INTERESTED PERSONS MAY PETITION TO DISPUTE ASSESSED COSTS"; BY RENUMBERING SECTIONS 70-130 THROUGH 70-145, ENTITLED "RESERVED;" BY AMENDING DIVISION II ENTITLED "SPRAY PAINT, BROAD-TIPPED INDELIBLE MARKERS" BY AMENDING SECTION 70-146, ENTITLED "SALE PROHIBITED," AND SECTION 70-147, ENTITLED "SIGNS REQUIRED," BY ADDING ETCHING ACID TO THE ITEMS PROHIBITED FOR SALE TO MINORS AND SIGNAGE REQUIREMENTS; BY AMENDING SECTION 70-148, ENTITLED "PENALTIES; PROCEDURES FOR ADMINISTRATION," BY AMENDING THE ENFORCEMENT AND PENALTY PROVISIONS; PROVIDING FOR REPEALER; SEVERABILITY; CODIFICATION; AND AN EFFECTIVE DATE.**

**ADMINISTRATION RECOMMENDATION**

Adopt the Ordinance on first reading and schedule a second reading, public hearing.

## **BACKGROUND**

Graffiti on private or public property is currently enforceable by City Code, Chapter 70 Article III. "Graffiti" (Section 70-122-129). Specifically, Section 70-123 states: "It shall be unlawful for any person to deface, destroy or otherwise damage private or public property without the owner's consent." Persons observed placing graffiti on public or private property without the owner's consent are subject to a fine schedule set forth in §70-123(c) if the violator appeals, or if the City brings the violator to the special master, penalties of up to \$1,000 per day for a first violation, \$5,000 per day per violation for a repeat violation, and up to \$15,000 per violation if the special master finds the violation to be irreparable or reversible in nature. It is also an arrestable offense.

Section 70-126 describes the responsibility of property owners with regard to graffiti removal. As currently provided in the Code, commercial property owners must take corrective action within seven (7) business days from the receipt or delivery of a notice requiring corrective action; residential property owners must take corrective action within ten (10) business days from receipt or delivery of the notice. The Code Compliance Division issues notices to private property owners.

Under the current ordinance, the City waives permitting fees related to abating graffiti as long as the same color exterior paint is used and the existing paint complies with all city requirements. Currently, abatement consists of painting the entire wall and/or non-permanent structure defaced by graffiti, or pressure cleaning or using any other method that will successfully remove the graffiti from a wall and/or other non-permanent structure without causing damage. Under the current ordinance, the City can, upon the failure of the private property owner to abate the graffiti, enter the private property to address the nuisance. The private property owner is then billed for the expense associated with the abatement, and is provided an opportunity to appeal the costs billed for the abatement. This appeal is heard by the special master. Unpaid bills are deemed special assessment liens and are subject to foreclosure.

The City is responsible for removing graffiti from public property. The Public Works Department has staff that is dispatched to address public property graffiti including, occasionally, graffiti on public property that many not be under the City's direct jurisdiction (*e.g.*, FDOT signs on the Julia Tuttle, County street traffic signs, etc.). Generally, public property graffiti is removed within 24 hours to 72 hours after it is reported to Public Works. However, it must be noted that it may take longer to remove after a major event weekend. A contract with a contractor to address private property graffiti that has not been abated following a violation notice and expiration of the time to clean the graffiti, was discontinued due to budget adjustments. However, historically, there has been a high rate of compliance with graffiti on private property.

## **ANALYSIS**

At the City Commission meetings on September 8, 2008 and October 7, 2008 discussion was held regarding the problem of graffiti in the City and the City's response to graffiti on public and private property. As discussed, unabated graffiti is a major concern, especially as it frequently triggers the "broken window" theory. In the broken window theory, it is believed that when behaviors such as graffiti or litter are left unabated, these issues trigger further acts of the same behavior or accelerates other acts of vandalism. At that time, Commissioner Jerry Libbin requested that the matter of amending the graffiti ordinance be referred to the Neighborhoods/Community Affairs Committee for discussion.

At the Neighborhood/Community Affairs Committee Meeting on October 22, 2008, a further discussion was held concerning the current situation with graffiti in the City, as well as the need to update the City's existing anti-graffiti ordinance. Of particular concern was what appeared to be a possible disconnect between the criminal cases opened by the Police Department, and City Code cases that would be handled by the Special Master. There was concern expressed about the need to ensure that violators (persons caught in the act of placing graffiti) are assigned community service hours on Miami Beach.

The Committee instructed the Administration to make changes to the existing ordinance to among other

things, update the definitions to reflect current trends in graffiti vandalism; amend the fine schedule for violators, including a requirement to perform community service within Miami Beach; and adjust the period for private property compliance, to ensure that private property graffiti was handled in a more timely manner.

While in the process of developing the proposed amendments to the ordinance, the City implemented certain internal changes to ensure a more timely response to graffiti. This included establishing a program, "T.A.G. – You're It!" designed to encourage residents, businesses and employees to notify the City when they see graffiti. An email ([graffiti@miamibeachfl.gov](mailto:graffiti@miamibeachfl.gov)) was activated to allow for easy reporting of incidences of graffiti. Reports are then evaluated to determine if they are public or private locations. For public locations, the Public Works Department is immediately dispatched to abate the nuisance, and information is shared with the Police Department to assist with any investigations and/or prosecutions. Private property graffiti cases are referred to Code Compliance for handling (and information also provided to Police). The Police Department's processes have also been adjusted to ensure that graffiti arrests are reported to Code Compliance, so that an accompanying Code Violation case can also be opened. This new internal process appears to have improved the routing of these cases, and as a result our response to this nuisance.

### **PROPOSED ORDINANCE AMENDMENT**

As instructed by the Neighborhood/Community Affairs Committee, the Administration worked with the City Attorney's Office to propose amendments to the City's existing anti-graffiti legislation. In the process of developing the proposed amendments, the Administration studied and conducted comparative analysis of other metropolitan cities' (Chicago, Atlanta, Los Angeles and New York) anti-graffiti legislation. The Administration has also considered the model ordinance developed by the International Municipal Lawyer Association (IMLA). The proposed amendments provide for the following changes:

#### ***Updated definitions and modernized terminology***

The proposed draft ordinance updates the definition of graffiti and makes it more comprehensive. The amended definition no longer limits graffiti to the vandalism on permanent structures, but covers all public and private properties, structures and fixtures. The amendment also provides an updated more comprehensive definition of graffiti implements, as it adds broad-tipped indelible marker, pen, aerosol paint container, gummed label, paint stick, graffiti stick, etching equipment, brush or any other type of device or, instrument, liquid, substance, or etching acid to the list of the items that can deface properties in the city. The proposed ordinance also incorporates the definition of etching acid which has been increasingly used in cities for graffiti vandalism. Finally, the ordinance defines minor as a person who has not attained the age of 18 years.

#### ***Amended fine and penalty schedules***

In order to provide a more effective and quick mechanism for the enforcement of the City's anti-graffiti legislation, the Administration proposes the following fine and penalty schedules for graffiti vandalism, possession of graffiti implements and sale of graffiti implements to minors, which are the three (3) types of violations that can occur under the ordinance.

#### ***Fine and penalty schedule for graffiti vandalism***

	Fine (\$)
1 <sup>st</sup> offense within a 12 month period:	250.00
2 <sup>nd</sup> offense within a 12 month period:	500.00
3 <sup>rd</sup> offense within a 12 month period:	1000.00

As an alternative means of enforcement, the City may take a violator to the Special Master, in which case fines may be imposed of up to \$1,000.00 per day for a first offense, \$5,000.00 per day for a second offense, and up to \$15,000.00 per violation if the graffiti violation is irreparable or irreversible in nature.

*Fine and penalty schedule for possession of graffiti implements*

	Fine (\$)
1 <sup>st</sup> offense within a 12 month period:	125.00
2 <sup>nd</sup> offense within a 12 month period:	250.00
3 <sup>rd</sup> offense within a 12 month period:	500.00

*Fine and penalty schedule for sale of graffiti implements to minors*

	Fine (\$)
1 <sup>st</sup> offense within a 12 month period:	250.00
2 <sup>nd</sup> offense within a 12 month period:	500.00

The proposed fine and penalty schedules are intended to serve as a deterrent to graffiti. As you will note, Section 70-123 (c) (2) provides that in addition to these fines and penalties, a court can also impose fines and penalties, as well as imprisonment for up to six months (as per state law). Direction from the Commission on these fine schedules is requested.

***Community service***

Pursuant to the instruction by the Neighborhood/Community Affairs Committee, the Administration was requested to incorporate mandatory community service hours as part of the fine and penalty provisions for violations of the City code. However, following review by the City Attorney's office, it was determined that a Special Master cannot impose community service hours. However, language in the ordinance provides that when any criminal case is filed for violations of the City Graffiti ordinance, the court can impose community service hours as an additional penalty, with a specific reference that the community service be graffiti remediation in the City. Additionally, we have included a provision that would allow a violator to voluntarily choose to serve community service in the City in lieu of payment of their fines for city code violations. As currently proposed, they could choose to serve one community service hour for every \$25.00 of an imposed fine.

***Restitution***

In order to provide compensation to the victims of graffiti vandalism, the proposed draft ordinance provides for restitution to the victim(s). However, the Special Master cannot order restitution; it must be ordered by a court.

***Recovery of unpaid fines***

In order to provide the City with an effective means to recover unpaid fines for graffiti vandalism and possession of graffiti implements, the proposed draft ordinance authorizes the City to either institute proceedings in a court to compel payment or to impose a lien that may lead to a property foreclosure. The proposed changes also envision revocation of an occupational license or certificate of use. Section 70-123 (g) also clarifies that the parents or legal guardians of a minor will be jointly and severally liable with the minor for the payment of fines.

***Adjusted period for private property compliance***

The proposed draft ordinance substitutes the counting of days from business to calendar. This change requires a much quicker time for graffiti removal from the private property.

***Process for Graffiti Abatement***

The ordinance provides for more flexibility in the manner in which abatement occurs to allow for a much faster response to graffiti abatement. Whereas the current ordinance requires the entire wall that has been "tagged" to be mitigated, the proposed amendments will allow for mitigation to be permitted only for the affected section of the wall. However, in the event the City had to remediate the graffiti due to the

failure of the property owner to do so within the timeframes provided, the private property owner will be responsible for ensuring that – should the area abated by the City be done in a color that does not match the rest of the surface – the private property owner is responsible for painting the remediated area to match the balance of the surface area. In this case, the private property owner would be responsible for reimbursing the city, as well as covering the costs associated with ensuring that the surface area meets other city code requirements regarding property maintenance. As you will note, there are no penalty provisions included in the ordinance for the failure of the private property owner to remediate the graffiti, nor is one recommended.

**FISCAL IMPACT**

The proposed amendment includes additional fines and penalties that could produce revenues for the City. The change to a shorter timeframe for private property to remediate the graffiti prior to the City remediating the graffiti may result in an increase in the number of properties remediated by the City on behalf of private property owners. While there are provisions for liens to be attached to private property owners, the City will incur the hard costs (labor and paint) until such time as the reimbursement to the City is made. Additionally, the ordinance provides that penalties can include restitution to the victim, which would include the private property owner, or the public property owner (such as the City).

**CONCLUSION**

The proposed draft ordinance has been developed by the Administration together with the City Attorney's Office pursuant to the instruction by the Neighborhood/Community Affairs Committee. The amendments to the City's existing anti-graffiti ordinance provide updated definitions and modernized terminology as well as more effective fine and penalty schedules. The proposed changes add a requirement for community service and restitution for court prosecutors under the City Code, provide the City with a means to recover unpaid fines, and reduce compliance time for graffiti removal. The mentioned changes should make the City's endeavors to fight graffiti more effective.

  
JMG/HE/VJ

ORDINANCE NO. \_\_\_\_\_

AN ORDINANCE OF THE MAYOR AND CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA, AMENDING CHAPTER 70 OF THE MIAMI BEACH CITY CODE ENTITLED "MISCELLANEOUS OFFENSES"; BY AMENDING ARTICLE III ENTITLED "GRAFFITI"; BY AMENDING DIVISION I, ENTITLED "GENERALLY"; BY AMENDING SECTION 70-121 ENTITLED "RESERVED" TO PROVIDE PROVISIONS DECLARING GRAFFITI A NUISANCE; BY AMENDING SECTION 70-122 ENTITLED "DEFINITIONS" TO PROVIDE ADDITIONAL AND AMENDED DEFINITIONS RELATIVE TO GRAFFITI; BY AMENDING SECTION 70-123 ENTITLED "PROHIBITIONS" BY AMENDING THE ACTS PROHIBITED AND AMENDING ENFORCEMENT AND PENALTY PROVISIONS; BY AMENDING SECTION 70-124 ENTITLED "POSSESSION OF SPRAY PAINT AND MARKERS" BY AMENDING ENFORCEMENT AND PENALTY PROVISIONS; BY AMENDING AND RENUMBERING SECTION 70-125 ENTITLED "GRAFFITI DECLARED A NUISANCE" BY MOVING SAID SECTION TO SECTION 70-121; BY AMENDING AND RENUMBERING SECTION 70-126 ENTITLED "RESPONSIBILITY OF PROPERTY OWNER(S); GRAFFITI REMOVAL AND NOTICE" BY AMENDING THE RESPONSIBILITIES OF PROPERTY OWNERS WITH REGARD TO THE REMOVAL OF GRAFFITI AND AMENDING ENFORCEMENT PROVISIONS; BY AMENDING AND RENUMBERING SECTION 70-127 ENTITLED "APPEAL" BY PROVIDING FOR PENALTY AND LIEN PROVISIONS; BY AMENDING AND RENUMBERING SECTION 70-128 ENTITLED "COST OF GRAFFITI REMOVAL AS LIEN ON PROPERTY, COLLECTION; FORECLOSURE AND SALE" BY AMENDING CITY LIEN PROCEDURES; BY RENUMBERING SECTION 70-129 ENTITLED "INTERESTED PERSONS MAY PETITION TO DISPUTE ASSESSED COSTS"; BY RENUMBERING SECTIONS 70-130 THROUGH 70-145, ENTITLED "RESERVED;" BY AMENDING DIVISION II ENTITLED "SPRAY PAINT, BROAD-TIPPED INDELIBLE MARKERS" BY AMENDING SECTION 70-146, ENTITLED "SALE PROHIBITED," AND SECTION 70-147, ENTITLED "SIGNS REQUIRED," BY ADDING ETCHING ACID TO THE ITEMS PROHIBITED FOR SALE TO MINORS AND SIGNAGE REQUIREMENTS; BY AMENDING SECTION 70-148, ENTITLED "PENALTIES; PROCEDURES FOR ADMINISTRATION," BY AMENDING THE ENFORCEMENT AND PENALTY PROVISIONS; PROVIDING FOR REPEALER; SEVERABILITY; CODIFICATION; AND AN EFFECTIVE DATE.

WHEREAS, the immediate removal of graffiti is the most effective deterrent to its reoccurrence; and

**WHEREAS**, graffiti depreciates the value of the defaced property as well as the surrounding neighborhood; and

**WHEREAS**, the presence of graffiti etching acid on surfaces which come in contact with the public pose a health and safety risk; and

**WHEREAS**, the City recognizes the importance of preserving the City's aesthetic beauty and protecting the City's image and quality of life for its residents and visitors; and

**WHEREAS**, in order to preserve the integrity of the commercial and residential neighborhoods of the City, including its historically designated districts, and to protect the health, safety, and welfare of the general public, the Mayor and City Commission find that more stringent measures and updated terminology with regard to graffiti are needed in the City Code to serve and protect the best interests of the citizens of Miami Beach and to promote and maintain the aesthetic appearance of the City of Miami Beach, which is an internationally renowned tourist destination.

**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 III, entitled "Graffiti," of Chapter 70 of the Miami Beach City Code, entitled "Miscellaneous Offenses," is hereby amended as follows:

**CHAPTER 70**

**MISCELLANEOUS OFFENSES**

\* \* \*

**ARTICLE III. GRAFFITI**

**DIVISION 1. GENERALLY**

**Sec. 70-121. ~~Reserved.~~ Graffiti declared a nuisance.**

The creating or maintaining of the unauthorized application of paint, ink, chalk, dye, felt tip or indelible marker, or any non-water soluble substance, or the applying or affixing of other inscribed or engraved materials, including posters, placards, and flyers of any size and type, on public or private structures located on publicly or privately owned real property in the city is hereby declared to be nuisance.

**Sec. 70-122. Definitions.**

Unless it is apparent from the context that another meaning is intended, the following, when used in this article, shall have the meanings attributed to them by this section:

*Abatement* means the repair, rehabilitation, demolition or removal of a public nuisance.

~~*Bona fide evidence of majority* means a document issued by a federal, state, county, or municipal government or agency thereof, including but not limited to, a motor vehicle operator's license, or registration certificate issued under the Federal Selective Service Act, a passport, or an identification card issued to a member of the armed forces which identifies an individual and provides proof of the age of such individual.~~

*Broad-tipped indelible marker* means any indelible marker that is capable of leaving a mark that is not water soluble and which has a flat or angled writing surface one half (1/2) inch or greater.

*City's agent* means an independent contractor performing graffiti abatement for the city.

*Code compliance officer* means any designated employee acting as an agent of the city whose duty it is to enforce codes and ordinances enacted or adopted by the city.

*Commercial property* means property that is used for business, commercial, or for-profit purposes. It shall be prima facie evidence that a property is commercial if it is located in a business, commercial, office, apartment, hotel or industrial zoning district. "Commercial property" shall include non-permanent structures such as trailers, dumpsters, traffic signs, barricades, utility poles, traffic signal boxes, and construction equipment. "Commercial property" shall not include: (1) single-family homes or residential property of three or less units; (2) property owned by governments; (3) property used for non-profit purposes by educational institutions, charities, or religious institutions.

*Corrective action* means an act required to remove or effectively obscure graffiti that is visible from the right-of-way.

*Director* means the director of the department designated by the city manager to enforce and administer this article or the director's designated representative.

*Etching* means the application of graffiti by using a hard or sharp object or etching acid on glass or on any other type of natural or human-made material or surface.

*Etching acid* means any liquid, substance, or chemical capable of etching, corroding, destroying, or leaving a permanent mark on any natural or human-made surface or material.

*Graffiti* means the unauthorized application or inscription of any word, figure, graphic design, marking, or defacement that is applied by etching or of paint, ink, chalk, dye, felt tip or broad-tipped indelible marker, crayon or any non-water soluble substance, or by any graffiti implement, or by applying or affixing inscribed or engraved materials, including posters, placards and flyers of any size and type on public or private permanent structures property, structures, or fixtures located on publicly or privately owned real property within the city.

~~*Marker Graffiti implement* means any felt tip or broad-tipped indelible marker, pen, aerosol paint container, gummed label, paint stick, graffiti stick, etching equipment, brush or any other type of device or instrument, liquid, substance, or etching acid capable of leaving a visible mark on any natural or human-made surface or material, or similar implement, which contains a fluid which is not water soluble and which has a flat, angled, or rounded writing surface one-quarter inch or greater.~~

Minor means any person who has not attained the age of 18 years.

*Non-commercial property* means all property that is not included in the definition of commercial property in this section.

*Non-permanent structures* means trailers, dumpsters, traffic signs, barricades, utility poles, traffic signal boxes, and construction equipment.

*Nuisance* means anything injurious to health so as to interfere with the comfortable enjoyment of life or property, which nuisance affects at the same time an entire community or neighborhood, or any considerable numbers of persons, although the extent of the annoyance or damage inflicted upon individuals may be unequal.

*Owner* means any and all persons with legal and/or equitable title to real property in the city as their names and addresses are shown upon the records of the Miami-Dade County Property Appraiser.

*Public right-of-way* means any road, parkway, alley, swale, sidewalk, baywalk, beachwalk, cutwalk, boardwalk, easement or other public way.

*Supervising adult* means an individual twenty-one (21) years of age or older who has been given responsibility by a minor's parents, legal guardian, or other lawful authority to supervise the minor.

#### **Sec. 70-123. Prohibitions; enforcement; and penalties.**

(a) *Prohibitions.* It shall be unlawful for any person to deface, destroy, or otherwise damage private or public property without the owner's consent, by or through the application of graffiti. In addition, a violation of Florida law prohibiting criminal mischief by the placement of graffiti shall be a violation of this section.

~~(b) Any person violating this section shall be punished by a fine of up to \$1,000.00 per day for a first violation, \$5,000.00 per day per violation for a repeat violation, and up to \$15,000.00 per violation if the court or a special master finds the violation to be irreparable or reversible in nature; or by imprisonment in accordance with the requirements of state law or both fine and imprisonment at the discretion of the court.~~

~~(1) In the case of a minor, the parents or legal guardian shall be jointly and severally liable with the minor for payment of all fines.~~

~~(2) Failure of the parents or legal guardian to make payment will result in the filing of a lien on the parents or legal guardian's real property to include the fine and administrative costs.~~

~~(3) Upon an application and finding of indigence the court may decline to order fines against the minor or parents.~~

*Enforcement by code compliance officer; notice of violation.* If a code compliance officer finds a violation of this article, the officer shall issue a notice of violation to the violator as provided in chapter 30. The notice shall inform the violator of the nature of the violation, amount

of fine and other penalties for which the violator may be liable, instructions and due date for paying the fine and completing the required community service, notice that the violation may be appealed by requesting an administrative hearing within 20 days after service of the notice of violation, and that failure to do so shall constitute an admission of the violations and waiver of the right to request a hearing.

~~(c) In addition to any punishment listed in this section, the court shall order any violator to make restitution to the victim for damages or loss caused directly or indirectly by the violator's offenses in the amount or manner determined by the court.~~

~~(1) In the case of a minor, the parents or legal guardian shall be ordered jointly and severally liable with the minor to make such restitution.~~

Civil fines and penalties for violators. The following civil fines and penalties shall be imposed for each violation of this article:

(a) First offense. . . \$250.00.

(b) Second offense (within one year of the first offense) . . . \$500.00.

(c) Third or more offenses (within one year of the first offense) . . . \$1,000.00.

In lieu of a fine, voluntary community service in the City may be served equivalent to one hour of community service for each \$25.00 of an imposed fine. If the community service is not completed within 6 months of an adjudication of guilt, the fine shall be reinstated.

(2) Criminal fines and penalties. In addition to the above civil fines and penalties, a court may impose both civil fines and penalties, restitution, not less than 40 hours and, if possible, at least 100 hours of community service that involves the removal of graffiti in the city, and imprisonment for up to 6 months in accordance with the requirements of state law.

~~(d) In addition to any punishment listed in this section, the court shall order any violator to perform monitored community service in the removal of graffiti. Rights of violators; payment of fine; right to appear; failure to pay civil fine or to appeal.~~

(1) A violator who has been served with a notice of violation shall elect either to:

a. pay the civil fine in the manner indicated on the notice; or

b. request an administrative hearing before a special master to appeal the notice of violation within 20 days of the issuance of the notice of violation.

(2) The procedures for appeal by administrative hearing of the notice of violation shall be as set forth in sections 30 - 72 and 30 - 73.

(3) If the named violator after notice fails to pay the civil fine, or fails to timely request an administrative hearing before a special master, the special master shall be informed of such failure by report from the code compliance officer. Failure of the named violator to appeal the decision of the code compliance officer within the prescribed time period shall constitute a waiver of the violator's right to administrative hearing before the special

master. A waiver of the right to an administrative hearing shall be treated as an admission of the violation, and fines and penalties may be assessed accordingly.

(4) As an alternative to the procedures set forth in (d)(1)-(3), the city may request an administrative hearing pursuant to sections 30-71 through 30-79 if the violation is irreparable or irreversible in nature. In such case, the fines and penalties in said sections shall apply.

(5) Any party aggrieved by a decision of a special master may appeal that decision to a court of competent jurisdiction.

(e) Recovery of unpaid fines; unpaid fines to constitute a lien; foreclosure.

(1) The city may institute proceedings in a court of competent jurisdiction to compel payment of civil fines.

(2) A certified copy of an order imposing a civil fine may be recorded in the public records and thereafter shall constitute a lien upon any other real or personal property owned by the violator; and it may be enforced in the same manner as a court judgment by the sheriffs of this state, including levy against the personal property, but shall not be deemed to be a court judgment except for enforcement purposes. After two months from the filing of any lien which remains unpaid, the city may foreclose or otherwise execute upon the lien.

(f) Injunctive relief; license or certificate of use revocation. As an additional means of enforcement, the city may seek injunctive relief and/or revoke an occupational license/certificate of use as set forth in chapters 14 and 18 of this Code when there are more than three offenses by the same violator within one year of the first offense.

(g) Liability of parents or legal guardians. In the case of a minor, the parents or legal guardians shall be jointly and severally liable with the minor for the payment of all fines. Failure of the parents or legal guardian to pay any fines will result in the filing of a lien on the real property of the parents or legal guardians, which lien shall include all administrative costs.

**Sec. 70-124. Possession of spray paint and broad-tipped indelible markers; enforcement; penalties.**

(a) Possession of spray paint and broad-tipped indelible markers with intent to make graffiti is prohibited.

(b) Possession of spray paint and broad-tipped indelible markers by minors on public property is prohibited. No person under the age of 18 shall have in his or her possession any aerosol container of spray paint or broad-tipped indelible marker while on any public property, or right-of-way, except in the company of a supervising adult.

(c) Possession of spray paint and broad-tipped indelible markers by minors on private property is prohibited without the consent of the owner. No person under the age of 18 shall have in his or her possession any aerosol container of spray paint or broad-tipped indelible marker while on any private property unless the owner, agent, manager, or person(s) in possession of the property have knowledge of the minor's possession of the aerosol container

or broad-tipped indelible marker and have consented to the minor's possession while on his or her property.

~~(d) Any person violating this section shall be punished by a fine of up to \$1,000.00 per day for a first violation, \$5,000.00 per day per violation for a repeat violation, and up to \$15,000.00 per violation if the court or a special master finds the violation to be irreparable or irreversible in nature.~~

~~(1) In the case of a minor, the parents or legal guardian shall be responsible for payment of all fines.~~

~~(2) Failure of the parents or legal guardian to make payment will result in the filing of a lien on the parents' or legal guardian's real property to include the fine and administrative costs.~~

(1) *Civil fines and penalties for violators.* The following civil fines and penalties shall be imposed for each violation of this article:

(a) First offense . . . \$125.00.

(b) Second offense (within one year of the first offense) . . . \$250.00.

(c) Third or more offenses (within one year of the first offense) . . . \$500.00.

In lieu of a fine, voluntary community service, in the city may be served equivalent to one hour of community service for each \$25.00 of an imposed fine. If the community service is not completed within 6 months of an adjudication of guilt, the fine shall be reinstated.

(2) *Criminal fines and penalties.* In addition to the above civil fines and penalties, a court may impose both civil fines and penalties, restitution, not less than 40 hours and, if possible, at least 100 hours of community service that involves the removal of graffiti in the city, and imprisonment for up to 6 months in accordance with the requirements of state law.

(e) *Rights of violators; payment of fine; right to appeal; failure to pay civil fine or to appeal.*

(1) A violator who has been served with a notice of violation shall elect either to:

a. pay the civil fine in the manner indicated on the notice; or

b. request an administrative hearing before a special master to appeal the notice of violation within 20 days of the issuance of the notice of violation.

(2) The procedures for appeal by administrative hearing of the notice of violation shall be as set forth in sections 30 - 72 and 30 - 73.

(3) If the named violator after notice fails to pay the civil fine or fails to timely request an administrative hearing before a special master, the special master shall be informed of such failure by report from the code compliance officer. Failure of the named violator to appeal the decision of the code compliance officer within the prescribed time period shall constitute a waiver of the violator's right to administrative hearing before the special

master. A waiver of the right to an administrative hearing shall be treated as an admission of the violation, and fines and penalties may be assessed accordingly.

(4) Any party aggrieved by a decision of a special master may appeal that decision to a court of competent jurisdiction.

(f) Recovery of unpaid fines; unpaid fines to constitute a lien; foreclosure.

(1) The city may institute proceedings in a court of competent jurisdiction to compel payment of civil fines.

(2) A certified copy of an order imposing a civil fine may be recorded in the public records and thereafter shall constitute a lien upon any other real or personal property owned by the violator; and it may be enforced in the same manner as a court judgment by the sheriffs of this state, including levy against the personal property, but shall not be deemed to be a court judgment except for enforcement purposes. After two months from the filing of any lien which remains unpaid, the city may foreclose or otherwise execute upon the lien.

(g) Injunctive relief; license or certificate of use revocation. As an additional means of enforcement, the city may seek injunctive relief and/or revoke an occupational license/certificate of use as set forth in chapters 14 and 18 of this Code when there are more than three offenses by the same violator within one year of the first offense.

(h) Liability of parents or legal guardians. In the case of a minor, the parents or legal guardians shall be jointly and severally liable with the minor for the payment of all fines. Failure of the parents or legal guardian to pay any fines will result in the filing of a lien on the real property of the parents or legal guardians, which lien shall include all administrative costs.

#### **Sec. 70-125. Graffiti declared a nuisance.**

~~The creating or maintaining of the unauthorized application of paint, ink, chalk, dye, felt tip or indelible marker, or any non-water soluble substance, or the applying or affixing of other inscribed or engraved materials, including posters, placards, and flyers of any size and type, on public or private structures located on publicly or privately owned real property in the city is hereby declared to be nuisance.~~

#### **Sec. 70-1265. Responsibility of property owner(s) to remove graffiti; graffiti removal and notice; enforcement.**

(a) Maintenance or allowance of graffiti to exist for more than seven business calendar days on a commercial property, or 10 business calendar days on a residential property, is prohibited.

(b) Whenever the city becomes aware of the existence of graffiti on any property, a code compliance officer is authorized upon such discovery to give, or cause to be given, notice to take corrective action to the property owner or the property owner's agent or manager.

(1) Commercial property. For commercial property, the property owner or the property owner's agent or manager shall take corrective action within seven business calendar days from the receipt or delivery of the notice referenced within this section.

(2) Non-commercial property. For non-commercial property, the property owner, or property owner's agent shall take corrective action within 10 business calendar days from the receipt or delivery of the notice referenced within this section.

(c) Such notice shall be given by certified mail, return receipt requested; or by hand delivery by code compliance officer to the owner of record of the property described as recorded in the current county tax rolls. Mailed notice shall be deemed complete and sufficient notice when so deposited in the United States mail with proper postage prepaid.

(d) The city shall waive painting permit requirements for abating graffiti, subject to the use of the same colored exterior paint, provided that the existing paint complies with all city requirements.

(e) Graffiti abatement shall consist of:

(1) Painting of the entire wall, and/or non-permanent structure surface defaced by graffiti with paint matching the permitted paint color on the surface, regardless of whether the city has temporarily abated the graffiti with a different paint color.

(2) Pressure-cleaning or cleaning by any other method that will successfully remove graffiti from a wall, and/or non-permanent structure, the surface defaced by the graffiti without causing damage.

(f) The property owner is responsible for ensuring compliance with sections 142-1191 through 142-1193 of the City Code and a violation of this section shall be enforced pursuant to sections 114-7 through 114-8.

**Sec. 70-1276. Appeal.**

(a) A property owner who has been served with the notice set forth in section 70-1265 shall elect either to:

- (1) Remove or cause to remove the graffiti within the time specified on the notice; or
- (2) Request an administrative hearing before the special master to appeal the determination of the inspector which resulted in the issuance of the notice.

(b) An appeal for an administrative hearing shall be held before the special master and shall be accomplished by filing a request in writing to set the hearing for review and mailed to the code compliance officer or designee, not later than two business days after the service of the notice. The remainder of the appeal procedures, and penalty and lien provisions, will be in accordance with sections 30-72 through 30-79 of the Code.

**Sec. 70-1287. Cost of graffiti removal as lien on property; collection; foreclosure and sale.**

(a) Upon failure of the owner of the property to remedy the conditions existing in violation of section 70-123, the code compliance officer shall proceed to have such condition remedied by the city and/or city agent in an effort to abate the nuisance.

(b) City employees and/or the city's agents may enter upon private property to abate the nuisance pursuant to the provisions of this article. No person shall obstruct, impede, or interfere with any city employee and/or city's agent whenever said person is engaged in the work of graffiti abatement pursuant to this article, or in performing any necessary act preliminary to or incidental to such work as authorized or directed pursuant to this article.

(c) Following corrective action taken by the city or city's agent, the code compliance officer shall proceed to have all cost incurred thereof to be and become a lien against such property thirty (30) days after notice of completion of work by the city if such costs remain unpaid. Said lien shall be of equal dignity with a lien for special assessments, and with the same penalties and with the same rights of collection, foreclosure, sale and forfeiture provided for special assessment liens. ~~The cost chargeable to the owner shall not exceed the amount of cost as set forth in the notice served to the property owner or owners required herein under section 70-126.~~

**Sec. 70-1298. Interested persons may petition to dispute assessed costs.**

(a) Any person owning property which has been found to be in violation of this article, and upon which remedial work by the city has been done shall have the right, at any time within 30 days after notice of completion of work under this article, to present to the city clerk a sworn petition stating his or her interest in the property and alleging that in the opinion of the petitioner, the cost of the work exceeds the actual cost thereof or is otherwise erroneous.

(b) Such petition shall be presented to the special master for consideration. The special master may fix and confirm the amount to be charged based on the information presented.

**Secs. 70-13029--70-145. Reserved.**

**DIVISION 2. SALE OF SPRAY PAINT, BROAD-TIPPED INDELIBLE MARKERS, ETCHING-ACID.**

**Sec. 70-146. Sale prohibited.**

It shall be unlawful for any person to sell, barter, exchange or otherwise transfer any aerosol containers of spray paint ~~or~~ any broad-tipped indelible marker, or etching acid to any person under the age of 18 years.

**Sec. 70-147. Signs required.**

Every person who owns, conducts, operates or manages a retail commercial establishment selling aerosol containers of spray paint ~~or~~ broad-tipped indelible markers, or etching acid shall:

(1) Place a sign in clear public view at or near the display of such products stating:

Graffiti is a crime. Any person defacing real or personal property not his own with paint or any other liquid or device is guilty of a crime punishable by imprisonment for up to six months, with a fines up to \$1,000.00, or up to \$15,000.00 if the violation is irreparable or irreversible in nature, restitution, and a minimum of 100 hours of community service in the city.

(2) Place a sign in the direct view of such persons responsible for accepting customer payment for aerosol containers of spray paint, ~~or broad-tipped indelible markers, or etching acid~~ stating:

It is a violation of the law punishable by a civil fine of ~~\$400.00~~ 250.00 for a first offense to sell aerosol containers of spray paint, ~~or broad-tipped indelible markers, or etching acid~~ to persons under 18 years of age.

(3) Store or cause such aerosol containers, ~~or broad-tipped indelible marker pens, or etching acid~~ to be stored either in the direct line of sight from the cash register work station or any other work station normally continuously occupied while the store is open, or in a place not accessible to the public in the regular course of business without employee assistance, pending legal sale or disposition of such ~~marker pens or paint containers~~ items.

**Sec. 70-148. Penalties; procedures for administration.**

(a) Violation of this division shall result in a civil penalty of ~~\$400.00~~ 250.00 for a first offense and ~~\$200.00~~ 500.00 for all subsequent offenses within 12 months of a prior offense. When three such offenses occur within any calendar year at a commercial establishment, that establishment shall be subject to an injunction from a court of competent jurisdiction forbidding the sale of aerosol containers of spray paint, ~~and broad-tipped indelible markers, and etching acid~~ for a period of two years.

(b) Procedures for enforcement, appeals, and collection of fines by the city shall be as provided in ~~subsections 70-6(c) and (d)~~ 30-71 through 30-79.

**Secs. 70-149--70-180. Reserved.**

**SECTION 2. Repealer.**

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

**SECTION 3. 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 4. 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 5. Effective Date.**

This Ordinance shall take effect the \_\_\_\_\_ day of \_\_\_\_\_, 2009.

**PASSED** and **ADOPTED** this \_\_\_\_\_ day of \_\_\_\_\_, 2009.

**ATTEST:**

\_\_\_\_\_  
Robert Parcher  
City Clerk

\_\_\_\_\_  
Matti Herrera Bower  
Mayor

Underline denotes additions

~~Strike through~~ denotes deletions

Shading denotes amendments subsequent to the Neighborhoods/Community Affairs Meeting

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

  
\_\_\_\_\_  
City Attorney *DT* 3/11/09  
RJ

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**Condensed Title:**

An Ordinance establishing definitions, standards, procedures and incentives providing for property owner voluntary participation, and City mandatory participation, in the LEED Certification Program as established by the U.S. Green Building Council.

**Key Intended Outcome Supported:**

Enhance the Environmental Sustainability of the Community.  
**Supporting Data (Surveys, Environmental Scan, etc.):** N/A

**Issue:**

Shall the Mayor and City Commission approve the Ordinance?

**Item Summary/Recommendation:**

The attached Ordinance proposes a Leadership in Energy and Environment Design (LEED) system for buildings in the City of Miami Beach. LEED is a building rating system which recognizes and encourages sustainable/green building and development practices. The LEED rating and certification system is intended to enhance energy conservation, encourage reuse and use of recycled materials and encourage operating practices that are environmentally friendly.

The LEED building rating system was developed by the United States Green Building Council (USGBC) in 1998.

The Ordinance would establish a voluntary LEED Building Rating System for private development.

The Ordinance language mirrors an existing requirement in Section 255.2575, Florida Statutes (2008) for City buildings that all new municipal buildings for which design began after July 1, 2008 be LEED certified.

The Ordinance provides for incentives both in terms of the time associated with processing an application for green buildings in the City's permitting review and approval process, and also potentially financial incentives.

The LEED certification process for construction is a recognized and objective tool to assess a project's compliance with established enhanced environmental practices. Buildings that are LEED certified are ultimately more friendly to the environment and in the long-term will benefit the overall environmental health of the community through energy waste, and water consumption reduction. As there is typically a reduction in operating expenses associated with LEED certified buildings, the investment in a building to have an achieved LEED certification is also recovered. Through the provision of both time and possibly monetary incentives, the recommended model for the City of a voluntary program is a good starting point for City engagement in environmentally enhanced buildings.

**Advisory Board Recommendation:**

N/A

**Financial Information:**

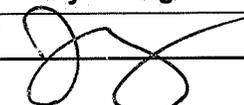
OBPI	Total	

**Fiscal Impact:** Limited to the appropriation, if any, in a fiscal year per the City Commission approval in the budget process.

**City Clerk's Office Legislative Tracking:**

Robert C. Middaugh, Assistant City Manager

**Sign-Offs:**

Department Director	Assistant City Manager	City Manager
	RGM 	JMG 

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# MIAMI BEACH

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

## COMMISSION MEMORANDUM

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

FROM: Jorge M. Gonzalez, City Manager

DATE: March 18, 2009

SUBJECT: **AN ORDINANCE OF THE MAYOR AND CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA AMENDING THE CITY CODE OF THE CITY OF MIAMI BEACH, BY CREATING NEW CHAPTER 100, ENTITLED "SUSTAINABILITY," BY CREATING NEW ARTICLE I, "GREEN BUILDING ORDINANCE," ESTABLISHING DEFINITIONS, STANDARDS, PROCEDURES AND INCENTIVES PROVIDING FOR PROPERTY OWNER VOLUNTARY PARTICIPATION, AND CITY MANDATORY PARTICIPATION, IN THE LEED CERTIFICATION PROGRAM AS ESTABLISHED BY THE U.S. GREEN BUILDING COUNCIL OR OTHER RECOGNIZED RATING SYSTEM, FOR NEW CONSTRUCTION OR SUBSTANTIAL RENOVATIONS AS PROVIDED IN THE ORDINANCE, PROVIDING FOR A BOND TO GUARANTEE PARTICIPATION IN THE PROGRAM IF A PROPERTY OWNER RECEIVES INCENTIVES, AND PROCEDURES FOR USE OF THE BOND FOR FAILURE TO SO PARTICIPATE; PROVIDING FOR REPEALER; SEVERABILITY; CODIFICATION; AND AN EFFECTIVE DATE.**

### ADMINISTRATION RECOMMENDATION

Approve the Ordinance on First Reading.

### BACKGROUND

The attached Ordinance proposes adopting a Leadership in Energy and Environment Design (LEED) system for buildings in the City of Miami Beach. LEED is a building rating system which recognizes and encourages sustainable/green building development, construction and management practices. The LEED rating and certification system is intended to enhance energy conservation, encourage use of recycled materials and encourage operating practices that are environmentally friendly.

The LEED building rating system was developed by the United States Green Building Council (USGBC) in 1998 and has systematically evolved and improved to an internationally recognized standard to encourage and assess the actual performance of green building development.

The USGBC is a national organization of volunteers founded to represent the building industry on environmental building matters. Information about the USGBC is found in Exhibit 1.

In order to participate in the LEED Building Rating System, a building owner must make an application to the USGBC for participation. The applicant pays a registration and review fee of approximately \$3,000.00 to the USGBC for the assessment of the building project and the certification completed at the end of the project. The LEED Building Rating System is organized around six different areas for which a building can achieve points toward a certification. LEED certification comes in basic certification, silver, gold and platinum levels. It is recommended that the basic level or basic certified level requiring 26 to 32 points be adopted as the City standard.

The six project areas are found in the project checklist, Exhibit 2. This exhibit depicts the points associated with the rating areas of: sustainable site, water efficiency, energy and the atmosphere, material and resources, indoor environmental quality, and innovation and design processes. In the ranking process, a total of 69 points is the maximum that can be achieved and the minimum to achieve the certified level is 26 points.

Each project is reviewed by the USGBC to determine which of the credits or project points are appropriate and achievable for the specific building. These agreed upon credit and point areas are then pursued by the builder/developer in the design, construction and management phases. At the conclusion of the building process and the actual commencement of operation of the building, the building is reassessed by the USGBC (or a certified reviewer on its behalf) to determine if the points and credit areas have actually been accomplished.

As the project checklist indicates, there are a number of different possible credits within the general rating areas of the LEED certification. For example: in the area of sustainable sites there are fourteen (14) possible points that can be achieved by a building/development. Generally, each specific credit area within the more general rating area provides a builder/developer several different methods to achieve the credit and earn the appropriate point. Exhibit 3 indicates one (1) typical credit area, storm water design, that illustrates two (2) different options for a building/developer to achieve the credit associated within this specific area. The credit criteria are very specific as to how the credit is calculated and the nature of the documentation that is required in order for the builder/developer to achieve compliance for this particular credit.

Achieving compliance with LEED standards typically costs a builder/developer more than ordinary design and construction. While there is no precise measurement, industry estimates are that 5% to 7% in additional costs may be experienced in making a building LEED certified. By the same token, buildings that are LEED certified typically consume less energy and therefore over time are less expensive to operate than conventional construction.

### LEED Ordinance Overview

The attached Ordinance would establish a voluntary LEED Building Rating System for private development. While mandatory LEED participation was discussed by the Land Use and Development Committee, it was determined that the initial effort of the City would be more positive and less complicated if a voluntary participation based system was implemented.

As the system is voluntary there is no minimum building size for which the LEED program would be made available. Any building project, residential or commercial, substantial renovation or new construction would be eligible to participate in the LEED certification process. The voluntary approach is more expansive and more inclusive of a range of buildings in the City than a mandatory program would allow. In a mandatory participation approach typically single family residences and smaller projects are excluded because of the costs of compliance and/or participation. In the voluntary model each building/developer can determine if they wish to participate as their specific project allows.

The Ordinance language mirrors an existing requirement in Section 255.2575, Florida Statutes (2008) for City buildings that all new municipal buildings for which design began after July 1, 2008 be LEED certified. LEED certification for substantial renovations of municipal buildings is not required by statute and thus not part of the Ordinance.

The key to the City's LEED Ordinance and its success on a voluntary basis is found in the different incentives that are built into the Ordinance. The Ordinance provides for incentives both in terms of the time associated with processing an application for green buildings in the City's permitting review and approval process, and also potentially financial incentives. Each of these two incentive areas will be addressed separately.

### LEED Time Incentives

The LEED Ordinance anticipates that individuals who elect to participate in the program will be eligible to have prioritized review of the project in the Land Use Board approval process and through the Building development permitting process. By providing this prioritization during the review process, any particular project may save weeks in processing time as opposed to traditional processing in the queue with other projects and developments.

In order to ensure that this time incentive is not abused, the Ordinance also requires that in order to receive incentives each building/developer post a bond in the amount of \$1.00 per square foot of floor area. The bond is intended to ensure that a project does not take advantage of the time incentive or the financial incentive, if appropriate, and then fail to achieve the LEED certification at the end of the process.

The Land Use and Development Committee discussed at some length the appropriate level of bond amount in order to assure that the incentives offered are not abused. Initial drafts of the Ordinance contained a percentage of construction (3% for example) and finally discussion evolved to a more simplified \$1.00 per square foot of floor area. The particular issue of the size of bond is one area which the City Commission may wish to discuss as an Ordinance feature, to confirm that the amount is sufficient to achieve the established purpose.

### LEED Financial Incentives

The attached Ordinance also makes provisions for a financial incentive associated with achieving the LEED certification. A variety of different options were discussed by the Land Use and Development Committee and the Administration. No consensus was achieved by the Land Use and Development Committee and the Administration was asked to propose a model which could be discussed at the full Commission level.

Original discussions revolved around either providing a rebate of some percent of the building permit fees and/or creating a fund through a surcharge mechanism from which a financial incentive could be provided to a builder/developer. In the Administration's assessment of the use of building fees, it has been deemed that a rebate of those fees is not allowed to achieve an incentive as anticipated in the LEED program. Building fees are specifically earmarked to provide payment to the City for services directly related to the building inspection and review process. LEED, while a worthy and desirable community

goal, is not an eligible subject matter for use of building permit fees as it would require one project to subsidize another project.

The idea of imposing a surcharge fee on the building process was also discarded by the Administration as unfeasible, as it would be difficult to document the basis for the fee. The economic disincentive associated with a surcharge was not seen as desirable, particularly in these economic conditions.

The Ordinance proposes a model which is intended to specifically limit the City's exposure for annual expenditures in achieving the goals associated with the LEED Ordinance. The City Commission, by annual resolution in the budget process, would appropriate a precise amount of funds that would be allocated and available for financial incentives for projects that achieve a LEED Certification. As such, the specific financial impact of the Ordinance is established and known by the City Commission in each budget cycle. As the level of annual expenditure is proposed to be reviewed and assessed in the budget cycle, the City Commission also has the opportunity of comparing the priority of a LEED incentive expenditure with other priorities which will be contained in the annual budget.

The financial incentives shown in the ordinance are intended to help offset the cost of application and review for LEED certification and a percentage of added costs incurred in building to LEED standards.

Application and review costs for LEED certification are approximately \$3,000 per project. This is inclusive of the registration design and construction review costs that are charged by the USBGC.

Projects that pursue LEED certification typically incur an increase in construction costs of 5-7%. In order to help offset some of this incremental cost increase, a grant of up to 5% of the added cost is suggested. For a project costing \$3.5 million, the cost of LEED certification may be approximately \$200,000. With the financial incentive of 5%, the project would be eligible to receive \$10,000 as a cost offset. When added to the application and review incentive, the project (\$3.5 million construction cost example) would be eligible to receive \$13,000.

It is also suggested that a maximum incentive of 20% of the total annual appropriation be established for any one project. This limit would ensure that no one project would consume the resources available in a given year.

It is important to note that in the event the City Commission does not choose to allocate the monetary resources in a fiscal year, the LEED certification and incentive process can still function solely on the basis of the time incentive that is provided within the Ordinance. While the financial incentive is also helpful, as indicated earlier, for buildings that do become LEED certified, over the long term operational expenses are typically less than normal buildings and the investment costs associated with accomplishing a LEED certification will be earned back over time.

In this and perhaps several fiscal years, it may be unrealistic to expect to be able to allocate funds to the LEED program financial incentives. As energy and environmental related grant funds become available in the future, that may be the best or a more likely source of funds for the program. The current economic stimulus package anticipates some funding for energy conservation and green related projects. While the initial round of funding is intended to be used quickly, subsequent funding rounds may be available for the City to secure funds for the financial component of the LEED incentives.

#### Other Implementation Issues

The Administration has reviewed the implementation of this Ordinance, and believes that there are only incremental costs associated with implementation. The building development review process functions largely the same in a LEED eligible project in terms of the amount of time or attention that is paid to the project by the Administrative staff. The amount of design and plan review and building inspection remains relatively unchanged for a LEED project.

One item, which is a cost of implementation and required in the Ordinance, is to have qualified staff in the Building, Planning and Public Works Departments to assess and to assist with the

project developments. This is an incremental and annual cost. To date the Building Department has already has four (4) people in training, one of which has been LEED accredited. The Public Works Department has two (2) persons undergoing the training and the Planning Department is anticipated to have staff trained in the near future.

### Fiscal Impact Summary

As presented, the fiscal impact of the LEED program is determined in each fiscal year as part of the City Commission budget approval process. As such, the impact can be limited to fit available resources. Any direct fiscal impact to the City might be further reduced with the availability of grant funding in the future. By way of example, with a \$100,000 budget allocation the City would be able to provide LEED related incentives to 4-5 building projects per year in the range of 5-10 million dollars of construction value. At the \$100,000 appropriation level project incentives would average \$20,000 per project, largely as a result of the 20% limit of the total appropriation per project.

In the event that the City Commission accepts the model as presented and directs that some adjustment be made to the overall limitations for incentive allocation, the level of fiscal impact is unchanged, as it would still be governed by the total annual appropriation.

As noted earlier, the program can function without an appropriation for the financial incentive component and realistically might need to do so for several years in recognition of the economic issues facing the City.

Other costs for implementation of the LEED program are mostly associated with training of staff and should be accomplished within available resources.

Should other incentive models be considered by the City Commission, to the extent that those models are not limited by an annual budget appropriation, the costs would tend to be open ended and would require the City to make a variety of assumptions in order to arrive at any specific impact. This can be pursued further if desired by the City Commission.

### CONCLUSION

The LEED certification process for construction is a recognized and objective tool to assess a project's compliance with established enhanced environmental practices. Buildings that are LEED certified are ultimately more friendly to the environment and in the long-term will benefit the overall environmental health of the community through energy, waste, and water consumption reductions. As there is typically a reduction in operating expenses associated with LEED certified buildings, the investment in a building to have an achieved LEED certification is also recovered. Through the provision of both time and possibly monetary incentives, the recommended model for the City of a voluntary program is a good starting point for City engagement in environmentally enhanced buildings. At some point in the future, the City Commission may wish to consider making the program mandatory as sustainable development practices become more wide spread and easier to achieve. The Administration recommends approval of the Ordinance on First Reading and that the City Commission set a Public Hearing for the Second Reading.

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Attachments

## GREEN BUILDING ORDINANCE

ORDINANCE NO. \_\_\_\_\_

**AN ORDINANCE OF THE MAYOR AND CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA AMENDING THE CITY CODE OF THE CITY OF MIAMI BEACH, BY CREATING NEW CHAPTER 100, ENTITLED "SUSTAINABILITY," BY CREATING NEW ARTICLE I, "GREEN BUILDING ORDINANCE," ESTABLISHING DEFINITIONS, STANDARDS, PROCEDURES AND INCENTIVES PROVIDING FOR PROPERTY OWNER VOLUNTARY PARTICIPATION, AND CITY MANDATORY PARTICIPATION, IN THE LEED CERTIFICATION PROGRAM AS ESTABLISHED BY THE U.S. GREEN BUILDING COUNCIL OR OTHER RECOGNIZED RATING SYSTEM, FOR NEW CONSTRUCTION OR SUBSTANTIAL RENOVATIONS AS PROVIDED IN THE ORDINANCE, PROVIDING FOR A BOND TO GUARANTEE PARTICIPATION IN THE PROGRAM IF A PROPERTY OWNER RECEIVES INCENTIVES, AND PROCEDURES FOR USE OF THE BOND FOR FAILURE TO SO PARTICIPATE; PROVIDING FOR REPEALER; SEVERABILITY; CODIFICATION; AND AN EFFECTIVE DATE.**

**WHEREAS**, a green building, also known as a sustainable building, is a structure that is designed, built, renovated, operated, or reused in an ecological and resource-efficient manner; and

**WHEREAS**, the Leadership in Energy and Environmental Design (LEED) Green Building Rating System, developed by the U.S. Green Building Council ("USGBC") provides standards for environmentally sustainable construction; and

**WHEREAS**, since its inception in 1998, LEED has grown to encompass over 14,000 projects in 50 U.S. States and 30 countries covering 1.062 billion square feet (99 km<sup>2</sup>) of development area; and

**WHEREAS**, the hallmark of LEED is that it is an open and transparent process where the technical criteria proposed by the LEED committees are publicly reviewed for approval by the more than 10,000 membership organizations that currently constitute the USGBC; and

**WHEREAS**, the USGBC reports the following benefits of green building construction:

Environmental benefits: enhances and protects ecosystems and biodiversity, improves air and water quality, reduces solid wastes, conserves natural resources; and

Economic benefits: Reduces operating costs, enhances asset value and profits, improves employee productivity and satisfaction, optimizes life-cycle economic performance; and

Health and community benefits: improves air, thermal, and acoustic environments, enhances occupant comfort and health, minimizes strain on local infrastructure, and contributes to overall quality of life; and

**WHEREAS**, the City Commission has determined that due to the benefits determined by the USGBC above and otherwise documented by that organization, it is in the public health, safety and welfare of the citizens, residents and workers in Miami Beach to provide an incentive program for private new construction and substantial renovations, and a mandatory program for City-owned new construction, as provided below; and

**WHEREAS**, the Florida Legislature has also imposed a mandatory requirement for LEED or similar certification for municipal buildings the architectural plans for which are commenced after July 1, 2008, in section 255.2575, Florida Statutes; and

**WHEREAS**, this ordinance is hereby adopted to initiate such LEED program for the reasons herein stated.

**NOW THEREFORE, BE IT ORDAINED BY THE MAYOR AND CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA.**

**SECTION 1.** That City Code Chapter 100, entitled "Sustainability," Article I, "Green Building Ordinance," is hereby created as follows:

**Chapter 100**  
**Sustainability**

**Article I. Green Building Ordinance.**

**Sec. 100-1. Definitions.**

The following words, terms and phrases, when used in this Article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning, or as may be amended from time to time.

*Building* means any structure having a roof supported by columns or walls for the shelter or enclosure of persons or property and includes the word structure and includes any part thereof.

*City* means City of Miami Beach.

*Construction* means any project associated with the creation, development, or erection of any building eligible for the program.

*Current* means the standard in place at the time a program participant submits a project application form with the City.

Green Building means a building whose design, construction and operation promote the preservation of resources and environmentally sensitive construction practices, systems and materials. In making the determination of whether a structure is a green building, the City shall rely on the review, evaluation and registration, certificate and/or verification of the design by U.S. Green Building Council, or other recognized green building rating system approved by resolution of the City Commission, subject to the requirements of this ordinance.

Green Building Program means the program outlined in this ordinance for obtaining incentives for green buildings and developments.

Green Development means the use of sustainable building and development planning methods utilized in a way that result in minimum impact on natural resources, energy consumption, use of water, use of raw materials and waste generation, thereby affording inhabitants a potentially higher quality of life.

LEED means Leadership in Energy and Environmental Design (LEED) Green Building Rating System, developed by the U.S. Green Building Council, or other recognized green building rating system approved by resolution of the City Commission.

Participant means private property owners.

Private means property not owned by the City or any of its related agencies.

Program means the City's Green Building Program.

Program Certification means the final designation awarded to a program participant for satisfying all requirements associated with the program for a particular project.

Program Participant means any person or entity seeking program certification for a particular project.

Project means any construction associated with the creation, development, or erection of any building eligible for the program.

Project Application Form means the form submitted to the City indicating that a program participant is interested in participating in the program for a particular project.

Structure means anything constructed or erected, the use of which requires permanent location on the ground. Among other things, structures include buildings or any parts thereof, walls, fences, parking garages, parking lots, signs and screen enclosures.

Sub-program means any area of construction covered by the program.

Substantial Renovation means a renovation at a cost exceeding 50 percent of the value of the building as determined by the building official.

Sustainable Construction means the process of environmentally sensitive, resource efficient site selection, preparation, design, construction, and operation of buildings.

Any word not defined herein shall be construed as provided in section 114-1 of this Code, or in the Florida Building Code, if provided therein, and if in conflict, the most restrictive shall apply.

**Sec. 100-2. Purpose and intent.**

The purpose of this ordinance is to establish and promote programs and procedures that will help the City become a more sustainable community. This program shall define and establish new environmental goals and standards for a LEED certification-based Green Building Program with incentives. This program will promote economic and environmental health in the City, through sustainable and environmentally friendly design and construction.

**Sec. 100-3. Government leadership.**

To demonstrate the City's commitment to a Green Building Program, the City shall comply with the Green Building Program established in this Article for all government buildings when new construction as provided for in this ordinance occurs.

**Sec. 100-4. Designation of responsibility for administration and implementation.**

The program shall be administered by the City Manager or designee, who shall be responsible for:

- (a) Funding administration of the City's Green Building Program through annual funds budgeted and appropriated by the City Commission;
- (b) Marketing the program to the community by any reasonably effective means, including but not limited to press releases, television advertising, or advertising in electronic or print mailers;
- (c) Developing any appropriate or necessary application procedures, including but not limited to, the program application form;
- (d) Writing policies and procedures for staff implementation of the Green Building Program;
- (e) Providing and implementing an incentive award as herein provided to any program participant who has committed to and/or successfully satisfied the requirements associated with that program; and
- (f) Resolving disputes that may arise from implementing the program.

**Sec. 100-5. Green building program applicability.**

This program shall be voluntary for all private buildings involving new construction or substantial renovation. This program shall be mandatory for City-

owned buildings involving new construction and the architectural plans for which were commenced after July 1, 2008.

**Sec 100-6. Green building standards.**

In addition to the Florida Building Code's minimum standards, the Program shall be administered using the then current standards developed by the U.S. Green Building Council ("USGBC"). These standards shall apply to each sub-program as follows.

(a) New buildings: The program participant shall satisfy all of the requirements associated with the then current USGBC LEED certification for New Construction or derived USGBC LEED rating system (e.g., LEED for Schools, LEED for Health Care) program; and

(b) Renovation of existing buildings: The program participant shall satisfy all of the requirements associated with the then current USBGC LEED certification for Existing Buildings, Maintenance & Operations, or derived USGBC LEED rating system (e.g., LEED for Schools, LEED for Health Care) program.

If there is a conflict between the USGBC standards and the Florida Building Code ("FBC") or Florida Fire Prevention Code ("FFPC"), the FBC and FFPC take precedence.

**Sec. 100-7. Incentives and bond requirement.**

(a) The program shall consist of the following incentives designed to reward owners for green building.

(i) Building permit applications for a green building project submitted or resubmitted for review shall be given priority review over projects that are not green building projects by the City's departments reviewing such applications

(ii) Applications for approval of a green building project to the Design Review Board, Historic Preservation Board, Planning Board, and/or Board of Adjustment shall be given priority both in the order in which they are reviewed by City staff and the order in which they are heard by the boards.

(iii) All building inspections requested for green building projects shall be given priority over projects that are not green building projects; and

(iv) Subject to, and within the limits of funds appropriated annually by resolution of the City Commission for the purposes set forth herein, owners or developers of green buildings shall receive a refund of the actual application and review fees for Green Building Program certification and an amount not greater than five (5) per cent of the incremental cost of making the building compliant with LEED standards, or alternatively twenty (20) per cent of the annual allocation, whichever is less, within 180 days of proof of certification by USGBC being submitted in writing to the City. The actual amount of financial incentives to which the applicant might qualify for shall be estimated at the time of issuance of the building permit for the qualifying project, and held in reserve. The final financial incentives shall be calculated at the time of LEED certification.

(b) In addition to the foregoing, the City shall provide the following marketing incentives:

(i) Allowing a plaque not to exceed two square feet to be attached to the building designating a project under the program, subject to the review and approval of the City Manager or designee and the Planning Department; such plaque shall be treated as a governmental information sign exempt from permitting but subject to other regulations, as provided in section 138-4(1), City Code;

(ii) The inclusion of program participants on a city webpage dedicated to the program;

(iii) Press releases; and

(iv) An award called the "Green Building Award" to be awarded annually to one program participant in each sub-program (e.g., new construction and renovation).

(c) Prior to filing an application for building permit, or any award of incentives, the participant shall register their intent with the USGBC for LEED certification and obtain in writing a proposed checklist of certification points that may be attainable for the project. The participant shall then be required to attend a pre-application meeting with the City Manager or designee for the purpose of a review of the proposed certification checklist and detail of proposed credits for certification and incentives. The checklist and certification details shall be confirmed in writing by the applicant to the City Manager or designee, on forms established by the City, and through a covenant, recorded in the public records, form approved by the City Attorney, between the property owner and the City that the proposed manner of compliance with LEED certification as provided by the program guidelines, policies and procedures will be incorporated into the development and maintained unless released by the City as provided for in the covenant. The participant will provide a performance bond or other security, in a form approved by the City Attorney, as follows:

i. The bond or security shall be in an amount equal to \$1.00 per square foot of floor area of the proposed project;

ii. The bond or security shall be submitted at the time of filing of any application for review of the project by a City board or department, if the applicant seeks any of the incentives provided in subparagraph (a) above;

iii. This bond or security shall be subject to call by the City 180 days from issuance of the certificate of occupancy or certificate of completion, whichever occurs first, if LEED certification has not been achieved by that time. Reasonable extensions of time may be granted by the City Manager or designee;

iv. The applicant may request that up to 75% of the bond or security be released to the applicant for the purpose of completing improvements necessary for LEED certification, if a good faith effort towards completion is shown, and reasonable assurance provided on the success of plans to complete the LEED certification process, and a failure to complete the improvements is proven to the City Manager or designee was no fault of the property owner, or for other good cause shown;

v. If the applicant takes advantage of any of the incentives provided for herein, and fails to complete LEED certification as committed to, then the City

Manager or designee, in his or her sole discretion, shall deem such bond or security forfeited to the city as a contribution to the funding of the City's Green Building Program, designated to fund the LEED program objectives as provided for herein, or any other lawful governmental purpose identified by the City Commission; and

vi. If the project receives LEED certification prior to the expiration of the 180 day period provided for above, or extensions of time granted by the Manager or designee, and the bond has not been forfeited as provided above, then the bond may be released following submittal to the City of written proof of LEED certification by the USGBC.

**Sec. 100-8. Certification.**

The project shall be subject to certification by a qualified independent third party who has been trained and certified as a LEED green building certifier. For the purpose of this section of the program, "third party" means any person or entity authorized according to the requirements of the standards in this Article for a particular project.

**Sec. 100-9. Education and training.**

(a) The City shall conduct at least one training workshop per year for the purpose of educating potential or current program participants about the program.

(b) The City shall encourage not less than two members each of the building, planning department and public works staff to attend at least 8 hours of green building training a year.

**Sec. 100-10. Index and report.**

The City Manager shall annually analyze and report to the City Commission on the satisfaction of the Green Building Program's goals and objectives as outlined in this Article.

**Sec. 100-11. Program review.**

(a) Staff review. The City shall provide for a review of the program to determine the need for changes in the program to increase its effectiveness.

(b) Frequency. The program shall be subject to review one year after the effective date of this ordinance and thereafter at a frequency of not less than once per year.

(c) Purpose. The purpose of reviewing the program includes but is not limited to updating program standards and incentives, recommending program or marketing changes, reviewing suggestions made by program participants, and annually awarding the green building awards of the program.

**SECTION 2. Repealer.**

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

**SECTION 3. Codification.**

It is the intention of the City Commission, and it is hereby ordained that the provisions of this ordinance shall become and be made part of the Code of the City of Miami Beach as amended; that the sections of this ordinance may be renumbered or relettered to accomplish such intention; and that the word "ordinance" may be changed to "section" or other appropriate word.

**SECTION 4. Severability.**

If any section, subsection, clause or provision of this Ordinance is held invalid, the remainder shall not be affected by such invalidity.

**SECTION 5. Effective Date.**

This Ordinance shall take effect ten days following adoption.

**PASSED and ADOPTED** this \_\_\_\_\_ day of \_\_\_\_\_, 2009.

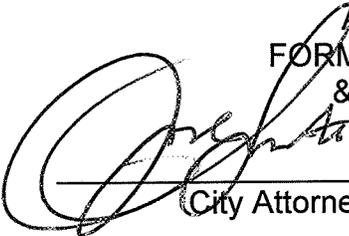
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MAYOR

ATTEST:

\_\_\_\_\_  
CITY CLERK

First Reading:  
Second Reading:

APPROVED AS TO  
FORM AND LANGUAGE  
& FOR EXECUTION  
  
\_\_\_\_\_  
City Attorney      3/10/09      Date

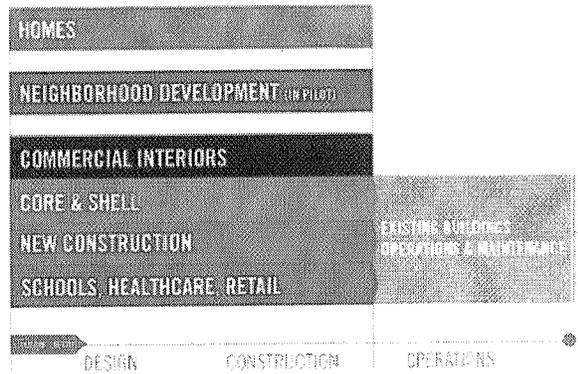
Underscore denotes new language  
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Search  
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# LEED Rating Systems

## What is LEED®?

The Leadership in Energy and Environmental Design (LEED) Green Building Rating System™ encourages and accelerates global adoption of sustainable green building and development practices through the creation and implementation of universally understood and accepted tools and performance criteria.



LEED is a third-party certification program and the nationally accepted benchmark for the design, construction and operation of high performance green buildings. LEED gives building owners and operators the tools they need to have an immediate and measurable impact on their buildings' performance. LEED promotes a whole-building approach to sustainability by recognizing performance in five key areas of human and environmental health: sustainable site development, water savings, energy efficiency, materials selection and indoor environmental quality.

## Who uses LEED?

Architects, real estate professionals, facility managers, engineers, interior designers, landscape architects, construction managers, lenders and government officials all use LEED to help transform the built environment to sustainability. State and local governments across the country are adopting LEED for public-owned and public-funded buildings; there are LEED initiatives in federal agencies, including the Departments of Defense, Agriculture, Energy, and State; and LEED projects are in progress in 41 different countries, including Canada, Brazil, Mexico and India.

## How is LEED Developed?

LEED Rating Systems are developed through an open, consensus-based process led by LEED committees. Each volunteer committee is composed of a diverse group of practitioners and experts representing a cross-section of the building and construction industry. The key elements of USGBC's consensus process include a balanced and transparent committee structure, technical advisory groups that ensure scientific consistency and rigor, opportunities for stakeholder comment and review, member ballot of new rating systems, and a fair and open appeals process.

## LEED Rating Systems

### New Construction

LEED for New Construction and Major Renovations is designed to guide and distinguish high-performance commercial and institutional projects.

### Existing Buildings: Operations & Maintenance

LEED for Existing Buildings: Operations & Maintenance provides a benchmark for building owners and operators to measure operations, improvements and maintenance.

### Commercial Interiors

LEED for Commercial Interiors is a benchmark for the tenant improvement market that gives the power to make sustainable choices to tenants and designers.

### Core & Shell

LEED for Core & Shell aids designers, builders, developers and new building owners in implementing sustainable design for new core and shell construction.

### Schools

LEED for Schools recognizes the unique nature of the design and construction of K-12 schools and addresses the specific needs of school spaces.

### Retail

LEED for Retail recognizes the unique nature of retail design and construction projects and addresses the specific needs of retail spaces.

### Healthcare

LEED for Healthcare promotes sustainable planning, design and construction for high-performance healthcare facilities.

### Homes

LEED for Homes promotes the design and construction of high-performance green homes.

### Neighborhood Development

LEED for Neighborhood Development integrates the principles of smart growth, urbanism and green building into the first national program for neighborhood design.

### LEED Rating System Drafts

Review and comment on proposed final drafts of new and updated LEED Rating Systems.

### LEED Frequently Asked Questions

This is a great resource for first time LEED users and experienced project team members alike.

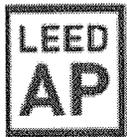
EXHIBIT 1



**The U.S. Green Building Council (USGBC)** is a 501(c)(3) nonprofit membership organization with a vision of a sustainable built environment within a generation. Its membership includes corporations, builders, universities, government agencies, and other nonprofit organizations. USGBC is dedicated to expanding green building practices and education, and its LEED® (Leadership in Energy and Environmental Design) Green Building Rating System™.



**The Leadership in Energy and Environmental Design (LEED)** Green Building Rating System is a voluntary, consensus-based national rating system for developing high-performance, sustainable buildings. LEED addresses all building types and emphasizes state-of-the-art strategies in five areas: sustainable site development, water savings, energy efficiency, materials and resources selection, and indoor environmental quality.



**LEED Accredited Professionals (LEED APs)** have demonstrated a thorough understanding of green building techniques, the LEED Green Building Rating System, and the certification process. The LEED AP program is administered by the Green Building Certification Institute (GBCI), which was established with the support of USGBC to allow for objective, balanced management of the credentialing program.

# Introduction

## I. Why Make Your Building Green?

The environmental impact of the building design, construction and operation industry is significant. Buildings annually consume more than 30% of the total energy and more than 60% of the electricity used in the U.S. Each day five billion gallons of potable water is used solely to flush toilets. A typical North American commercial construction project generates up to 2.5 pounds of solid waste per square foot of completed floor space. Development shifts land usage away from natural, biologically-diverse habitats to hardscape that is impervious and devoid of biodiversity. The far reaching influence of the built environment necessitates action to reduce its impact.

Green building practices can substantially reduce or eliminate negative environmental impacts and improve existing unsustainable design, construction and operational practices. As an added benefit, green design measures reduce operating costs, enhance building marketability, increase worker productivity, and reduce potential liability resulting from indoor air quality problems. For example, energy efficiency measures have reduced operating expenses of the Denver Dry Goods building by approximately \$75,000 per year. Students in day-lit schools in North Carolina consistently score higher on tests than students in schools using conventional lighting fixtures. Studies of workers in green buildings reported productivity gains of up to 16%, including reductions in absenteeism and improved work quality, based on "people-friendly" green design. At a grocery store in Spokane, Washington, waste management costs were reduced by 56% and 48 tons of waste was recycled during construction. In other words, green design has environmental, economic and

social elements that benefit all building stakeholders, including owners, occupants and the general public.

## II. LEED® Green Building Rating System

### A. History of LEED®

The first LEED (Leadership in Energy and Environmental Design) Pilot Project Program following the formation of the U.S. Green Building Council (USGBC) in 1993, the membership quickly realized that a priority for the sustainable building industry was to have a system to define and measure "green buildings." The USGBC began to research existing green building metrics and rating systems. Less than a year after formation, the membership followed up on the initial findings with the establishment of a committee to focus solely on this topic. The diverse initial composition of the committee included architects, realtors, a building owner, a lawyer, an environmentalist and industry representatives. This cross section of people and professions added a richness and depth both to the process and to the ultimate product.

The first LEED Pilot Project Program, also referred to as LEED Version 1.0, was launched at the USGBC Membership Summit in August 1998. After extensive modifications, the LEED Green Building Rating System Version 2.0 was released in March 2000. This rating system is now called the LEED Green Building Rating System for New Commercial Construction and Major Renovations, or LEED for New Construction.

As LEED has evolved and matured, the program has undertaken new initiatives. In addition to a rating system specifically devoted to building operational and

LEED for New Construction is part of the growing portfolio of rating system products serving specific market sectors.

### **B. Features of LEED®**

The LEED Green Building Rating System is a voluntary, consensus-based, market-driven building rating system based on existing proven technology. It evaluates environmental performance from a whole building perspective over a building's life cycle, providing a definitive standard for what constitutes a "green building." The development of the LEED Green Building Rating System was initiated by the USGBC Membership, representing all segments of the building industry and has been open to public scrutiny.

The rating system is organized into five environmental categories: Sustainable Sites, Water Efficiency, Energy & Atmosphere, Materials & Resources, and Indoor Environmental Quality. An additional category, Innovation & Design Process, addresses sustainable building expertise as well as design measures not covered under the five environmental categories.

LEED is a measurement system designed for rating new and existing commercial, institutional and residential buildings. It is based on accepted energy and environmental principles and strikes a balance between known established practices and emerging concepts.

It is a performance-oriented system where credits are earned for satisfying criterion designed to address specific environmental impacts inherent in the design, construction and operations and maintenance of buildings. Different levels of green building certification are awarded based on the total credits earned. The system is designed to be comprehensive in scope, yet simple in operation.

### **C. The Future of LEED**

The green design field is growing and changing daily. New technologies and

products are coming into the marketplace and innovative designs are proving their effectiveness. Therefore, the Rating System and the Reference Guide will evolve as well. Teams wishing to certify with LEED should note that they will need to comply with the version of the rating system that is current at the time of their registration.

USGBC will highlight new developments on its Web site on a continuous basis at [www.usgbc.org](http://www.usgbc.org).

## **III. LEED for New Construction Overview and Process**

The LEED Green Building Rating System for New Construction and Major Renovation (formerly referred to as LEED-NC) provides a set of performance standards for certifying the design and construction phases of commercial, institutional buildings, and high-rise residential buildings. The specific credits in the rating system provide guidelines for the design and construction of buildings of all sizes in both the public and private sectors. The intent of LEED for New Construction is to assist in the creation of high performance, healthful, durable, affordable and environmentally sound commercial and institutional buildings.

LEED for New Construction addresses:

- Sustainable Sites
- Water Efficiency
- Energy & Atmosphere
- Materials & Resources
- Indoor Environmental Quality
- Innovation in Design

### **A. When to Use LEED for New Construction**

LEED for New Construction was designed primarily for new commercial office buildings, but it has been applied to many other building types by LEED

practitioners. All commercial buildings, as defined by standard building codes, are eligible for certification as a LEED for New Construction building. Commercial occupancies include (but are not limited to) offices, retail and service establishments, institutional buildings (libraries, schools, museums, churches, etc.), hotels and residential buildings of four or more habitable stories.

LEED for New Construction addresses design and construction activities for both new buildings and major renovations of existing buildings. The LEED Green Building Rating System for Existing Buildings is designed to address operational and maintenance issues of working buildings. Therefore, if you are performing a major renovation on an existing building, LEED for New Construction is the most appropriate rating system for your project. If however, your project scope does not involve significant design and construction activities and focuses more on O&M activities, LEED for Existing Buildings is the most appropriate tool for your project. As a general rule of thumb, a major renovation involves elements of major HVAC renovation, significant envelope modifications and major interior rehabilitation.

Many projects will cleanly and clearly fit the defined scope of only one LEED Rating System product. For other projects, two or more LEED Rating System products may be applicable. USGBC encourages the project team to tally a potential point total using the Rating System checklists for all possibilities. The project is a viable candidate for LEED certification if it can meet all prerequisites and achieve the minimum points required in a given Rating System. If more than one Rating System applies, then it is up to the project team to decide which one to pursue. For assistance in choosing the most appropriate LEED Rating System, please e-mail [leedinfo@usgbc.org](mailto:leedinfo@usgbc.org).

## **B. LEED for New Construction Registration**

Project teams interested in obtaining LEED Certification for their project must first register this intent with USGBC. Projects can be registered on the USGBC Web site ([www.usgbc.org](http://www.usgbc.org)) in the LEED section, under Register Your Project. The Web site includes information on registration costs for USGBC member companies as well as non-members. Registration is an important step that establishes contact with USGBC and provides access to LEED-Online software tool, errata, critical communications and other essential information.

### **About LEED-Online**

As of January 2006, project teams pursuing LEED for New Construction certification under Version 2.2 are required to use LEED-Online, which enables teams to submit 100% of their documentation online in an easy-to-use format. LEED-Online stores all LEED information, resources, and support in one centralized location. LEED-Online enables team members to upload credit templates, track Credit Interpretation Requests (CIRs), manage key project details, contact customer service, and communicate with reviewers throughout the design and construction reviews.

## **C. Credit Interpretation Rulings**

In some cases, the design team may encounter challenges in applying a LEED for New Construction prerequisite or credit to their particular project. These difficulties arise from instances where the Reference Guide does not sufficiently address a specific issue or there is a special conflict that requires resolution. To address such issues, the USGBC has established the LEED for New Construction Version 2.2 Credit Interpretation Ruling (CIR) process (separate from the CIR page for version 2.0 and 2.1 CIRs). See the LEED for New Construction section of the USGBC Web site for more information

at [www.usgbc.org](http://www.usgbc.org). Credit rulings posted after the registration date may be applied by the project team at their choosing (exception: the project's own CIRs must always be adhered to).

The Credit Interpretation process is summarized as follows:

1. Project teams should review the CIR webpage to read previously posted credit interpretation requests and USGBC responses. Many questions can be resolved by reviewing existing CIRs and the Reference Guide. Note that CIRs for other rating systems (LEED for Existing Buildings, LEED for Commercial Interiors and past versions of LEED for New Construction) are not necessarily applicable.
2. If no existing Credit Interpretation Rulings are relevant to the project, the LEED project team should submit an on-line credit interpretation request. The description of the challenge encountered by the project team should be brief but explicit; should be based on prerequisite or credit information found in the Rating System and Reference Guide; and should place a special emphasis on the Intent of the prerequisite or credit. If possible, the project team should offer potential solutions to the problem and solicit approval or rejection of their proposed interpretation. Follow the detailed instructions in the "CIR Guidelines" document available on the CIR Web page in the LEED section of the USGBC Web site.
3. USGBC will rule on your request electronically according to the posted schedule, either through a posting on the CIR Page or via e-mail correspondence.

#### **D. LEED for New Construction Application**

Once a project is registered, the project design team begins to collect information and perform calculations to satisfy the

prerequisite and credit submittal requirements. Since submittal documentation should be gathered throughout design and construction, it is helpful to designate a LEED team leader who is responsible for managing the compilation of this information by the project team. Use the LEED-Online Submittal Templates that are provided through the LEED project resources Web page located in the LEED section of the USGBC Web site. These templates contain embedded calculators, and are instrumental in documenting fulfillment of credit requirements and prompting for correct and complete supporting information.

#### **Two-Phase Application**

A new feature of LEED for New Construction v2.2 is the option of splitting a certification application into two phases. Rather than submitting all documentation for a project at the end of the construction phase, project teams will be able to submit designated "design phase credits" at the end of the design phase for review by USGBC. Design phase credits are those credits that USGBC can reasonably adjudicate based on design phase documentation. For example, if a project site meets the LEED for New Construction Sustainable Sites Credit 3: Brownfield Re-development Requirements, USGBC can assess the likelihood of the project achieving this credit prior to the completion of construction. It is important to remember that LEED credit is not awarded at the design review stage. Project teams are notified of the likelihood that their project will achieve a LEED credit if construction is executed in accordance with design phase plans. Projects must submit verification that design elements were implemented as planned after completion of construction. A list of the potential design phase credits can be found in the LEED section of the USGBC Web site. Project teams are allotted one design phase review. At the completion of construction, the balance of attempted credits, verification of design

phase credits, and additional documentation for any design phase credits that has changed since the design phase review are documented and submitted for USGBC review. See below for more details regarding the two-phase review.

### E. Review and Certification

To earn LEED for New Construction certification, the applicant project must satisfy all of the prerequisites and a minimum number of points to attain the established LEED for New Construction project ratings as listed below. Having satisfied the basic prerequisites of the program, applicant projects are then rated according to their degree of compliance within the rating system. All projects will need to comply with the version of LEED for New Construction that is current at the time of project registration.

#### Design Phase Review

Once USGBC has received your complete design phase application and the design phase fee (which is a portion of the total certification fee), the USGBC will formally rule on your application by designating each attempted credit as either Anticipated or Denied. No certification award will be given at this time, nor will any credits be awarded. This process serves to allow project teams the opportunity to assess the likelihood of credit achievement, and requires follow through to ensure the design is executed in the construction phase according to design specifications.

#### Construction Phase Review

At the completion of construction, the project team will submit all attempted credits for review. If the project team had elected to have a design phase review and any of the design phase Anticipated credits have changed, additional documentation must be submitted to substantiate continued compliance with credit requirements. For design phase Anticipated credits that have not substantively changed, the project team must submit a verification that the

design has been executed per requirements in the construction phase. Once USGBC has received the complete application and fee (the remainder of the total certification fee, if a design review has been conducted), the USGBC will formally rule on your full application. All applicant-verified design phase credits that were designated as Anticipated and have not changed since the design phase review will be declared as Achieved. All other credits will be designated as either Achieved or Denied.

#### Appeals

Appeals may be filed either after the design phase review or the final review. Please see the LEED Certification Process section (<http://www.usgbc.org/DisplayPage.aspx?CMSPageID=1497>) of the USGBC Web site for more information on appeals.

#### Fees

Certification fee information can be found at the LEED Register your project page of the web site: <http://www.usgbc.org/DisplayPage.aspx?CMSPageID=65&>. USGBC will acknowledge receipt of your application and proceed with application review when all project documentation has been submitted.

The LEED for New Construction ratings are awarded according to the following scale—

- Certified      26-32 points
- Silver            33-38 points
- Gold             39-51 points
- Platinum        52-69 points

USGBC will recognize buildings that achieve one of these rating levels with a formal letter of certification and a mountable plaque.

### F. Updates & Errata

This is the second edition of the LEED for New Construction Version 2.2 Reference Guide, dated September 2006. As LEED for New Construction continues

to improve and evolve, updates and errata will be made available to substitute and augment the current material. USGBC cannot be held liable for any criteria set forth herein, which may not be applicable to later versions of LEED for New Construction. Updates and addenda will be accumulated between revisions and will be formally incorporated in major revisions. In the interim between major revisions, USGBC may use its consensus process to clarify criteria.

When a project registers for certification, the prerequisites, credits, errata, and credit rulings current at the time of project registration will continue to guide the project throughout its certification process.

#### IV. LEED for New Construction Version 2.2 Reference Guide

The LEED for New Construction v2.2 Reference Guide is a supporting document to the LEED Green Building Rating System. The Guide is intended to assist project teams in understanding LEED for New Construction criteria and the benefits of complying with each criterion. The Guide includes examples of strategies that can be used in each category, case studies of buildings that have implemented these strategies successfully, and additional resources that will provide more information. The guide does not provide an exhaustive list of strategies for meeting the criteria as subsequent strategies will be developed and employed by designers that satisfy the Intent of each credit. Nor does it provide all of the information that design teams need to determine the applicability of a credit to their project.

##### Prerequisite and Credit Format

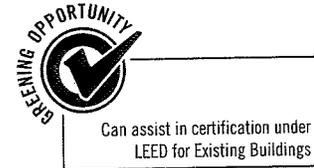
Each prerequisite and credit is organized in a standardized format for simplicity and quick reference. The first section summarizes the key points regarding the measure and includes the Intent, Requirements, and some Potential Technologies

& Strategies for achieving the credit. The subsequent sections provide supportive information to help interpret the measure, examples, and links to various resources.

If your project team encounters an out-of-date web link in the Reference Guide, please go to the root Web site, which should take the form of [www.organization.com](http://www.organization.com) with no additional text following. Then you may be able to navigate through the Web site to find the referenced document. Please contact the USGBC at (202) 828-7422 if you are unable to locate a resource.

#### Greening Opportunity Icon

Throughout this Reference Guide, you will see this icon:



This icon will assist projects that are proceeding with the intention of certifying with LEED for Existing Buildings, following their LEED for New Construction certification. It identifies credits that involve measures that are significantly more cost-effective and convenient to implement during design and construction than they are during the operation of the building. These credits are—

- SSc 2: Development Density & Community Connectivity
- SSc 4.1: Alternative Transportation: Public Transportation Access
- EAc 1: Optimize Energy Performance
- EAc 3: Enhanced Commissioning
- EAc 5: Measurement & Verification
- MRc 4: Recycled Content
- MRc 5: Regional Materials
- MRc 6: Rapidly Renewable Materials

MRc 7: Certified Wood

EQc 1: Outdoor Air Delivery  
Monitoring

EQc 6.2: Controllability of Systems:  
Thermal Comfort

EQc 7: Thermal Comfort

EQc 8: Daylight and Views

# Project Checklist

## Sustainable Sites

14 Possible Points

Prereq 1	Construction Activity Pollution Prevention	Required
Credit 1	Site Selection	1
Credit 2	Development Density & Community Connectivity	1
Credit 3	Brownfield Redevelopment	1
Credit 4.1	Alternative Transportation, Public Transportation Access	1
Credit 4.2	Alternative Transportation, Bicycle Storage & Changing Rooms	1
Credit 4.3	Alternative Transportation, Low Emitting & Fuel Efficient Vehicles	1
Credit 4.4	Alternative Transportation, Parking Capacity	1
Credit 5.1	Site Development, Protect or Restore Habitat	1
Credit 5.2	Site Development, Maximize Open Space	1
Credit 6.1	Stormwater Design, Quantity Control	1
Credit 6.2	Stormwater Design, Quality Control	1
Credit 7.1	Heat Island Effect, Non-Roof	1
Credit 7.2	Heat Island Effect, Roof	1
Credit 8	Light Pollution Reduction	1

## Water Efficiency

5 Possible Points

Credit 1.1	Water Efficient Landscaping, Reduce by 50%	1
Credit 1.2	Water Efficient Landscaping, No Potable Use or No Irrigation	1
Credit 2	Innovative Wastewater Technologies	1
Credit 3.1	Water Use Reduction, 20% Reduction	1
Credit 3.2	Water Use Reduction, 30% Reduction	1

## Energy & Atmosphere

17 Possible Points

Prereq 1	Fundamental Commissioning of the Building Energy Systems	Required
Prereq 2	Minimum Energy Performance	Required
Prereq 3	Fundamental Refrigerant Management	Required
Credit 1	Optimize Energy Performance	1-10
Credit 2	On-Site Renewable Energy	1-3
Credit 3	Enhanced Commissioning	1
Credit 4	Enhanced Refrigerant Management	1
Credit 5	Measurement & Verification	1
Credit 6	Green Power	1

## Materials & Resources

13 Possible Points

Prereq 1	Storage & Collection of Recyclables	Required
Credit 1.1	Building Reuse, Maintain 75% of Existing Walls, Floors & Roof	1
Credit 1.2	Building Reuse, Maintain 95% of Existing Walls, Floors & Roof	1
Credit 1.3	Building Reuse, Maintain 50% of Interior Non-Structural Elements	1
Credit 2.1	Construction Waste Management, Divert 50% from Disposal	1

LEED for New Construction Rating System v2.2

Credit 2.2	<b>Construction Waste Management</b> , Divert 75% from Disposal	1
Credit 3.1	<b>Materials Reuse</b> , 5%	1
Credit 3.2	<b>Materials Reuse</b> , 10%	1
Credit 4.1	<b>Recycled Content</b> , 10% (post-consumer + 1/2 pre-consumer)	1
Credit 4.2	<b>Recycled Content</b> , 20% (post-consumer + 1/2 pre-consumer)	1
Credit 5.1	<b>Regional Materials</b> , 10% Extracted, Processed & Manufactured Regionally	1
Credit 5.2	<b>Regional Materials</b> , 20% Extracted, Processed & Manufactured Regionally	1
Credit 6	<b>Rapidly Renewable Materials</b>	1
Credit 7	<b>Certified Wood</b>	1

### **Indoor Environmental Quality**

### **15 Possible Points**

Prereq 1	<b>Minimum IAQ Performance</b>	Required
Prereq 2	<b>Environmental Tobacco Smoke (ETS) Control</b>	Required
Credit 1	<b>Outdoor Air Delivery Monitoring</b>	1
Credit 2	<b>Increased Ventilation</b>	1
Credit 3.1	<b>Construction IAQ Management Plan</b> , During Construction	1
Credit 3.2	<b>Construction IAQ Management Plan</b> , Before Occupancy	1
Credit 4.1	<b>Low-Emitting Materials</b> , Adhesives & Sealants	1
Credit 4.2	<b>Low-Emitting Materials</b> , Paints & Coatings	1
Credit 4.3	<b>Low-Emitting Materials</b> , Carpet Systems	1
Credit 4.4	<b>Low-Emitting Materials</b> , Composite Wood & Agrifiber Products	1
Credit 5	<b>Indoor Chemical &amp; Pollutant Source Control</b>	1
Credit 6.1	<b>Controllability of Systems</b> , Lighting	1
Credit 6.2	<b>Controllability of Systems</b> , Thermal Comfort	1
Credit 7.1	<b>Thermal Comfort</b> , Design	1
Credit 7.2	<b>Thermal Comfort</b> , Verification	1
Credit 8.1	<b>Daylight &amp; Views</b> , Daylight 75% of Spaces	1
Credit 8.2	<b>Daylight &amp; Views</b> , Views for 90% of Spaces	1

### **Innovation & Design Process**

### **5 Possible Points**

Credit 1.1	<b>Innovation in Design</b>	1
Credit 1.2	<b>Innovation in Design</b>	1
Credit 1.3	<b>Innovation in Design</b>	1
Credit 1.4	<b>Innovation in Design</b>	1
Credit 2	<b>LEED Accredited Professional</b>	1

### **Project Totals**

### **69 Possible Points**

**Certified** 26–32 points ■ **Silver** 33–38 points ■ **Gold** 39–51 points ■ **Platinum** 52–69 points

SS	WE	EA	MR	EQ	ID
Credit 6.1					

# Stormwater Design

## Quantity Control

1 Point

### Intent

Limit disruption of natural hydrology by reducing impervious cover, increasing on-site infiltration, and managing stormwater runoff.

### Requirements

OPTION 1 — EXISTING IMPERVIOUSNESS IS LESS THAN OR EQUAL TO 50%

Implement a stormwater management plan that prevents the post-development peak discharge rate and quantity from exceeding the pre-development peak discharge rate and quantity for the one- and two-year, 24-hour design storms.

OR

Implement a stormwater management plan that protects receiving stream channels from excessive erosion by implementing a stream channel protection strategy and quantity control strategies.

OR

OPTION 2 — EXISTING IMPERVIOUSNESS IS GREATER THAN 50%

Implement a stormwater management plan that results in a 25% decrease in the volume of stormwater runoff from the two-year, 24-hour design storm.

### Potential Technologies & Strategies

Design the project site to maintain natural stormwater flows by promoting infiltration. Specify vegetated roofs, pervious paving, and other measures to minimize impervious surfaces. Reuse stormwater volumes generated for non-potable uses such as landscape irrigation, toilet and urinal flushing and custodial uses.

EXHIBIT 3

SS	WE	EA	MR	EQ	ID
Credit 6.1					

## Summary of Referenced Standard

There is no standard referenced for this credit.

## Approach and Implementation

The approach to this credit may vary significantly depending on the condition of the project site at the beginning of the project. If the project is being constructed on a largely undeveloped site, the goal is to preserve stormwater flows and design the project to respond to the natural soil conditions, habitat, and rainfall characteristics. If the project is a redevelopment of a previously developed site, the goal is typically to improve stormwater management in a way that restores the natural functions of the site to the maximum extent practicable.

The approach to this credit also varies dramatically between different regions and climate zones. The strategies employed in an urban environment where water is discharged to concrete channels and then the ocean are different from the strategies employed at an inland site that discharges to a small stream and lake system.

The most effective method to minimize stormwater runoff volume is to reduce the amount of impervious area. By reducing impervious area, stormwater infrastructure can be minimized or deleted from the project. Strategies to minimize or mitigate impervious surfaces may include:

- Smaller building footprint
- Pervious paving materials
- Stormwater harvesting for reuse in irrigation and/or buildings
- Green roofs
- Bioswales/vegetated filter strips
- Retention ponds
- Clustering development to reduce paved surfaces (roads, sidewalks, etc.)

## Guidelines for Capturing and Reusing Stormwater Runoff

Stormwater captured (or harvested) in cisterns, rain barrels, or other devices, is a primary source of water in many parts of the world. Stormwater should not be used for potable needs if there are sources available that pose less risk to public health. However, harvested stormwater may be used to reduce potable water needs for uses such as landscape irrigation, fire suppression, toilet and urinal flushing, and custodial uses.

Storage and reuse techniques range from small-scale systems (e.g., rain barrels) to underground cisterns that may hold large volumes of water. Whether large or small, stormwater harvesting system designs should consider the following:

1. Water need for the intended use—how will the harvested water be used and when will it be needed? For example, if the water is used to irrigate landscaping for four summer months, the amount of water needed and the how often the storage unit will refill must be considered. Usage requirements and the expected volume and frequency of rainfall must be determined.
2. Drawdown—storage system design must provide for the use or release of water between storm events for the design storage volume to be available.
3. Drainage Area—the size and nature (e.g., percent imperviousness) of the area draining to the storage system determines how much runoff will be available for harvesting.
4. Conveyance System—reused stormwater and graywater systems must not be connected to other domestic or commercial potable water systems. Pipes and storage units should be clearly marked (e.g., “Caution: Reclaimed Water, Do Not Drink”).
5. Pretreatment—screens or filters may be used to remove debris and sedi-

ment from runoff and to minimize pollutants.

6. Pressurization—uses for harvested rainwater may require pressurization. For example, most irrigation systems require a water pressure of at least 15 psi to function properly. Stored water has a pressure of 0.43 psi per foot of water elevation, and the water pressure at the bottom of a ten-foot vault would be 4.3 psi (10 ft. x 0.43 psi). Pressurization (e.g., a pump, pressure tank and filter) costs more and creates a more useable system.

The amount of runoff reduced by a stormwater harvesting system may be considered equal to its storage volume. However, volume calculations must also consider how often the system is emptied and the interval between storm events.

Example:

Rainwater will be harvested from a 10,000 sq.ft. roof (100% imperviousness). The system will be designed to capture the runoff from 90% of the average annual rainfall (1 inch of rainfall for humid watersheds). The volume of the proposed storage system is the amount of runoff captured ( $V_r$ ), which is calculated below in **Equation 1**:

Other design considerations – tank must be emptied before subsequent storm events. Use a tank that is 10 ft x 10 ft x 8 ft deep – Total storage volume ( $V_s$ ) = 800 cu.ft. Using a design storm interval of three days (72 hours), the drawdown

**Equation 1**

$$V_r = \frac{(P)(R_v)(A)}{12'} = \frac{(1')(0.95)(10,000 \text{ SF})}{12'} = 791.67 \text{ CF (5,922 gal)}$$

Where,  $R_v = 0.05 + (0.009)(I) = 0.05 + (0.009)(100) = 0.95$   
 $R_v$  = Volumetric Runoff Coefficient  
 $I$  = Percent Imperviousness

*Equation Source: 2000 Maryland Stormwater Design Manual, Vol. I & II (MDE, 2000)*

**Equation 2**

$$Q_d = \frac{800 \text{ c.f.}}{259,200 \text{ sec}} = 0.003 \text{ cfs or } 1.37 \text{ gpm}$$

rate ( $Q_d$ ) is calculated below in **Equation 2**:

In this example, the captured rain must be drained within 3 days or at a minimum rate of 1.4 gpm for the tank to be emptied for the next storm.

Different municipalities, state and local governments have various design requirements for capturing and reuse of stormwater runoff. These requirements range from where stormwater may be captured and used to length of time stormwater can be held in a cistern, to the type of water treatment required before reuse. Designers should check with the governing administrative authority to determine parameters which will affect collection, use, and distribution of captured stormwater.

**Calculations**

There are two compliance paths for this credit—one for largely undeveloped sites and one for largely developed sites.

**Option 1—Existing Imperviousness Is Less Than Or Equal To 50% (Largely Undeveloped Sites)**

**Option 1-a: Discharge Rate and Quantity**

Determine the pre-development discharge rate and quantity for the project. These values are typically calculated by the civil engineer using the surface characteristics of the site and data on storm event frequency, intensity and duration. Calculate

SS	WE	EA	MR	EQ	ID
Credit 6.1					

rate and quantity for the one-year and two-year, 24-hour design storms.

Determine the post-development discharge rate and quantity for the project consistent with the pre-development calculations. The post-development rate AND quantity must be equal to or less than the pre-development values to earn this credit.

### Option 1-b: Stream Channel Protection

Describe the project site conditions, the measures taken, and controls implemented as part of the project scope that prevent excessive stream velocities and the associated erosion. Include in the description numerical values for pre-development and post-development conditions to demonstrate that the rate and quantity of stormwater runoff in the post-development condition are below critical values for the relevant receiving waterways.

### Option 2—Existing Imperviousness Is Greater Than 50% (Largely Developed Sites)

Determine the pre-development discharge rate and quantity for the project. These values are typically calculated by the civil engineer using the surface characteristics of the site and data on storm event frequency, intensity, and duration. Calculate rate and quantity for the one-year and two-year, 24-hour design storms.

Determine the post-development discharge rate and quantity for the project consistent with the pre-development calculations. The post-development rate AND quantity must be at least 25% less than the pre-development values to earn this credit.

### Exemplary Performance

There is no exemplary performance point available for this credit.

## Submittal Documentation

This credit is submitted as part of the **Design Submittal**.

The following project data and calculation information is required to document credit compliance using the v2.2 Submittal Templates:

### Option 1

- Provide the pre-development site runoff rate (cfs).
- Provide the pre-development site runoff quantity (cf).
- Provide the post-development site runoff rate (cfs).
- Provide the post-development site runoff quantity (cf).

OR

- Provide a narrative describing the project site conditions, measures taken, and controls implemented to prevent excessive stream velocities and associated erosion.

**Figure 1 (Source Figure 1.4)**, excerpted from the Maryland Stormwater Design Manual, diagrams the potential increases in critical discharge rate from development.

### Option 2

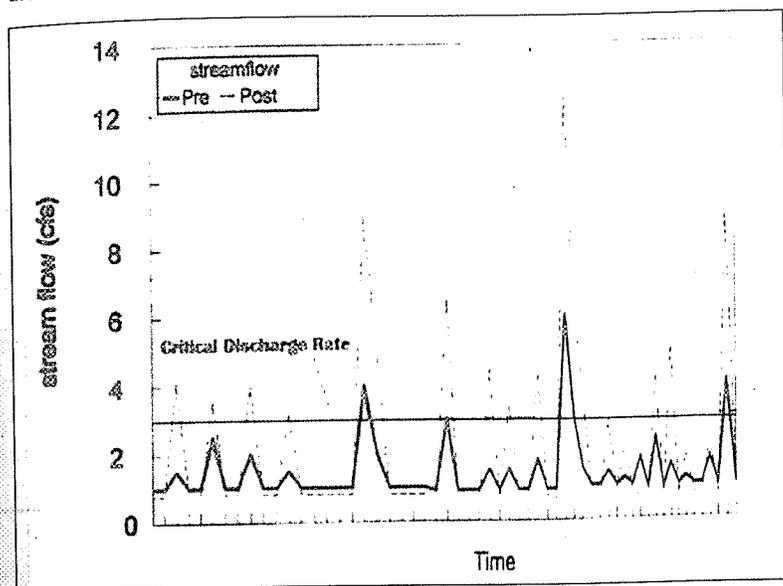
- Provide the pre-development site runoff rate (cfs).
- Provide the pre-development site runoff quantity (cf).
- Provide the post-development site runoff rate (cfs).
- Provide the post-development site runoff quantity (cf).

## Considerations

### Environmental Issues

The intent of this credit is to limit the disruption of the natural stormwater flows that results from development. Undevelop-

Figure 1: Increased Frequency of Flows Greater than the Critical Discharge Rate in a Stream Channel after Development



oped land has a certain capacity to absorb rainfall in the soils, vegetation and trees. Clearing of vegetation and/or construction of impervious surfaces (i.e., roads, parking lots and buildings) reduce the capacity of the land to absorb rainfall and increase the amount of stormwater runoff.

As areas are constructed and urbanized, surface permeability is reduced, resulting in increased stormwater runoff volumes that are transported via urban infrastructure (e.g., gutters, pipes and sewers) to receiving waters. These stormwater volumes contain sediment and other contaminants that have a negative impact on water quality, navigation and recreation. Furthermore, conveyance and treatment of stormwater volumes requires significant municipal infrastructure and maintenance. Reducing the generation of stormwater volumes helps maintain the natural aquifer recharge cycle and assist in restoring depleted stream base flows. In addition, stormwater volumes do not have to be conveyed to receiving waters by the municipality, and receiving waters are not impacted.

The geometry and health of streams is closely linked to stormwater runoff velocities and volumes. Increases in the

frequency and magnitude of stormwater runoff due to development can cause increased bankfull events. As a result, the stream bed and banks are exposed to highly erosive flows more frequently and for longer periods. The resultant impacts may include channel-widening or down-cutting or both.

Figures 2 and 3 (Source Figures 1.1 and 1.2), excerpted from the Maryland Stormwater Design Manual show the impact of development of stormwater flows and the increase in the volumetric runoff coefficient as a function of site imperviousness.

#### Economic Issues

If natural drainage systems are designed and implemented at the beginning of site planning, they can be integrated economically into the overall development. Water detention and retention features require cost for design, installation and maintenance. However, these features can also add significant value as site amenities if planned early in the design. Smaller stormwater collection and treatment systems lessen the burden on municipalities for maintenance and repair, resulting in a more affordable and stable tax base.

SS	WE	EA	MR	EQ	ID
Credit 6.1					

Figure 2: Water Balance at a Developed and Undeveloped Site (Source: Schueler, 1987)

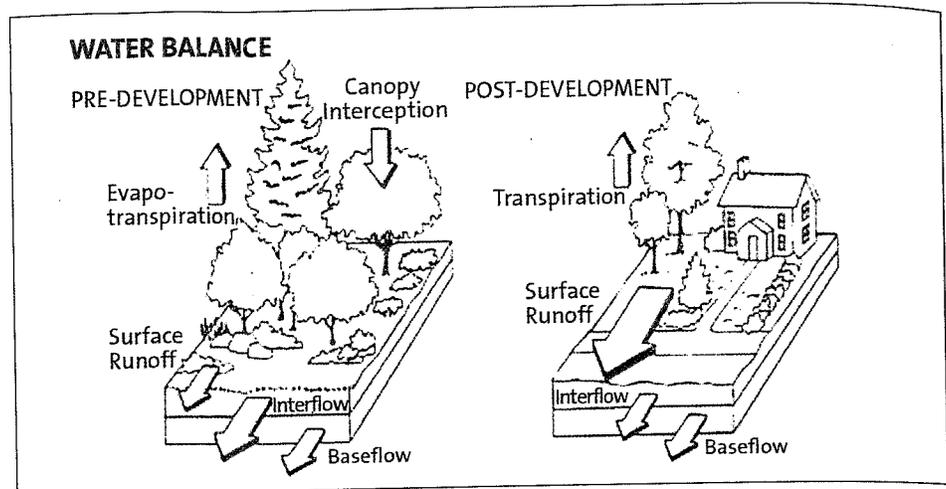
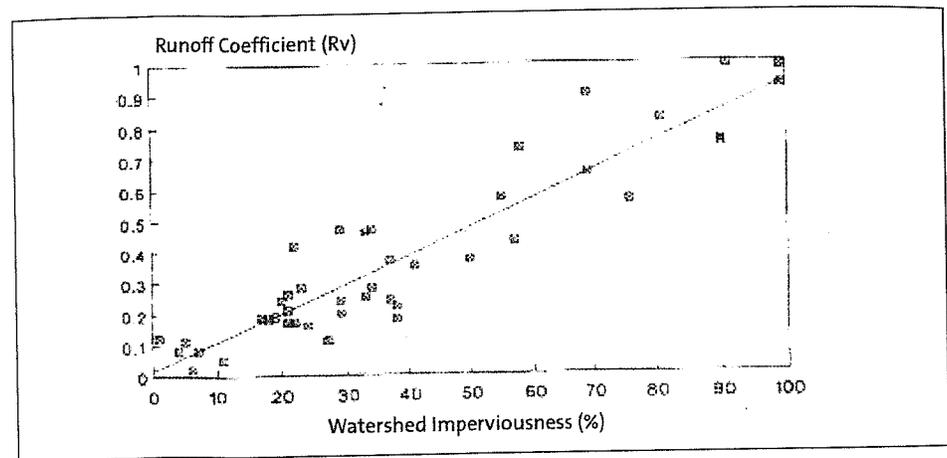


Figure 3: Relationship Between Impervious Cover and the Volumetric Runoff Coefficient (Source: Schueler, 1987)



### Synergies and Trade-Offs

Stormwater runoff is affected significantly by site topography, site design, and especially quantity of impervious surface area to support transportation amenity design. It may be possible to reuse stormwater for non-potable water purposes such as flushing urinals and toilets, custodial applications, and building equipment uses. It is helpful to perform a water balance to determine the estimated volumes of water available for reuse. Stormwater runoff volumes can also be reduced by designing the building with underground parking, a strategy that also reduces heat island effects. Pervious paving systems usually have a limit on transportation loads and

may pose problems for wheelchair accessibility and stroller mobility. If stormwater volumes are treated on site, additional site area may need to be disturbed to construct treatment ponds or underground facilities. Application of green roofs reduces stormwater volumes that may be intended for collection and reuse for non-potable applications.

### Resources

#### Web Sites

Please see the USGBC Web site at [www.usgbc.org/resources](http://www.usgbc.org/resources) for more specific resources on materials sources and other technical information.

Stormwater Best Management Practice Design Guide, EPA/600/R-04/121A, September 2004.

[www.epa.gov/ORD/NRMRL/pubs/600r04121/600r04121a.pdf](http://www.epa.gov/ORD/NRMRL/pubs/600r04121/600r04121a.pdf)

Maryland Stormwater Design Manual

[www.mde.state.md.us/Programs/WaterPrograms/SedimentandStormwater/stormwater\\_design/index.asp](http://www.mde.state.md.us/Programs/WaterPrograms/SedimentandStormwater/stormwater_design/index.asp)

SS	WE	EA	MR	EQ	ID
Credit 6.1					

## Definitions

**Impervious Surfaces** promote runoff of precipitation volumes instead of infiltration into the subsurface. The imperviousness or degree of runoff potential can be estimated for different surface materials.

**Stormwater Runoff** consists of water volumes that are created during precipitation events and flow over surfaces into sewer systems or receiving waters. All precipitation waters that leave project site boundaries on the surface are considered to be stormwater runoff volumes.

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# MIAMI BEACH

OFFICE OF THE CITY ATTORNEY

JOSE SMITH, CITY ATTORNEY

## COMMISSION MEMORANDUM

**TO:** Mayor Matti Herrera Bower  
Members of the City Commission  
City Manager Jorge Gonzalez

FIRST READING

**FROM:** Jose Smith  
City Attorney

**DATE:** March 18, 2009

**SUBJECT:** AN ORDINANCE OF THE MAYOR AND CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA, AMENDING MIAMI BEACH CITY CODE CHAPTER 2, ARTICLE VII THEREOF, BY THE ADDITION OF CITY CODE SECTION 2-450.1 TO BE ENTITLED "PROHIBITED CONFLICTING EMPLOYMENT OR CONTRACTUAL RELATIONSHIPS OF MAYOR AND CITY COMMISSIONERS", PROHIBITING SAID ELECTED OFFICIALS FROM DIRECTLY OR INDIRECTLY HAVING AN EMPLOYMENT OR CONTRACTUAL RELATIONSHIP WITH ANY CITY VENDOR, BIDDER OR PROPOSER, ESTABLISHING DEFINITIONS, WAIVER OF PROHIBITION AND PROSPECTIVE APPLICATION; PROVIDING FOR REPEALER; SEVERABILITY; CODIFICATION; AND AN EFFECTIVE DATE.

AN ORDINANCE OF THE MAYOR AND CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA, AMENDING MIAMI BEACH CITY CODE CHAPTER 2, ARTICLE VII, SECTION 2-458 THEREOF ENTITLED "SUPPLEMENTAL ABSTENTION AND DISCLOSURE REQUIREMENTS" BY REQUIRING PUBLIC OFFICIALS TO DISCLOSE COMPENSATION RECEIVED FROM INDIVIDUALS WHO ARE THE SUBJECT OF CONFLICTING RELATIONSHIPS, SAID DISCLOSURES TO BE MADE FROM ORIGINAL DATE OF ELECTION/APPOINTMENT OF PUBLIC OFFICIAL; PROVIDING FOR REPEALER; SEVERABILITY; CODIFICATION; AND AN EFFECTIVE DATE.

---

Pursuant to the request of Commissioner Jonah Wolfson, the attached two ordinances being presented on first reading have been drafted for the purpose of amending Miami Beach City Code Chapter 2, Article VII "Standards of Conduct" for public officers and employees in the City of Miami Beach.

Specifically, these measures seek to strengthen the City's ethics laws by:  
--absolutely prohibiting members of the Miami Beach City Commission from either directly or indirectly having an employment or contractual relationship with any City vendor, bidder or proposer; and  
--requiring a public official to state in a conflict of interest disclosure memorandum any compensation received by said official from persons/entities whose relationship with the public official resulted in the subject conflict.

Agenda Item RSE  
Date 3-18-09

ORDINANCE NO. \_\_\_\_\_

AN ORDINANCE OF THE MAYOR AND CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA, AMENDING MIAMI BEACH CITY CODE CHAPTER 2, ARTICLE VII THEREOF, BY THE ADDITION OF CITY CODE SECTION 2-450.1 TO BE ENTITLED "PROHIBITED CONFLICTING EMPLOYMENT OR CONTRACTUAL RELATIONSHIPS OF MAYOR AND CITY COMMISSIONERS", PROHIBITING SAID ELECTED OFFICIALS FROM DIRECTLY OR INDIRECTLY HAVING AN EMPLOYMENT OR CONTRACTUAL RELATIONSHIP WITH ANY CITY VENDOR, BIDDER OR PROPOSER, ESTABLISHING DEFINITIONS, WAIVER OF PROHIBITION AND PROSPECTIVE APPLICATION; PROVIDING FOR REPEALER; SEVERABILITY; CODIFICATION; AND AN EFFECTIVE DATE.

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

**SECTION 1.** That Miami Beach City Code Chapter 2, Article VII thereof, is hereby amended by the addition of the following Section 2-450.1 entitled "Prohibited Conflicting Employment or Contractual Relationship of Mayor and City Commissioners", said Section to read as follows:

**Sec. 2-450.1. Prohibited Conflicting Employment or Contractual Relationship of Mayor and City Commissioners.**

No member of the Miami Beach City Commission shall either directly or indirectly have an employment or contractual relationship with any city vendor, proposer or bidder.

A. For purposes of this Section, the following definitions shall apply:

1. The term "indirectly" shall mean situations in which the elected official is an employee of, or possesses an ownership interest of 10% or greater in, a business entity that has a contractual relationship with a city vendor, proposer or bidder.

2. The term "vendor" shall mean a person and/or entity who has been selected by the city as the successful contractor on a present or pending solicitation for goods, equipment or services, or has been approved by the city on a present or pending award for goods, equipment or services prior to or upon execution of a contract, purchase order, standing order, direct payment or purchasing card payment.

a) "Vendor" shall include natural persons and/or entities that hold a controlling financial interest in a vendor entity. The term "controlling financial interest" shall mean the ownership, directly or indirectly, of ten percent or more of the outstanding capital stock in any corporation or a direct or indirect interest of ten percent or more in a firm. The term "firm" shall mean a corporation, partnership, business trust or any legal entity other than a natural person.

b) For purposes of this section, the term "services" shall mean the rendering by a vendor through competitive bidding or otherwise, of labor, professional and/or consulting

services to the city.

c) For purposes of this section, "vendor" status shall terminate upon completion of the agreement for the provision of goods, equipment or services.

3. The term "bidder or proposer" shall mean a person and/or entity who has submitted a response to a city solicitation (whether competitively bid or otherwise) for goods, equipment or services.

B. Upon a finding of violation of this section by the Miami-Dade County Commission on Ethics and Public Trust:

1. the subject vendor's contract with the city shall be terminated, subject to waiver provisions below.

2. the subject bidder/proposer's response to city solicitation shall be disqualified, subject to waiver provisions below.

C. *Waiver of prohibition.*

1. *Conditions for waiver.* The requirements of this section may be waived by a five-sevenths vote for a particular transaction by city commission vote after public hearing upon finding that:

a) The goods, equipment or services to be involved in the proposed transaction are unique and the city cannot avail itself of such goods, equipment or services without entering into a transaction which would violate this section but for waiver of its requirements; or

b) The business entity involved in the proposed transaction is the sole source of supply as determined by the city's procurement director in accordance with procedures established in subsection 2-367(c) of this Code; or

c) An emergency contract (as authorized by the city manager pursuant to section 2-396 of this Code) must be made in order to protect the health, safety or welfare of the citizens of the city, as determined by a five-sevenths vote of the city commission; or

d) A contract for the provision of goods, equipment or services exists which, if terminated by the city, would be adverse to the best economic interests of the city.

2. *Conditions for limited waiver.* Notwithstanding the denial by the city commission of a waiver request regarding an existing contract per subsection C(1)(d) above, upon a five-sevenths vote of the city commission at a public hearing, a limited waiver may be granted on an existing contract upon a finding that in order to protect the health, safety and welfare of the citizens of the city, continuation of said contract for a limited period of time (not to exceed six months) is necessary in order for the city to obtain a replacement vendor.

3. *Full disclosure.* Any grant of waiver by the commission must be supported with a full disclosure by the affected City Commission member of the subject conflicting employment/contractual relationship.

D. *Applicability.*

This section shall be applicable only to prospective employment/contractual relationships held by members of the Miami Beach City Commission.

**SECTION 2. REPEALER.**

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

**SECTION 3. 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 4. 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 5. EFFECTIVE DATE.**

This Ordinance shall take effect ten days from passage thereof.

**PASSED and ADOPTED** this \_\_\_ day of \_\_\_\_\_ 2009.

**ATTEST:**

\_\_\_\_\_  
Matti Herrera Bower  
Mayor

\_\_\_\_\_  
Robert Parcher  
City Clerk

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

  
\_\_\_\_\_  
City Attorney      3/11/09  
Date

Requested by Commissioner Jonah Wolfson

ORDINANCE NO. \_\_\_\_\_

**AN ORDINANCE OF THE MAYOR AND CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA, AMENDING MIAMI BEACH CITY CODE CHAPTER 2, ARTICLE VII, SECTION 2-458 THEREOF ENTITLED "SUPPLEMENTAL ABSTENTION AND DISCLOSURE REQUIREMENTS" BY REQUIRING PUBLIC OFFICIALS TO DISCLOSE COMPENSATION RECEIVED FROM INDIVIDUALS WHO ARE THE SUBJECT OF CONFLICTING RELATIONSHIPS, SAID DISCLOSURES TO BE MADE FROM ORIGINAL DATE OF ELECTION/APPOINTMENT OF PUBLIC OFFICIAL; PROVIDING FOR REPEALER; SEVERABILITY; CODIFICATION; AND AN EFFECTIVE DATE.**

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

**SECTION 1.** That Miami Beach City Code Chapter 2, Article VII, Section 2-458 thereof entitled: "Supplemental Abstention and Disclosure Requirements", is hereby amended to read as follows:

**Sec. 2-458. Supplemental Abstention and Disclosure Requirements.**

In addition to those conflict of interest abstention and disclosure requirements currently required by state and/or county law, the following requirements shall also apply to public officers:

(1) A public officer with a conflict of interest on a particular matter is prohibited from participating in that matter. "Participation" means any attempt to influence the decision by oral or written communication, whether made by the officer or at the officer's direction.

(2) Written disclosures of conflict of interest shall contain the full nature of the conflict at issue, including but not limited to names of individuals whose relationship with the officer results in the subject conflict as well as any compensation received by the officer from such individuals, and all material facts relevant to the conflict issue. The written memorandum disclosing conflict of interest shall be stated into the record before any discussion begins on the subject agenda item. This written disclosure memorandum must be filed regardless of whether the officer possessing the conflict was in attendance or not during consideration of the subject item. The requirements set forth in this Section shall apply to all written disclosure memorandums filed by a public officer since his/her election or appointment to public office in the City of Miami Beach -- public officers are thereby afforded \_\_\_\_\_ days from [adoption date of this Ordinance] to supplement any previously-filed memorandum for purposes of complying with the disclosure mandates herein.

(3) "Public officer" includes any person presently serving who has been elected or appointed to hold office in any agency.

(4) "Agency" shall mean any board, commission, committee or authority of the city, whether advisory, ad hoc or standing in nature.

\* \* \*

**SECTION 2. REPEALER.**

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

**SECTION 3. 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 4. 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 5. EFFECTIVE DATE.**

This Ordinance shall take effect ten days from passage thereof.

**PASSED and ADOPTED** this \_\_\_\_\_ day of \_\_\_\_\_ 2009.

**ATTEST:**

\_\_\_\_\_  
Matti Herrera Bower  
Mayor

\_\_\_\_\_  
Robert Parcher  
City Clerk

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

Requested by Commissioner Jonah Wolfson  
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\_\_\_\_\_  
City Attorney      3/11/09  
Date



# MIAMIBEACH

OFFICE OF THE CITY ATTORNEY

JOSE SMITH, CITY ATTORNEY

## COMMISSION MEMORANDUM

**TO:** Mayor Matti Herrera Bower  
Members of the City Commission  
City Manager Jorge Gonzalez

FIRST READING

**FROM:** Jose Smith  
City Attorney

**DATE:** March 18, 2009

**SUBJECT:** AN ORDINANCE OF THE MAYOR AND CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA, AMENDING MIAMI BEACH CITY CODE CHAPTER 2, ARTICLE VII, DIVISION 2 ENTITLED "OFFICERS, EMPLOYEES AND AGENCY MEMBERS," SECTION 2-459 ENTITLED "CERTAIN APPEARANCES PROHIBITED," BY AMENDING SUBSECTION (b) THEREOF ESTABLISHING THIS CODE SECTION'S EXCLUSION FOR LOBBYISTS WHO REPRESENT NON-PROFIT ENTITIES WITHOUT SPECIAL COMPENSATION BY NARROWING THIS EXCLUSION TO ONLY CERTAIN REPRESENTATIVES OF NON-PROFIT ENTITIES; PROVIDING FOR REPEALER, SEVERABILITY, CODIFICATION, AND AN EFFECTIVE DATE.

Pursuant to the request of Commissioner Victor Diaz and as recommended by the Neighborhood/Community Affairs Committee at its March 11, 2009 meeting, the attached Ordinance reflects proposed amendments to Miami Beach City Code section 2-459 "Certain Appearances Prohibited"—this section of the City Code presently prohibits City Agency members from directly or indirectly lobbying City personnel, with the sole exception being when a person lobbies on behalf of a non-profit entity without special compensation. The subject amendments will amend this exception as follows, with limited applicability to City Agencies which are standing in nature:

--**direct lobbying by city agency members** shall only be permitted when the agency member is affiliated with a non-profit entity in a capacity other than as a *managerial employee* (as said term is specifically defined in Ordinance);

--**indirect lobbying by an associate of a city agency member** shall only be permitted when:

1. the agency member is affiliated with the non-profit in a capacity other than managerial employee and the associate who is lobbying on behalf of that non-profit does so without special compensation for that appearance; or

2. the agency member is a managerial employee of the non-profit and the associate who is lobbying for that entity is affiliated with it in a capacity other than as a managerial employee.

These amendments shall apply prospectively, to those city agency members appointed/elected or reappointed/re-elected subsequent to the effective date of the attached Ordinance.

Agenda Item RSF  
Date 3-18-09

ORDINANCE NO. \_\_\_\_\_

AN ORDINANCE OF THE MAYOR AND CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA, AMENDING MIAMI BEACH CITY CODE CHAPTER 2, ARTICLE VII, DIVISION 2 ENTITLED "OFFICERS, EMPLOYEES AND AGENCY MEMBERS," SECTION 2-459 ENTITLED "CERTAIN APPEARANCES PROHIBITED," BY AMENDING SUBSECTION (b) THEREOF ESTABLISHING THIS CODE SECTION'S EXCLUSION FOR LOBBYISTS WHO REPRESENT NON-PROFIT ENTITIES WITHOUT SPECIAL COMPENSATION BY NARROWING THIS EXCLUSION TO ONLY CERTAIN REPRESENTATIVES OF NON-PROFIT ENTITIES; PROVIDING FOR REPEALER, SEVERABILITY, CODIFICATION, AND AN EFFECTIVE DATE.

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

**SECTION 1.** That Miami Beach City Code Chapter 2, Article VII, Division 2 entitled "Officers Employees and Agency Members," Section 2-459 thereof entitled "Certain Appearances Prohibited," is hereby amended to read as follows:

**Sec. 2-459. Certain appearances prohibited.**

(a) No member of a city board, agency or committee or a member of any board, agency or committee created hereafter which is designated as a board, agency or committee subject to the purview of this section shall:

(1) Either directly or through an associate, appear, represent or act on behalf of a third person before the city commission or any city agency with respect to any agency action sought by the third person.

(2) Either directly or through an associate be engaged as a lobbyist for and on behalf of a third person with respect to any official action by any public officer sought by such third person.

(b) *Definitions.* As used in this section, the following definitions shall apply:

*Agency* means any board, commission, committee or authority of the city, whether advisory, ad hoc or standing in nature.

*Associate* means any person or entity engaged in or carrying on a business enterprise with a city agency member as a partner, joint venturer, or co-corporate shareholder where the shares of such corporation are not listed on any national or regional stock exchange or co-owner of property. Associate shall further include a business affiliation with a city agency member where an "employee" or "of counsel" relationship exists.

*Lobbyist* means all persons, firms, or corporations employed or retained, whether paid or not, by a principal who seeks to encourage the passage, defeat, or modification(s) of any of the following: (1) ordinance, resolution, action or decision of any commissioner; (2) any action, decision, or recommendation of any city board or committee; or (3) any action, decision or recommendation of the city manager, deputy city manager, assistant city managers, all department heads, all division heads, city attorney, chief deputy city attorney, deputy city attorneys, and/or all assistant city attorneys (except when such personnel are acting in

connection with administrative hearings) during the time period of the entire decision-making process on such action, decision or recommendation which foreseeably will be heard or reviewed by the city commission or a city agency. "Lobbyist," as defined above, specifically includes the principal, as described above, as well as any agent, attorney, officer or employee of a principal, regardless of whether such lobbying activities fall within the normal scope of employment of such agent, attorney, officer or employee.

- 1) For purposes of this section, and with limited applicability to those Agencies that are not standing in nature, "lobbyist" shall exclude any person who only appears as a representative of a not for profit corporation or entity (such as a charitable organization, a neighborhood or homeowner association, a local chamber of commerce or a trade association or trade union) without special compensation or reimbursement for the appearance, whether direct, indirect or contingent, to express support of or opposition to any item.
- 2) For purposes of this section, and with limited applicability to those Agencies that are standing in nature:
  - a) lobbying by a board, agency or committee member shall be permitted when such person is affiliated with a not for profit corporation or entity (such as a charitable organization, a neighborhood or homeowner association, a local chamber of commerce or a trade association or trade union) in a capacity other than as a managerial employee and appears as a representative of that particular not for profit corporation or entity without special compensation or reimbursement for the appearance, whether direct, indirect or contingent, to express support of or opposition to any item.
  - b) lobbying by the associate of a board, agency or committee member shall be permitted:
    - (i) when a board, agency or committee member is affiliated with a not for profit corporation or entity in a capacity other than as a managerial employee, and the subject associate is appearing as a representative of that particular not for profit corporation or entity without special compensation or reimbursement for the appearance, whether direct, indirect or contingent, to express support of or opposition to any item.
    - (ii) when a board, agency or committee member is a managerial employee of a not for profit corporation or entity, and the subject associate is appearing as a representative of that particular not for profit corporation or entity without special compensation or reimbursement for the appearance, whether direct, indirect or contingent, to express support of or opposition to any item and is affiliated with said not for profit corporation or entity in a capacity other than as a managerial employee.
  - c) The term "managerial employee" shall mean any employee of a non-profit corporation or entity who has supervision and operational responsibilities/control of all or some departments of said entity.

*Public officer* means any person elected or appointed to hold office in the city, as a member of an agency which shall include an advisory body.

**SECTION 2.** The amendments set forth above shall apply to those board, agency or committee members elected or appointed/re-elected or re-appointed subsequent to the effective date of this Ordinance.

**SECTION 3. REPEALER.**

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

**SECTION 4. 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 5. 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 6. EFFECTIVE DATE.**

This Ordinance shall take effect the \_\_\_\_\_ day of \_\_\_\_\_, 2009.

**PASSED and ADOPTED this \_\_\_\_\_ day of \_\_\_\_\_, 2009.**

**ATTEST:**

\_\_\_\_\_  
Matti Herrera Bower

Mayor

\_\_\_\_\_  
Robert Parcher  
City Clerk

(Requested by Commissioner Victor Diaz and recommended by the Neighborhood/Community Affairs Committee.)

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

  
\_\_\_\_\_  
City Attorney      3/12/09  
Date

**Condensed Title:**

A Resolution of the Mayor and City Commission of the City of Miami Beach, Florida, granting a Certificate of Appropriateness for the demolition of the Flamingo Park Tennis Center and Courts, located at 1200 Meridian Avenue.

**Key Intended Outcome Supported:**

To ensure well designed quality Capital Projects  
**Supporting Data (Surveys, Environmental Scan, etc.):**  
 More recreation opportunities are ranked by residents as one of the changes that will make Miami Beach a better place; 79% of residents rated recreation programs and facilities as excellent or good.

**Issue:**

Should the Mayor and City Commission consider granting a Certificate of Appropriateness for the demolition of the Flamingo Park Tennis Center and Courts at 1200 Meridian Avenue?

**Item Summary/Recommendation:**

**PUBLIC HEARING**  
  
 The Administration recommends that this item be withdrawn.

**Advisory Board Recommendation:**

The Historic Preservation Board reviewed this item at its meetings of October 14, 2008, and November 12, 2008, and approved it.

**Financial Information:**

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

**Financial Impact Summary:**

**City Clerk's Office Legislative Tracking:**

Mario Gonzalez-Pola, CIP Office

**Sign-Offs:**

Department Director	Assistant City Manager	City Manager
FHB <i>[Signature]</i>	TH <i>[Signature]</i>	JMG <i>[Signature]</i>

T:\AGENDA\2009\March 18\Regular\Flamingo Park Tennis Center demolition.summary 03.18.09.doc





# MIAMI BEACH

City of Miami Beach, 1700 Convention Center Drive, Miami Beach, Florida 33139, [www.miamibeachfl.gov](http://www.miamibeachfl.gov)

## COMMISSION MEMORANDUM

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

FROM: Jorge M. Gonzalez, City Manager

DATE: March 18, 2009

**PUBLIC HEARING**

SUBJECT: **A RESOLUTION OF THE MAYOR AND CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA, GRANTING A CERTIFICATE OF APPROPRIATENESS FOR THE DEMOLITION OF THE FLAMINGO PARK TENNIS CENTER AND COURTS, LOCATED AT 1200 MERIDIAN AVENUE**

### ADMINISTRATION RECOMMENDATION

Item to be Administratively withdrawn.

### ANALYSIS

Flamingo Park is a 36-acre park bordered on the east by Meridian Avenue and on the west by Alton Road, from 11<sup>th</sup> to 12<sup>th</sup> Street, and Michigan Avenue, from 12<sup>th</sup> Street to 14<sup>th</sup> Street mid-block. The Park is comprised of a football stadium and grandstand; the tennis center (17 courts) the Friendship Corner building; the baseball stadium and grandstand; the Police Athletic League (PAL) building; the Flamingo Pool building; the Boys and Girls Club; the handball courts; the football field house and picnic shelter; the Property Management Yard office and facilities; the switch and storage building; the ticket booths and concession stands; the comfort station and the tot lot/playground.

The Flamingo Park Project scope of work includes architectural and engineering services for the master planning, design development, permitting, bid and award, and construction administration for the renovation of, and improvements to the Flamingo Park facilities, including the construction of a new tennis center building; new tennis courts and lighting; renovation of existing restrooms, or the provision of new ones; renovation of, or improvements to, the existing Friendship Corner; restoration of the existing softball field, basketball courts and handball courts; renovation of the baseball stadium; new park lighting and security lighting at entry promenade; landscape and irrigation improvements; additional parking areas and improved vehicular access; pedestrian circulation/access along the East/West and North/South axes; perimeter fencing and entry features and signage.

The project's initial priorities are to construct a new 5,000 square foot tennis center, including 18 courts (13 hydro grid & 5 hard), and facilities; provide accessible restrooms; and enhance park lighting. The proposed new tennis center will be located closer to 11<sup>th</sup> Street and the new tennis courts will be spaced farther apart in order to provide East-West landscaped pedestrian corridors. All other improvements are intended to be phased, and implemented according to the available budget.

On August 6, 2008, the Consultant conducted a charrette to present the proposed five (5) design options for the Flamingo Park Master Plan to the community prior to the subsequent Community Design Workshop (CDW). This additional presentation to the community was not part of the executed agreement. At the conclusion of this planning charrette, in addition to the questions asked by some of the residents, the Flamingo Park Neighborhood Association (FPNA) presented City staff

a resolution that addressed the priorities of their association, in an effort to have them included in the minutes of the meeting. On November 6, 2008, at the conclusion of this planning workshop, and based on comments received from the residents, as well as others present, the Consultant will develop the final master plan option that will be presented to the Commission.

Additionally, on October 14, 2008, and November 12, 2008, a request for a Certificate of Appropriateness for the complete demolition of the Flamingo Park Tennis Center/Courts was presented by staff and the Consultant to the Historic Preservation Board (HPB). In light of the proposed improvements which benefit the general public, the Planning Department staff recommended approval. The HPB voted 7-0 in favor of staff's recommendations.

In conjunction with the on-going development of the Flamingo Park Master Plan and the design of the Tennis Center Pavilion Building/Courts, at the January 28, 2009, City Commission meeting, the Administration sought authorization to set a public hearing, pursuant to Miami Beach City Code Section 118-563, to consider granting a Certificate of Appropriateness for the complete demolition of the existing Flamingo Park Tennis Center and Courts, and to prepare the area for the future development of the new Tennis Center and Courts (Item C7E). Following discussion, a motion was made, and seconded, to approve the item and refer the demolition portion - as well the discussion on the site placement of the Tennis Center Pavilion building with respect to the park entrance - to the February 11, 2009, Finance and Citywide Projects Committee meeting (FCWPC) for further consideration in the context of the overall planned improvements for the Park.

At the February 11, 2009, FCWPC meeting, following a condensed presentation of the Flamingo Park "Draft" Master Plan, and the various Master Plan options, with the corresponding conceptual budget estimates for each option, and a discussion on the proposed specific scope of work for the proposed tennis center and courts, the Committee directed the Administration to present the Draft Master Plan with the minor modifications as discussed by the Committee during its March 10, 2009, meeting, and subsequently referring it to the meeting in April. The modifications as put forth by the Committee are as follows:

- Conduct an analysis of the existing conditions at the tennis center building and develop an estimate of probable cost for the minimal improvements to the tennis center, instead of all new construction.
- Study the impact of shifting the building footprint of the proposed new tennis center to the north, to provide enhanced green areas with direct spatial relationship with the entrance of the existing pool building (Refer to the Master Plan).
- Evaluate the reduction of programmatic spaces to minimize the tennis center building footprint, and consequently, its cost per square foot of construction.

With respect to the duration of the tasks associated with the completion of the design services, this scope of work includes architectural, engineering, and landscape architecture services for the planning, design, bid and award, and construction administration services. Once all applicable comments from jurisdictional agencies, staff and stakeholders are incorporated into the Tennis Center and Courts design, the project will proceed from its current schematic design phase into final construction documents. It is anticipated that this design production effort will take the Consultant a maximum of four (4) months to complete before documents can be submitted through all the appropriate jurisdictional agencies to obtain a permit for construction.

The current City practice requires certain review agencies, such as Department of Environmental Resource Management (DERM), Miami-Dade County Public Works Department's, and Florida Health Department, as well as internal City departments to receive design documents at various design stages and provide comments. As such, a design production effort with a six (6) month

duration period for the completion of architectural and engineering documents for the Tennis Center and Courts is consistent with our current practice of review by multiple reviewers at various points of the process. Please keep in mind that this timeframe includes the time necessary to present before the HPB or other applicable boards. The Consultant continues to make every effort to expedite the construction documents of the project.

Although some tasks have been delayed, others have advanced further. As of August 18, 2008, for instance, the Final Park Master Plan (90 day duration) experienced delays with the completion of the required updated topographic and boundary survey. Previously estimated to be completed by July 2008, later revised to be completed in October 2008, the Master Plan was presented to the Commission in February, via the February 11<sup>th</sup> and March 10<sup>th</sup> FCWPC meetings, in an effort to seek guidance on the desired options. However, in an effort to accelerate other components of their scope of work, the Consultant has worked concurrently on the development of the programmatic/schematic design requirements for the Tennis Center and Courts, and the other Master Plan components. Given that the Consultant was authorized to proceed to Task 2, Design Services, in January 2009, it is anticipated that the Tennis Center/Courts design can be completed by May 2009, and construction completed as early as July 2010.

Please note below a summary outline of the revised Tennis Center and Courts project task milestones dates as follows:

<u>Tasks</u>	<u>As of August 18, 2008</u>	<u>Current Schedule</u>
Planning	October, 2008	February, 2009
Design Services (previously February 2009)	March, 2009	May, 2009
Bidding and Award (previously June 2009)	June, 2009	July, 2009
Construction (previously March 2010)	June, 2010	July, 2010

The Administration will explore all construction delivery options available to the City through its public procurement process to determine the one best suited to expedite the construction completion timelines of the Tennis Center and Courts, thus further reducing the current 12 month construction duration. One such option, that may offer reduction of construction duration timelines, may be the Construction Manager at Risk project delivery method.

At the February 11, 2009, FCWPC meeting, following a condensed presentation of the Flamingo Park "Draft" Master Plan and the various Master Plan options, with corresponding conceptual budget estimates, and a discussion on the project specific scope of work for the proposed tennis center and courts, the Committee directed the Administration to present the "Draft" Master Plan (*with the minor modifications discussions as requested during the FCWPC meeting*) and that further discussion on the scope of work for the tennis center and courts be referred to the March 10, 2009, FCWPC and subsequently presented before the City Commission on March 18<sup>th</sup>, in order to achieve a final determination on the granting of the Certificate of Appropriateness for demolition of the existing tennis center and courts.

At the March 10, 2009, FCWPC meeting, following the entire presentation of the comprehensive Flamingo Park "Draft" Master Plan and the various Master Plan options, with corresponding conceptual budget estimates, the Committee directed the Administration to present the "Draft" Master Plan (*with the modifications discussions as requested during the FCWPC meeting*) and that further discussion on the scope of work for the tennis center and courts be continued to the April 22, 2009, City Commission meeting.

## CONCLUSION

The Administration recommends that the item be withdrawn.

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**Condensed Title:**

A Resolution approving on Second Reading and Final Reading subsequent to Duly Noticed Public Hearing La Gorce Country Club's request (and related City application) for vacation of a portion of West 57<sup>th</sup> Street easterly of Alton Road waiving the application fee and waiving by 5/7<sup>th</sup> vote the competitive bidding and appraisal requirements pursuant to City Code Section 82-39, finding such wavier to be in the best interest of the City.

**Key Intended Outcome Supported:**

N/A

**Supporting Data (Surveys, Environmental Scan, etc.):** N/A

**Issue:**

Shall the Mayor and City Commission approve the Resolution?

**Item Summary/Recommendation:**

**SECOND READING PUBLIC HEARING**

On January 28, 2009, the Miami Beach City Commission unanimously passed its Resolution No. 2009-26995 approving and accepting a Settlement Agreement in Frank Otero and Jeffrey Gibbs vs. City of Miami Beach, La Gorce Country Club and DM Fence Corp., 11<sup>th</sup> Jud. Cir. Ct., Case No.: 05-17754 CA 30; this lawsuit was filed by two owners of lots abutting the La Gorce Country Club who sought various forms of relief including a declaration of boundary/title with regard to the street-ends running perpendicular to the boundaries of the La Gorce Golf Course, said street-ends bordering easterly of Alton Road and located at West 52<sup>nd</sup> Street, West 53<sup>rd</sup> Street, West 54<sup>th</sup> Street, West 56<sup>th</sup> Street, West 57<sup>th</sup> Street, West 58<sup>th</sup> Street, West 59<sup>th</sup> Street, and West 60<sup>th</sup> Street, as well as those street-ends bordering westerly on La Gorce Drive and located at West 58<sup>th</sup> Street, West 59<sup>th</sup> Street, West 60<sup>th</sup> Street and West 61<sup>st</sup> Street.

The Country Club timely filed its request for vacation, and this matter is now within the jurisdiction of the Planning Board to be heard after their February 24, 2009 meeting.

As required by City Code, the Planning Department Analysis is attached. Findings of the analysis are that the request is consistent with the necessary findings to merit approval.

In the event the Planning Board approves the request for vacation, it is recommended that the City Commission also approve the request.

**Advisory Board Recommendation:**

N/A

**Financial Information:**

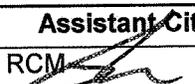
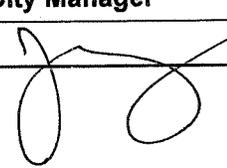
Source of Funds:		Amount	Account
	1		
OBPI	Total		

**Financial Impact Summary:**

**City Clerk's Office Legislative Tracking:**

Robert C. Middaugh, Assistant City Manager

**Sign-Offs:**

Department Director	Assistant City Manager	City Manager
	RCM 	JMG 

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# MIAMI BEACH

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

## COMMISSION MEMORANDUM

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

FROM: Jorge M. Gonzalez, City Manager

DATE: March 18, 2009

**SECOND READING PUBLIC HEARING**

**SUBJECT: A RESOLUTION OF THE MAYOR AND CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA, APPROVING ON SECOND AND FINAL READING SUBSEQUENT TO DULY NOTICED PUBLIC HEARING, LA GORCE COUNTRY CLUB'S REQUEST (AND RELATED CITY APPLICATION) FOR VACATION OF A PORTION OF WEST 57<sup>TH</sup> STREET EASTERLY OF ALTON ROAD IN THE CITY OF MIAMI BEACH, WAIVING THE APPLICATION FEE AND WAIVING BY 5/7THS VOTE THE COMPETITIVE BIDDING AND APPRAISAL REQUIREMENTS PURSUANT TO CITY CODE SECTION 82-39, FINDING SUCH WAIVER TO BE IN THE BEST INTEREST OF THE CITY, AND FURTHER AUTHORIZING THE MAYOR AND CITY CLERK TO EXECUTE ANY AND ALL DOCUMENTS TO EFFECTUATE THIS VACATION, INCLUDING A QUIT CLAIM DEED AND UTILITY EASEMENT.**

### ADMINISTRATION RECOMMENDATION

Approve the Resolution.

### ANALYSIS

On January 28, 2009, the Miami Beach City Commission unanimously passed its Resolution No. 2009-26995 approving and accepting a Settlement Agreement in Frank Otero and Jeffrey Gibbs vs. City of Miami Beach, La Gorce Country Club and DM Fence Corp., 11<sup>th</sup> Jud. Cir. Ct., Case No.: 05-17754 CA 30; this lawsuit was filed by two owners of lots abutting the La Gorce Country Club who sought various forms of relief including a declaration of boundary/title with regard to the street-ends running perpendicular to the boundaries of the La Gorce Golf Course, said street-ends bordering easterly of Alton Road and located at West 52<sup>nd</sup> Street, West 53<sup>rd</sup> Street, West 54<sup>th</sup> Street, West 56<sup>th</sup> Street, West 57<sup>th</sup> Street, West 58<sup>th</sup> Street, West 59<sup>th</sup> Street, and West 60<sup>th</sup> Street, as well as those street-ends bordering westerly on La Gorce Drive and located at West 58<sup>th</sup> Street, West 59<sup>th</sup> Street, West 60<sup>th</sup> Street and West 61<sup>st</sup> Street. The Settlement Agreement provided for the following to occur upon execution of the Agreement:

-La Gorce Country Club will request partial vacation of West 57<sup>th</sup> Street easterly of Alton Road, and City will consider said application pursuant to conditions established in City Charter and Code which require 4/7ths approval of Planning Board and 5/7ths approval of the City Commission, agreeing to waive application fee, as well as appraisal and bidding by 5/7ths Commission vote at time of vacation proceedings (or assume appraisal cost absent a waiver), and further reserving to City a perpetual easement for utilities; etc.;

-If vacation is approved, City will deliver to La Gorce a quit claim deed for the subject portion of West 57<sup>th</sup> Street and the City resolution approving vacation, and La Gorce will deliver to the City a utility easement over the vacated portion of West 57<sup>th</sup> Street; La Gorce will also deliver to City a quit claim deed for eleven of the subject 20 foot strips of land in dispute bordering easterly of Alton Road and located at West 52<sup>nd</sup> Street, West 53<sup>rd</sup> Street, West 54<sup>th</sup> Street, West 56<sup>th</sup> Street, West 58<sup>th</sup> Street, West 59<sup>th</sup> Street, and West 60<sup>th</sup> Street, and further bordering westerly of La Gorce Drive and located at West 58<sup>th</sup> Street, West 59<sup>th</sup> Street, West 60<sup>th</sup> Street and West 61<sup>st</sup> Street;

-those portions of La Gorce's fence encroaching upon the City right-of-ways will be removed from the public right-of-ways and resituated by the City (at city expense) to the respective perimeter portion of the La Gorce's property;

-for purposes of establishing a procedure for any homeowner complaining of view obstruction by La Gorce, said homeowner shall submit a written complaint to La Gorce and if view dispute has not been resolved after thirty days from submittal of said complaint, the homeowner may then submit a written complaint to the City for investigation and response within forty-five days; and

-upon accomplishment of above in accordance with time frames more specifically set forth within the Settlement Agreement, Plaintiff Gibbs will file a dismissal of lawsuit with prejudice, all parties to assume their own costs and fees.

The City's historical use of the subject portion of West 57<sup>th</sup> Street has been for placement of underground utilities, which use will continue in the event vacation is approved via the grant by La Gorce to the City of a perpetual Utility Easement.

The Country Club timely filed its request for vacation, and this matter is now within the jurisdiction of the Planning Board to be heard after their February 24, 2009 meeting.

#### Planning Department Analysis

As required by City Code Section 82-38, the Planning Department Analysis of the vacation request is attached, as well as unanimous order of the Planning Board approving the application for vacation. Findings of the analysis are that the request is consistent with the necessary findings to merit approval. A public purpose is found to exist, the public's interests are protected and no adverse/negative impacts have been determined to exist if the vacation is granted.

#### Bid Process Requirement

Section 82-39 of the City Code requires that any conveyance of right-of-way be done through a public bid process with accompanying property appraisal; this Section of the Code may be waived by the City Commission upon a 5/7<sup>th</sup> vote of the Commission finding such waiver of these conditions of bidding and appraisal to serve the public interest. In this specific situation, it is recommended that the City Commission find that the public interest is best served by waiving the bid and appraisal process otherwise required by City Code.

#### CONCLUSION

The Planning Board approved the request for vacation, and it is recommended that the City Commission also approve the request.

Approval of the request for vacation of the subject portion of West 57<sup>th</sup> Street will result in final resolution of the long-standing and costly litigation between the City, La Gorce and surrounding homeowners concerning ownership of the street-end properties (City will obtain

clear title), the rights of homeowners concerning views of the Country Club's golf course (procedure for view complaints established in Agreement), as well as City's and homeowners' use of the street-end properties (City will relocate the fences bordering the street-ends, ensuring surrounding homeowners greater access and views to their private properties, as well as providing City/public access to said street-end properties). Moreover, in the event the vacation is approved, La Gorce will deed to the City eleven of the 20 foot strips of land in dispute, which lands total 13,426 square feet – compared to the area of the West 58<sup>th</sup> Street property totaling 7710 square footage, the amount of public land will be increased by 5716 square feet.

Accordingly, in light of the public interest served thereby, it is recommended that the City Commission by 5/7<sup>th</sup> vote waive the competitive bid and appraisal requirements of the City Code and approve the present request to vacate the subject portion of West 57<sup>th</sup> Street, easterly of Alton Road.

JMG/RCM/sam

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Attachments

1  
JO

STEARNS WEAVER MILLER  
WESSLER ALHADEFF & SITTERSON, P.A.

Miami ■ Ft. Lauderdale ■ Tampa

Mark P. Dikeman  
Direct Line: (305) 789-3437  
Fax: (305) 789-3395  
Email: mdikeman@swwwas.com

Museum Tower, Suite 2200  
150 West Flagler Street  
Miami, Florida 33130  
(305) 789-3200

January 30, 2009

Via Facsimile and U.S. Mail

Jean Olin, Esquire  
Office of City Attorney  
City of Miami Beach  
1700 Convention Center Drive, 4<sup>th</sup> Floor  
Miami Beach, Florida 33139

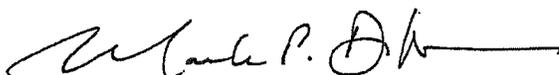
Re: *Gibbs and Otero vs. La Gorce Country Club et al.*  
Case No. 05-17754-CA-30

RECEIVED  
09 FEB -2 PM 2:49  
CITY ATTORNEY'S OFFICE

Dear Ms. Olin:

Pursuant to the Settlement Agreement in the above referenced matter and on behalf of La Gorce Country Club Inc., La Gorce hereby submits its Vacation Application to the City of Miami Beach for the vacation of West 57<sup>th</sup> Street easterly of Alton Road. The proposed present use is continuation of the existing use as a parking lot for the clubhouse.

Sincerely,



Mark P. Dikeman

MPD:smf

RESOLUTION NO. \_\_\_\_\_

**A RESOLUTION OF THE MAYOR AND CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA, APPROVING ON SECOND AND FINAL READING SUBSEQUENT TO DULY NOTICED PUBLIC HEARING, LA GORCE COUNTRY CLUB'S REQUEST (AND RELATED CITY APPLICATION) FOR VACATION OF A PORTION OF WEST 57<sup>th</sup> STREET EASTERLY OF ALTON ROAD IN THE CITY OF MIAMI BEACH, WAIVING THE APPLICATION FEE AND WAIVING BY 5/7<sup>ths</sup> VOTE THE COMPETITIVE BIDDING AND APPRAISAL REQUIREMENTS PURSUANT TO CITY CODE SECTION 82-39, FINDING SUCH WAIVER TO BE IN THE BEST INTEREST OF THE CITY, AND FURTHER AUTHORIZING THE MAYOR AND CITY CLERK TO EXECUTE ANY AND ALL DOCUMENTS TO EFFECTUATE THIS VACATION, INCLUDING A QUIT CLAIM DEED AND UTILITY EASEMENT.**

**WHEREAS**, at its January 28, 2009 City Commission meeting, the Mayor and City Commission approved and authorized execution of a Settlement Agreement in Frank Otero and Jeffery Gibbs v. City of Miami Beach, La Gorce Country Club, and D.M. Fence Corp., 11<sup>th</sup> Judicial Circuit Court, Case No. 05-17754 (CA 30), which Agreement provides in part that La Gorce Country Club Inc. ("La Gorce") will seek vacation, reserving to the City a utility easement, of that portion of West 57<sup>th</sup> Street easterly of Alton Road legally described as:

**Portion of West 57<sup>th</sup> Street bounded as follows: bounded on the north by the south line of Lot 9, Block 9; bounded on the South by the North line of Lot 1, Block 11; bounded on the East by the Northerly extension of the East line of said Lot 1, Block 11; and bounded on the West by the East right of way line of Alton Road. All as shown in La Gorce-Golf Subdivision, Plat Book 14, Page 43, Public Records of Miami Dade County, Florida. Said Lands located, lying and being in Section 15, Township 53 South Range 42 East, City of Miami Beach, Miami Dade County, Florida<sup>1</sup>**

with City to waive application fee and to waive appraisal and bidding by 5/7<sup>ths</sup> City Commission vote at time of vacation proceedings pursuant to City Code section 82-39, upon a finding that such waiver serves the City's best interest; and

**WHEREAS**, the Settlement Agreement further requires that the City consider said vacation application pursuant to conditions established in the City Charter and Code, requiring 4/7<sup>ths</sup> approval of Planning Board and 5/7<sup>ths</sup> approval of City Commission at public hearing; and

**WHEREAS**, La Gorce Country Club (owner of adjacent property located at 5685 Alton Road) submitted its request for vacation of the subject portion of West 57<sup>th</sup> Street, and the City's application filed pursuant thereto, along with the required Planning Department study, was considered by the Planning Board at its February 24, 2009 meeting, resulting in its approval of said application by unanimous (7/7<sup>ths</sup>) vote<sup>2</sup>; and

<sup>1</sup> Survey of subject property attached hereto as "Exhibit A".

<sup>2</sup> Planning Department study and related Planning Board Order attached hereto as "Composite Exhibit B".

**WHEREAS**, at its February 25, 2009 meeting, subsequent to the City Clerk's first reading of Resolution title, the Mayor and City Commission passed its Resolution No. 2009-27018 approving the subject vacation request on first reading and setting the second and final reading and public hearing to hear public comment thereon for March 18, 2009; and

**WHEREAS**, at its March 18, 2009 meeting, subsequent to the City Clerk's second reading of Resolution title, public hearing was held. At both the February 25, 2009 and March 18, 2009 meetings, the agenda records substantiated the Administration and City Attorney's Office recommendations that the Mayor and City Commission approve by the required minimum 5/7<sup>ths</sup> vote this request for vacation (having determined compliance with requirements established in City Charter and City Code, including criteria set forth in Code section 82-38), including waiver of application fee and waiver by the required minimum 5/7<sup>ths</sup> vote of the appraisal and competitive bidding requirements, finding such waiver to be in the City's best interest.

**NOW, THEREFORE, BE IT DULY RESOLVED BY THE MAYOR AND THE CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA**, that following second and final reading of this Resolution and a duly noticed Public Hearing held on March 18, 2009 to hear public comment thereon, and having determined compliance with requirements established in City Charter and City Code, including criteria set forth in Code section 82-38, it hereby approves and authorizes by \_\_\_\_\_ vote (thus satisfying the required minimum 5/7<sup>ths</sup> vote) the vacation of that portion of West 57<sup>th</sup> Street easterly of Alton Road (legally described above) in the City of Miami Beach in favor of La Gorce Country Club Inc., owner of the adjacent property located at 5685 Alton Road in Miami Beach, reserving to the City a utility easement over the subject vacated property, waiving the application fee and waiving the competitive bidding and appraisal requirements pursuant to City Code section 82-39 (in satisfaction of the minimum 5/7<sup>ths</sup> vote requirement), finding such waiver to be in the City's best interest, and further authorizing the Mayor and City Clerk to execute any and all documents to effectuate this vacation, including a Quit Claim Deed and Utility Easement.

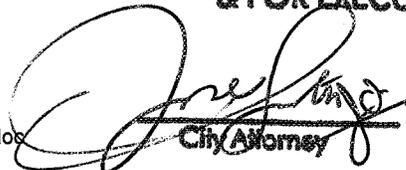
**PASSED AND ADOPTED** this \_\_\_\_\_ day of \_\_\_\_\_, 2009.

ATTEST:

\_\_\_\_\_  
Matti Herrera Bower  
Mayor

\_\_\_\_\_  
Robert Parcher  
City Clerk

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

  
\_\_\_\_\_  
City Attorney      3/10/09  
Date

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**STEARNS WEAVER MILLER  
WESSLER ALHADEFF & SITTERSON, P.A.**

Miami ■ Ft. Lauderdale ■ Tampa

Mark P. Dikeman  
Direct Line: (305) 789-3437  
Fax: (305) 789-3395  
Email: mdikeman@swwwas.com

Museum Tower, Suite 2200  
150 West Flagler Street  
Miami, Florida 33130  
(305) 789-3200

January 30, 2009

**Via Facsimile and U.S. Mail**

Jean Olin, Esquire  
Office of City Attorney  
City of Miami Beach  
1700 Convention Center Drive, 4<sup>th</sup> Floor  
Miami Beach, Florida 33139

RECEIVED  
09 FEB -2 PM 2:49  
CITY ATTORNEY'S OFFICE

**Re: *Gibbs and Otero vs. La Gorce Country Club et al.*  
Case No. 05-17754-CA-30**

Dear Ms. Olin:

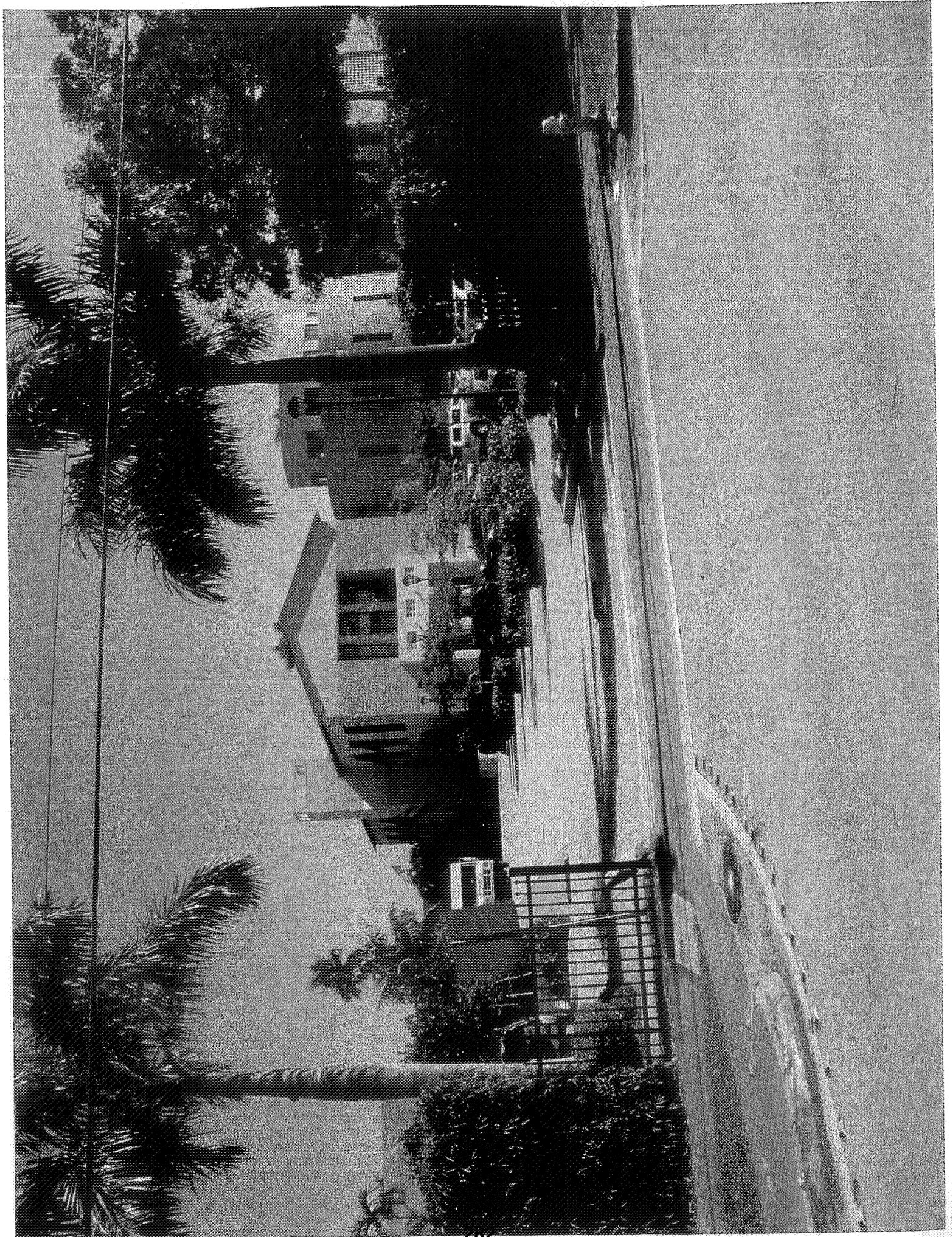
Pursuant to the Settlement Agreement in the above referenced matter and on behalf of La Gorce Country Club Inc., La Gorce hereby submits its Vacation Application to the City of Miami Beach for the vacation of West 57<sup>th</sup> Street easterly of Alton Road. The proposed present use is continuation of the existing use as a parking lot for the clubhouse.

Sincerely,



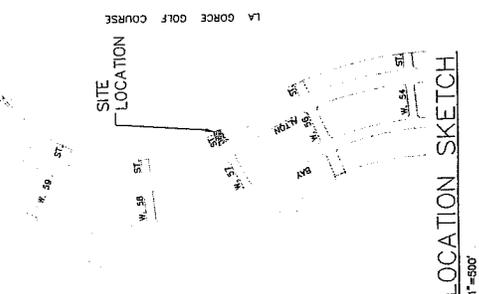
Mark P. Dikeman

MPD:smf



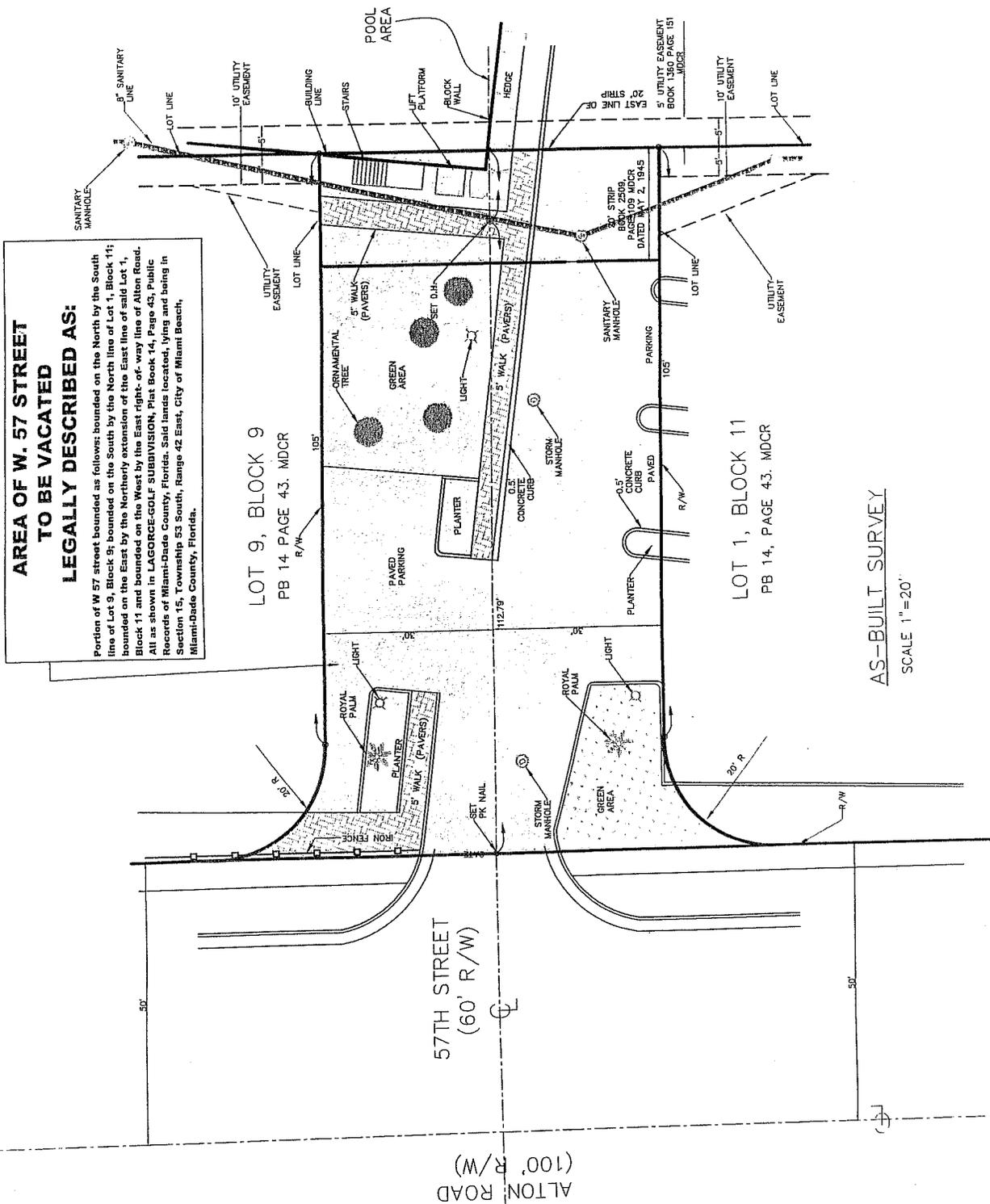
**AREA OF W. 57 STREET TO BE VACATED LEGALLY DESCRIBED AS:**

Portion of W 57 street bounded as follows: bounded on the North by the South line of Lot 9, Block 9; bounded on the South by the North line of Lot 1, Block 11; bounded on the East by the Northerly extension of the East line of said Lot 1, Block 11 and bounded on the West by the East right-of-way line of Alton Road. All as shown in LAGORCE-GOLF SUBDIVISION, Plat Book 14, Page 43, Public Records of Miami-Dade County, Florida. Said lands located, lying and being in Section 15, Township 53 South, Range 42 East, City of Miami Beach, Miami-Dade County, Florida.



**LEGEND & ABBREVIAT**

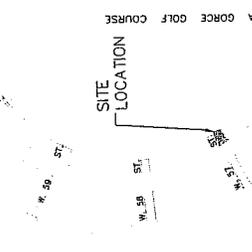
- ASPH. ASPHALT
- BM BENCH MARK
- BW BACK OF SIDEWALK
- CB CONCRETE BLOCK
- CAG CURB AND GUTTER
- CL CENTER LINE
- CLF CLEARANCE
- CM CHAIN LINK FENCE
- CH CONCRETE
- CHC CONCRETE CURB
- CHM CONCRETE MONUMENT
- DR BRICK DRIVE
- DRH DRIVE
- ENC ENCROACHMENT
- EXC EXCAVATION
- FD IP FOUND IRON PIPE
- FL LINE FLOW LINE
- IP IRON PIPE
- ROYAL PALM ROYAL PALM
- ORNAMENTAL TREE ORNAMENTAL TREE



**LOT 9, BLOCK 9**  
PB 14, PAGE 43, MDCR

**LOT 1, BLOCK 11**  
PB 14, PAGE 43, MDCR

**AS-BUILT SURVEY**  
SCALE 1" = 20'



**EXHIBIT A**

**PUBLIC WORKS DEPARTMENT**  
110 Convention Center Drive, Miami Beach, FL 33139

**CITY ENGINEER:** FERNANDO VAZQUEZ, P.E.  
**CITY MANAGER:** JORGE GONZALEZ  
**DIRECTOR:** FRED H. BECKMANN, P.E.

**ENGINEER OF RECORD:** J.S. SHOWN  
**DESIGN ENGINEER:** J.B.  
**DRAWN BY:** J.G.M.D.A.  
**CHECKER:** FERNANDO VAZQUEZ, P.E.  
**SCALE:** AS SHOWN

**ENGINEER OF RECORD:** 1  
**DESIGN ENGINEER:** 2  
**DRAWN BY:** 3  
**CHECKER:** 4

**FILE NAME:** SM-2008Y 57  
**PLAT BOOK:** N/A  
**PAGE:** 1 of 1

**FIELD WORK DATE:** 10/27/2008  
**APPROVED BY:**

12/29/2008, Britton, Corey F. \work\FULL\CAD-DWG\PROJECTS\SM\SM-2008Y\La Gorce Golf Course S...



# MIAMI BEACH

PLANNING DEPARTMENT  
Staff Report & Recommendation

PLANNING BOARD

TO: Chairperson and Members  
Planning Board

DATE: February 24, 2009

FROM: Jorge G. Gomez, AICP   
Planning Director

SUBJECT: File No. 1919 – Portion of West 57<sup>th</sup> Street, easterly of Alton Road.

The applicant, the City of Miami Beach has filed an application (pursuant to request by La Gorce Country Club, Inc.) for vacation of a portion of the West 57<sup>th</sup> Street street-end Easterly of Alton Road.

**Legal Description:** Portion of W. 57<sup>th</sup> Street bounded as follows: bounded on the North by the South line of Lot 9, Block 9; bounded on the South by the North line of Lot 1, Block 11; bounded on the East by the Northerly extension of the East line of said Lot 1, Block 11 and bounded on the West by the East right-of-way line of Alton Road, all as shown in La Gorce-Golf Subdivision, Plat Book 14, Page 43, Public Records of Miami-Dade County, Florida, said lands located, lying and being in Section 15, Township 53 South Range 42 East, City of Miami Beach, Miami-Dade County, Florida.

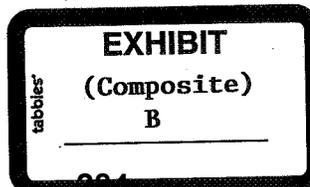
### ANALYSIS

Pursuant to Miami Beach City Code Section 118-51(11), the Planning Board is charged with the review and approval of the sale, exchange, conveyance or lease of ten years or longer of certain city-owned property, as provided in City Charter, subsection 1.03 entitled, "Alienability of property," subsection (b) 3, requiring approval by a majority (four-sevenths) vote of all members of the Planning Board and a super-majority (five-sevenths) vote of the City Commission. Inasmuch as a vacation request constitutes both a "conveyance" and a "sale" of City property (pursuant to Chapter 82 of the City Code), the requested vacation of this street-end falls within the scope of the City Charter calling for 4/7<sup>th</sup>s Planning Board approval. (The City Commission's approval is subject to requirements contained in City Code Chapter 82, Article II, Sale or Lease of Public Property.)

In reviewing this application, the Planning Board is required by City Code to consider the following criteria, when applicable, which are analyzed below:

- a. **Whether or not the proposed use is in keeping with City goals and objectives and conforms to the City Comprehensive Plan.**

The request to vacate the subject portion of West 57<sup>th</sup> Street, easterly of Alton Road, in favor of the La Gorce Country Club has been made pursuant to a settlement agreement approved by the City Commission on January 28, 2009. The settlement agreement provides that if vacation is approved, the Country Club will deed to the City eleven 20' strips of land,



the title of which were at issue in the litigation. The proposed use of the street-end after its vacation is exactly as it is used today and for the past few decades, as part of the entrance and parking lot to the La Gorce Country Club. The property no longer functions as a street-end. Its vacation is consistent with City goals and objectives, in that acknowledging its use as it exists will resolve a dispute with the abutting property owners and Country Club as to ownership and control of it and other properties in the vicinity.

The portion of the street-end being vacated is not designated ROS, Recreational Open Space in the Future Land Use Map of the Comprehensive Plan, and its vacation is not inconsistent with any of the Plan's goals, objectives or policies, and thus the proposed vacation conforms to the Comprehensive Plan.

- b. **If a sale, a determination as to whether or not alternatives are available for the acquisition of private property as an alternative to the proposed disposition or sale of city-owned properties, including assembly of adjacent properties, and impact of such assemblage on the adjacent neighborhood and the city in general.**

No alternatives are available for the acquisition of private property as an alternative to the proposed disposition of the street-end.

- c. **The impact on adjacent properties, including the potential positive or negative impacts such as diminution of open space, increased traffic, adequate parking, noise level, enhanced property values, improved development patterns, and provision of necessary services.**

The vacation of the easterly street end of West 57<sup>th</sup> Street will not have any impact on adjacent properties, and will acknowledge its role is no longer as a street-end, but is as part of the entrance and parking lot for the La Gorce Country Club. The area in question is surface driveway and parking area only, and its vacation and use as such will have no impact on open space, traffic, parking, and noise or property values in the area. Moreover, the City's historical use of the subject portion of West 57<sup>th</sup> Street has been for placement of underground utilities, which use will continue in the event vacation is approved via the grant by La Gorce to the City of a perpetual Utility Easement.

- d. **Determination as to whether or not the proposed use is in keeping with the surrounding neighborhood, blocks views or creates other environmental intrusions, and evaluation of design and aesthetic considerations of the project.**

The proposed vacation is in keeping with the surrounding neighborhood, and will not block views or create any environmental intrusions.

- e. **A traffic circulation analysis and plan that details the impact of projected traffic on the immediate neighborhood and how this impact is to be mitigated.**

The proposed vacation is consistent with traffic circulation and projected traffic in and around the immediate neighborhood, as the property is already functioning as the entrance and parking lot of the La Gorce Country Club. No adverse impact exists or is projected that needs to be mitigated.

- f. **Determination as to whether or not the proposed use is in keeping with a public purpose and community needs, and improving the community's overall quality of life.**

The vacation of the easterly street end of West 57<sup>th</sup> Street and allowing its continued use as the entrance and parking lot for La Gorce Country Club is in keeping with a public purpose and community needs. The vacation will place the property on the tax roll, and further allow a long and costly litigation to conclude in keeping with a public purpose of reducing cost and expenses to the taxpayers of the City. In addition, if vacation is approved, the City will receive as part of the settlement, a utility easement over the vacated portion of West 57<sup>th</sup> Street for its underground utilities, and a quit claim deed for eleven of the subject 20 foot strips of land in dispute bordering the golf course easterly of Alton Road and located at West 52<sup>nd</sup> Street, West 53<sup>rd</sup> Street, West 54<sup>th</sup> Street, West 56<sup>th</sup> Street, West 58<sup>th</sup> Street, West 59<sup>th</sup> Street, and West 60<sup>th</sup> Street, and further bordering westerly of the golf course and La Gorce Drive, located at West 58<sup>th</sup> Street, West 59<sup>th</sup> Street, West 60<sup>th</sup> Street and West 61<sup>st</sup> Street; these eleven strips of property total 13,426 square feet of land, which compared to the 7,710 square feet of the subject portion of West 57<sup>th</sup> Street, will result in a gain of 5,715 square feet of land for public use.

- g. **If a lease is proposed, the duration and other nonfinancial terms of the lease.**

Not applicable.

#### **STAFF RECOMMENDATION**

In view of the above analysis, the documents presented with the application and the recommendation from the City Attorney's Office, staff recommends approval of the vacation of the West 57<sup>th</sup> Street street-end, easterly of Alton Road.

JGG/ML

c: Gary Held, First Assistant City Attorney

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**PLANNING BOARD  
CITY OF MIAMI BEACH, FLORIDA**

**PROPERTY:** Portion of West 57<sup>th</sup> Street, easterly of Alton Road.

**FILE NO:** 1919

**IN RE:** The application by the City of Miami Beach (pursuant to request by La Gorce Country Club, Inc.) for vacation of a portion of the West 57<sup>th</sup> Street street-end Easterly of Alton Road.

**LEGAL DESCRIPTION:** Portion of W. 57<sup>th</sup> Street bounded as follows: bounded on the North by the South line of Lot 9, Block 9; bounded on the South by the North line of Lot 1, Block 11; bounded on the East by the Northerly extension of the East line of said Lot 1, Block 11 and bounded on the West by the East right-of-way line of Alton Road, all as shown in La Gorce-Golf Subdivision, Plat Book 14, Page 43, Public Records of Miami-Dade County, Florida, said lands located, lying and being in Section 15, Township 53 South Range 42 East, City of Miami Beach, Miami-Dade County, Florida.

**MEETING DATE:** February 24, 2009

**FINAL ORDER**

The applicant, City of Miami Beach filed an application with the Planning Director pursuant to Section 118-51 (11) of the Land Development Regulations of the Code of the City of Miami Beach, Florida. Notice of the request was given as required by law and mailed out to owners of property within a distance of 375 feet of the exterior limits of the property, upon which the application was made.

The Planning Board of the City of Miami Beach makes the following FINDINGS OF FACT, based upon the evidence, information, testimony and materials presented at the public hearing and which are part of the record for this matter:

That the request to vacate the subject portion of West 57th Street, easterly of Alton Road, in favor of the La Gorce Country Club has been made pursuant to a settlement agreement approved by the City Commission on January 28, 2009;

That no alternatives are available for the acquisition of private property as an alternative to the proposed disposition of the street-end;

That the portion of the street-end being vacated is not designated ROS, Recreational Open Space in the Future Land Use Map of the Comprehensive Plan, and its vacation is

not inconsistent with any of the Plan's goals, objectives or policies, and thus the proposed vacation conforms to the Comprehensive Plan;

That the vacation of the easterly street end of West 57<sup>th</sup> Street will not have any impact on adjacent properties, and will acknowledge its role is no longer as a street-end, but is as part of the entrance and parking lot for the La Gorce Country Club;

That the proposed vacation is in keeping with the surrounding neighborhood, and will not block views or create any environmental intrusions;

That the proposed vacation is consistent with traffic circulation and projected traffic in and around the immediate neighborhood, as the property is already functioning as the entrance and parking lot of the La Gorce Country Club;

That the vacation of the easterly street end of West 57<sup>th</sup> Street and allowing its continued use as the entrance and parking lot for La Gorce Country Club is in keeping with a public purpose and community needs.

**IT IS THEREFORE ORDERED**, based upon the foregoing findings of fact, the application, evidence, information, testimony and materials presented at the public hearing, which are part of the record for this matter, and the staff report and analysis, which is adopted herein, including the staff recommendation, that the vacation of a portion of the West 57<sup>th</sup> Street street-end easterly of Alton Road as requested and set forth above is hereby approved by a unanimous vote (7-0).

Dated this 10<sup>th</sup> day of March, 2009.

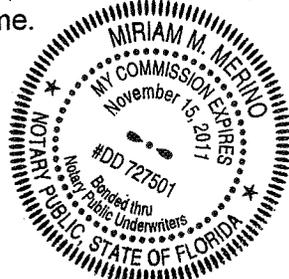
PLANNING BOARD OF THE  
CITY OF MIAMI BEACH, FLORIDA

BY: [Signature]  
Jorge G. Gomez, AICP, Planning Director  
FOR THE CHAIRMAN

STATE OF FLORIDA )  
COUNTY OF MIAMI-DADE )

The foregoing instrument was acknowledged before me this 10<sup>th</sup> day of March, 2009, by Jorge G. Gomez, AICP, Planning Director of the City of Miami Beach, Florida, a Florida Municipal Corporation, on behalf of the corporation. He is personally known to me.

{NOTARIAL SEAL}



[Signature]  
Notary:  
Print Name Miriam M. Merino  
Notary Public, State of Florida  
My Commission Expires:  
Commission Number:

Approved As To Form:  
Legal Department [Signature]  
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## CITY OF MIAMI BEACH NOTICE OF A PUBLIC HEARING

**NOTICE IS HEREBY** given that a public hearing will be held by the Mayor and City Commission of the City of Miami Beach, Florida, in the Commission Chambers, 3<sup>rd</sup> Floor, City Hall, 1700 Convention Center Drive, Miami Beach, Florida, on **Wednesday, March 18, 2009 at 10:30 a.m.**, to consider a Resolution of the Mayor and City Commission of the City of Miami Beach, Florida, approving on Second and Final Reading subsequent to duly noticed public hearing, La Gorce Country Club's request (and related City application) for vacation of a portion of West 57<sup>th</sup> Street easterly of Alton Road in the City of Miami Beach, waiving the application fee and waiving by 5/7<sup>th</sup> vote the competitive bidding and appraisal requirements pursuant to City Code Section 82-39, finding such waiver to be in the best interest of the City, and further authorizing the Mayor and City Clerk to execute any and all documents to effectuate this vacation, including a quit claim deed and utility easement.

**INQUIRIES** may be directed to the Public Works Department at (305) 673-7080.

**INTERESTED PARTIES** are invited to appear at this meeting, or be represented by an agent, or to express their views in writing addressed to the City Commission, c/o the City Clerk, 1700 Convention Center Drive, 1st Floor, City Hall, Miami Beach, Florida 33139. This meeting may be opened and continued and, under such circumstances additional legal notice would not be provided.

Robert E. Parcher, City Clerk  
City of Miami Beach

Pursuant to Section 286.0105, Fla. Stat., the City hereby advises the public that: if a person decides to appeal any decision made by the City Commission with respect to any matter considered at its meeting or its hearing, such person must ensure that a verbatim record of the proceedings is made, which record includes the testimony and evidence upon which the appeal is to be based. This notice does not constitute consent by the City for the introduction or admission of otherwise inadmissible or irrelevant evidence, nor does it authorize challenges or appeals not otherwise allowed by law.

To request this material in accessible format, sign language interpreters, information on access for persons with disabilities, and/or any accommodation to review any document or participate in any city-sponsored proceeding, please contact (305) 604-2489 (Voice), (305) 673-7218(TTY) five days in advance to initiate your request. TTY users may also call 711 (Florida Relay Service).  
**Ad #525**

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**Condensed Title:**

Request for Approval, on First Reading, a lease agreement between the City and Moon Thai South Beach, Inc. for the lease of approximately 2216 sf of City-owned property at 22 Washington Avenue for an outdoor café, waiving by 5/7<sup>th</sup> vote the competitive bidding and appraisal requirements and further setting a public hearing on April 22, 2009 for second reading.

**Key Intended Outcome Supported:**

Increase resident satisfaction with the level of services and facilities.

**Supporting Data (Surveys, Environmental Scan, etc.):** Approximately 40% of retail businesses surveyed, rank Miami Beach as one of the best places to do business and 61% of the same group would recommend Miami Beach as a place to do business. The Tenant's request to Lease 22 Washington Avenue supports the Survey's findings.

**Issue:**

Should the City approve the lease agreement?

**Item Summary/Recommendation:**

On April 11, 2006 the City Commission passed Resolution No. 2006-26171 approving a Lease Agreement with Manpriya, Inc., for the remaining portion of an undeveloped lot previously acquired by the City adjacent to 816 Commerce Street for use as an outdoor café. The square footage rent of \$25 psf was based on a comparable analysis made to the sidewalk café permit fees of \$15 psf and increased to \$25 per square foot due to tenancy rights attached to a Lease Agreement that allows the tenant to provide improvements on the property. In the March 16, 2006 as in the March 3, 2009 City Planning Department's analysis, the outdoor café was deemed to be consistent with the land use designation contained in the Comprehensive Plan and required that the Lease Agreement prohibit the placement of any speakers in or around the Property and/or the attachment of any speakers to the restaurant building, with the use restricted to outdoor dining. The restaurant was never developed and the City terminated the Lease Agreement on August 8, 2006. The City retained the security deposit of \$8,500.

On November 18, 2008, the City was approached by Moon Thai South Beach, Inc. as the new Tenant of 816 Commerce Street, resulting in a proposed outdoor café lease agreement for five (5) years, with an option to renew for an additional four (4) years and three hundred sixty four (364) days, with the renewal option being at the City's sole discretion. The lease is for the use of approximately 2216 square feet of vacant City-owned property located at 22 Washington Avenue (the Property) as an outdoor cafe. The lease terms are substantially based on the previous Lease Agreement dated April 11, 2006 with Manpriya, Inc. for the same property. During the first and second years of the initial term, Moon Thai South Beach, Inc. has agreed to pay the City a base rent of twenty five (\$25) dollars per square foot. Commencing the third year of the term, Moon Thai South Beach, Inc. will compensate the City with the greater of thirty (\$30) dollars psf or 3% of gross receipts for all sales, to include sales from the exterior and interior of the restaurant. Overall, the five year Base Rent to the City will be \$310,240.

Staff has conducted a current review of restaurant properties for comparables, but finds that there are no comparables and the previous comparison to the sidewalk café in the 2006 review is still consistent in the determination of the \$25 per square foot rent. The outdoor café will provide over 70% of the restaurant seating, which is why it is recommended that the percentage of rent based on gross receipts should be calculated on the restaurant as a whole.

On March 2, 2009, the item was heard by the Land Use and Development Committee (LUDC). At that time, residents of the neighborhood identified that the terms of the Lease Agreement should be consistent with the previously negotiated terms with Manpriya, Inc., including the limitation of sound and outdoor entertainment. Pursuant to the LUDC meeting, requested terms of the lease were added. Suggestions dealing with pedestrian traffic, noise violations, and garbage disposal do not require inclusion in the lease as these issues are either addressed by current City Code, or otherwise do not apply to this location.

Section 82-39 of the Miami Beach City Code, governing the sale/lease of public property, provides that the lease of any City-owned property, including option periods, requires a public bidding process; a Planning Department analysis; an independent appraisal to determine the value of the leasehold interest; two (2) readings of the proposed lease; and a public hearing to obtain citizen input. Section 82-39 further provides for the waiver of the competitive bidding and appraisal requirements, by 5/7ths vote of the Mayor and City Commission, upon a finding by the Mayor and City Commission that the public interest would be served by waiving such conditions.

The Administration recommends that competitive bidding and appraisal requirements be waived by 5/7ths vote and the Commission approve, on first reading, the Lease Agreement for 22 Washington Avenue, for an initial term of 5 years, with an option to renew for 4 years and 364 days at the City's sole discretion; further setting a public hearing on April 22, 2009 for the second reading (and final approval) of the Lease Agreement.

**Advisory Board Recommendation:**

On March 2, 2009 the Land Use and Development Committee voted to move forward to the City Commission the Lease Agreement with recommended additional language.

**Financial Information:**

Source of Funds: n/a	Amount	Account
1		

**Financial Impact Summary:**

**City Clerk's Office Legislative Tracking:**

Ana Cecilia Velasco extension 6727

**Sign-Offs:**

Department Director	Assistant City Manager	City Manager
AP <i>[Signature]</i> ACV <i>[Signature]</i>	<i>[Signature]</i>	JMG <i>[Signature]</i>

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# MIAMIBEACH

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

## COMMISSION MEMORANDUM

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

FROM: Jorge M. Gonzalez, City Manager

DATE: March 18, 2009

SUBJECT: **A RESOLUTION OF THE MAYOR AND CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA, APPROVING ON FIRST READING, A LEASE AGREEMENT BETWEEN THE CITY AND MOON THAI SOUTH BEACH, INC., FOR THE LEASE OF APPROXIMATELY 2216 SQUARE FEET OF CITY OWNED PROPERTY, LOCATED AT 22 WASHINGTON AVENUE, MIAMI BEACH, FLORIDA, FOR THE PURPOSE OF AN OUTDOOR CAFÉ ASSOCIATED WITH A RESTAURANT OPERATION LOCATED AT 816 COMMERCE STREET, WHICH IS DIRECTLY ADJACENT TO AND WEST OF THE SUBJECT CITY PROPERTY; SAID LEASE HAVING AN INITIAL TERM OF FIVE YEARS, WITH AN OPTION TO RENEW FOR FOUR YEARS AND 364 DAYS, AT THE CITY'S SOLE DISCRETION; WAIVING BY 5/7THS VOTE, THE COMPETITIVE BIDDING AND APPRAISAL REQUIREMENTS, AS REQUIRED BY SECTION 82-39 OF THE MIAMI BEACH CITY CODE; FURTHER SETTING A PUBLIC HEARING ON APRIL 22, 2009, FOR THE SECOND READING (AND FINAL APPROVAL) OF THE LEASE AGREEMENT.**

### ADMINISTRATION RECOMMENDATION

Adopt the Resolution.

### KEY INTENDED OUTCOMES SUPPORTED

To ensure well-maintained facilities.

### ANALYSIS

The subject Property (see attached site plan) is the remaining portion of an undeveloped lot that had been previously acquired by the City for the completed expansion of a portion of Washington Avenue (between Commerce Street and South Pointe Drive). Due to its size and location, the Administration deems that the Property does not readily lend itself for public use at this time.

On April 11, 2006 the City Commission passed Resolution No. 2006-26171 approving a Lease Agreement between the City of Miami Beach and Manpriya, Inc., for 2080 square feet of land adjacent to a planned restaurant at 816 Commerce Street for use as an outdoor café, for which the Tenant was to pay the greater of \$25 per square foot or 5% of gross receipts to include the interior and exterior of the restaurant. At that time, staff reviewed properties for comparable rents. However, due to the unique nature of this parcel as a stand alone property with attachments to the adjacent property, no comparable parcels were found. The square footage rent was based on a comparable analysis made to the sidewalk café permit fees of \$15 per square foot. The increase to \$25 per square foot was based on the tenancy rights attached to a Lease Agreement that allows the tenant to provide improvements on the property, as opposed to the Sidewalk

Café which is on a public right-of-way and does not hold any tenancy rights.

In 2006, Manpriya performed due diligence with respect to the impact on the neighborhood by meeting with the stakeholders. There were no objections to the proposed lease, with the caveat that the restaurant withhold from any outdoor entertainment. In the March 16, 2006 City Planning Department's analysis, the outdoor café was deemed to be consistent with the land use designation contained in the Comprehensive Plan and required that the Lease Agreement prohibit the placement of any speakers in or around the Property and/or the attachment of any speakers to the restaurant building, with the use restricted to outdoor dining. Planned improvements for the land in order to be functional as an outdoor café were included in the terms of the agreement.

The restaurant was never developed and the City placed Manpriya, Inc. in default of the Lease Agreement for nonpayment and ultimately terminated the Lease Agreement on August 8, 2006. The City retained the security deposit of \$8,500 but deemed that further legal action was not in the best interest of the City based on a cost factor and that the City was not negatively impacted as the Tenant had not begun any improvements to the property.

On November 18, 2008, the City was approached by an agent of Moon Thai South Beach, Inc. inquiring as to the possibility of assigning or assuming the Lease Agreement from Manpriya, Inc. As the new Tenant of 816 Commerce Street, the principal of Moon Thai South Beach, Inc. was interested in continuing with the concept of establishing an outdoor café on the subject property.

The City of Miami Beach (City) and Moon Thai South Beach, Inc. have negotiated a five (5) year lease agreement, with an option to renew for an additional four (4) years and three hundred sixty four (364) days, with the renewal option being at the City's sole discretion. On February 3, 2009 the City conducted a survey of the property and found that the property was in fact 2216 square feet. The lease is for the use of approximately 2216 square feet of vacant City-owned property located at 22 Washington Avenue (the Property) as an outdoor café associated with a restaurant operation located at 816 Commerce Street, which is directly adjacent to and west of the subject property. The lease terms are substantially based on the previous Lease Agreement dated April 11, 2006 with Manpriya, Inc. for the same property.

Moon Thai South Beach, Inc. has currently leased the property at 816 Commerce Street for a restaurant with the expected opening to be May 2009 based on the completion of Tenant improvements. On March 2, 2009, the item was heard by the Land Use and Development Committee (LUDC). At that time, residents of the neighborhood identified that the terms of the Lease Agreement should be consistent with the previously negotiated terms with Manpriya, Inc., including the limitation of sound and outdoor entertainment. Pursuant to the LUDC meeting, the following requested terms of the lease were added:

- 1) The enterprise will not be permitted to apply for Special Event Permits.
- 2) The operation will not interfere with pedestrian traffic.
- 3) Any delivery, take-out, valet, taxi or sidewalk café must only utilize Commerce Street; these activities will not be allowed on Washington Avenue.
- 4) No televisions will be permitted to be part of the Outdoor Café.
- 5) Hours of operation are to close at 11 p.m. Sunday through Thursday and midnight Friday and Saturday.
- 6) There shall be no bar counter allowed outside. Liquor and food operations of the outdoor café shall only be done in conjunction with the adjacent restaurant operations and only when the interior kitchen is operational.
- 7) Outdoor seating shall be counted in the overall seating of the restaurant.

Suggestions dealing with pedestrian traffic, noise violations, and garbage disposal do not require inclusion

in the lease as these issues are either addressed by current City Code, otherwise do not apply to this location, or are required in the normal course of business operations.

The proposed new Tenant negotiated the terms of the Lease Agreement regarding the Base Rent and Percentage of Gross, based on an assessment of the Tenant's financial obligations to the building property owner. As a start-up business in an area which does not have the sidewalk cafes found on Lincoln Road and Ocean Drive, the Tenant cited the market conditions in proposing and agreeing to the following terms and conditions:

- **BASE RENT:** During the first and second years of the initial term, Moon Thai South Beach, Inc. has agreed to pay the City a base rent of twenty five (\$25) dollars per square foot. Commencing the third year of the term, the base rent will increase to thirty (\$30) dollars per square foot.
- **PERCENTAGE OF GROSS:** Commencing the third year of the term, Moon Thai South Beach, Inc. will compensate the City with the greater of \$30 psf or 3% of gross receipts for all sales, to include sales from the exterior and interior of the restaurant.

A yearly "true-up" to reconcile the Base Rent amounts with the actual "gross receipts" will be performed by a Certified Public Accountant (at Moon Thai's sole cost and expense) at the end of each contract year, and any amounts due above the Base Rent will be due and payable to the City within 45 days of the end of each contract year. The City also reserves the right to conduct annual audits.

Staff has conducted a current review of restaurant properties for comparables, but finds that there is no comparable situation with a restaurant leasing only the outdoor café space from a separate property owner; each case identifies the outdoor space within the Demised Premises as a whole. The comparable to the sidewalk café in the 2006 review is still consistent in the determination of the \$25 per square foot rent. The outdoor café will provide over 70% of the restaurant seating, which is why it is recommended that the percentage of rent based on gross receipts should be calculated on the restaurant as a whole.

Overall, the five year Base Rent to the City will be \$310,240, not including any projection of percentage of gross. The tenancy versus a concession is justified by Moon Thai's ability to make leasehold improvements to the Property, as contemplated in Subsection 9.1 of the Lease Agreement.

- **DEVELOPMENT:** Moon Thai, at its sole cost and expense, will develop the Property into the aforementioned outdoor café, and demolish and remove any improvements at Lease termination (at the City's discretion).
- **USE:** Moon Thai agrees to use the Property solely as an outdoor café to serve the patrons and guests of the adjoining restaurant at 816 Commerce Street. Furthermore, Moon Thai agrees not to place any speakers in or around the Property and/or attach any speakers to the exterior of the restaurant building at 816 Commerce Street. The Planning Department analysis dated March 3, 2009 (attached) supports the Lease and recommends the condition of use as stated above, and further defined in Subsection 8.4 of the Lease. The Planning Department condition of use is consistent with expressed City Commission concerns relating to the previous lease on this property and has been incorporated in order to mitigate those concerns.
- **IMPROVEMENTS:** Moon Thai has collaborated with the Planning Department and the City Administration in the design and layout of the outdoor café pavers, tables, chairs and umbrellas prior to the execution of the Lease Agreement.
- **PERFORMANCE BOND:** Moon Thai agrees to provide a performance bond, or other similar

instrument (e.g. irrevocable letter of credit, surety bond, etc.) acceptable to the City, in an amount equal to the estimated costs to demolish and remove any improvements constructed on the property at the termination and/or expiration of the lease term.

Section 82-39 of the Miami Beach City Code, governing the sale/lease of public property, provides that the lease of any City-owned property, including option periods, requires the following:

- 1) a public bidding process;
- 2) Planning Department analysis;
- 3) an independent appraisal to determine the value of the leasehold interest
- 4) two (2) readings of the proposed lease; and
- 5) a public hearing to obtain citizen input.

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

A Department of Planning analysis finds that the use of this area as an outdoor café is consistent with the land use designation contained in the Comprehensive Plan. (attached)

**CONCLUSION**

Based on the unique disposition of this undeveloped parcel of land, and its limited use due to the size and location, it was determined in 2006 that the parcel would not be subject to public bidding as it could only be used with any functionality by the adjacent property. This continues to be the determination upon current review of the property.

Staff has conducted an internal review of possible comparable properties with findings that the Sidewalk Café is the closest parallel. Due to the cost factor of an appraisal when measured against the rent value of the property, the cost of an outside appraisal is not justified.

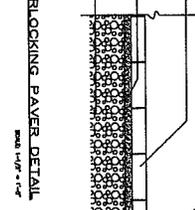
The Administration recommends that the Mayor and City Commission approve, on first reading, a Lease Agreement between the City and Moon Thai South Beach, Inc., for use of the Demised Premises, located at 22 Washington Avenue, said Lease having an initial term of five (5) years, with an option to renew for four (4) years and three hundred and sixty four (364) days at the City's sole discretion; hereby waiving by 5/7ths vote the competitive bidding and appraisal requirements as required by Section 82-39 of the Miami Beach City Code; and further setting a public hearing on April 22, 2009 for the second reading (and final approval) of the Lease Agreement.

  
JMG\HMF\PIAS\mis  
Attachments

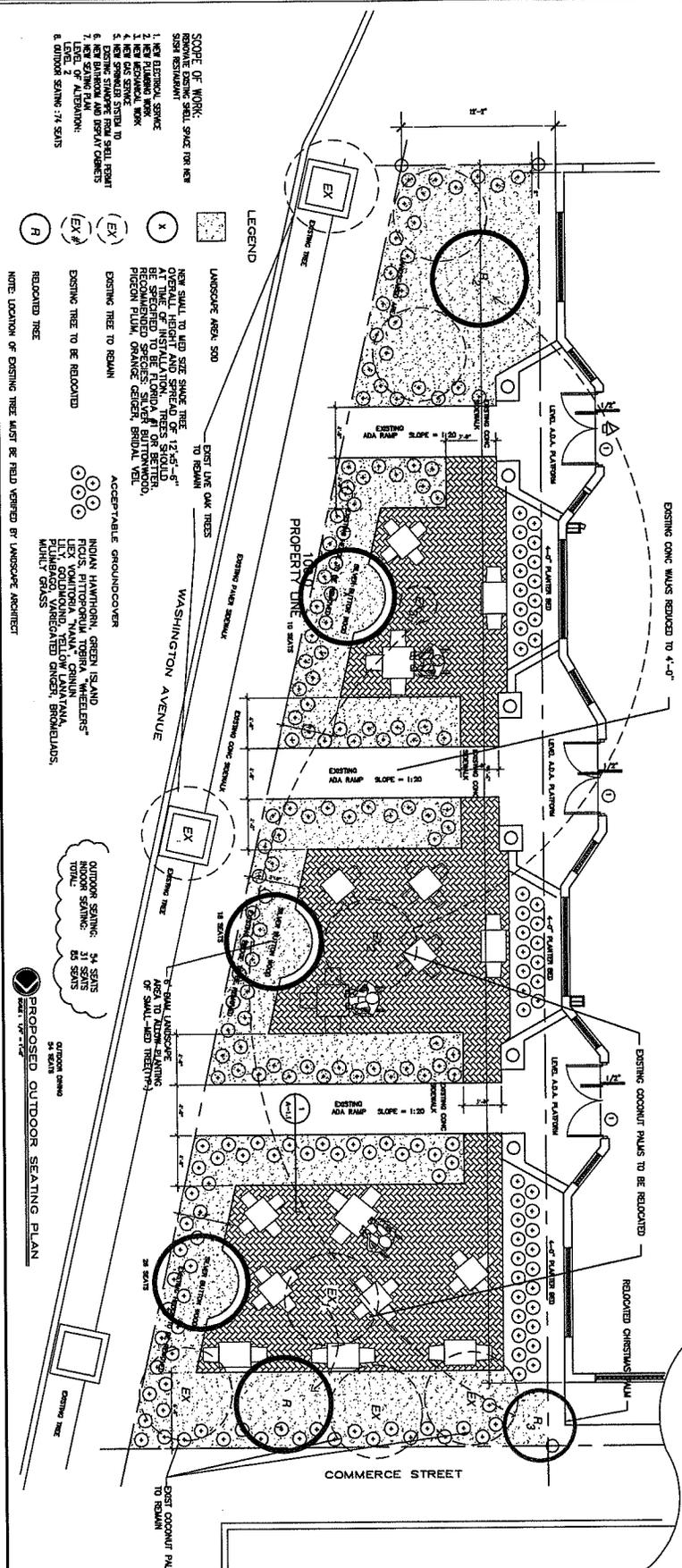
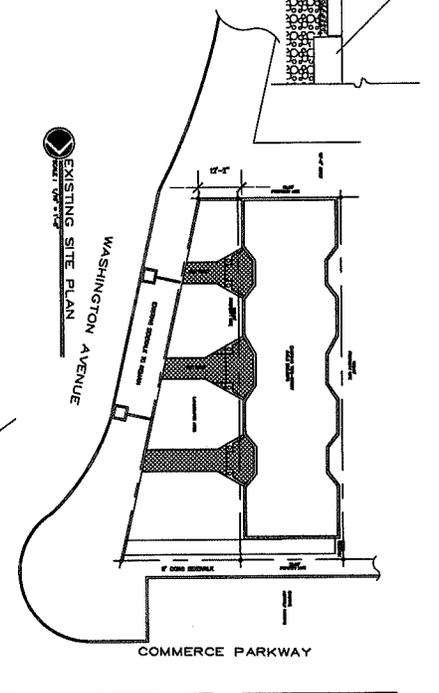
- LANDSCAPE NOTES**
1. AT A MINIMUM THREE SHALL TO MEDIUM SIZE SHADE TREES BE PROVIDED IN THE 6' DIAMETER LANDSCAPE OPENINGS FACING WASHINGTON AVENUE. TREES SHOULD HAVE A MIN. OVERALL HEIGHT AND SPREAD OF 12'-0" - 6" AT TIME OF INSTALLATION. TREES SHOULD BE SPECIFIED AS: GRACE GEGER, BROAD VIL, GRACE GEGER, BROAD VIL.
  2. SHRUBS AND ORNAMENTALS SHOULD BE PROVIDED IN ALL UNDERSTORY LANDSCAPE AREAS. SPECIFIED SHRUBS SHALL BE SPECIFIED TO BE PLANTED AT OR BETTER AND SHOULD NOT EXCEED 36" TO 42" AT MATURETY OF PLANTING PERIOD. TREES TO REMAIN SHALL BE SPECIFIED TO BE: BROWN RECROCED, ROUND WOOD, BROWN RECROCED, ROUND WOOD.
  3. A FULLY AUTOMATIC IRRIGATION SYSTEM WITH 100% COVERAGE AND AN AUTOMATIC RAIN SENSOR SHALL BE PROVIDED TO FOLLOW CITY STANDARDS AS PER PARKS DEPARTMENT.
  4. GENERAL LANDSCAPE NOTES AND STANDARD INSTALLATION DETAILS MUST BE INCLUDED AS PART OF THE LANDSCAPE PLAN SUBMITTED FOR PERMIT.

CONCRETE INTERLOCKING PAVERS (UNI-DECOR/EUROSTONE OR CHICAGO BRICK PAVERS)

1" WASHINGTON SAND AND LABELING BED FOR PAVERS WITH A 5-6" SUBBASE OF CLASS 5 GRAVEL OR AS SPECIFIED BY MANUFACTURER



**NOTE:**  
SAMPLES OF PAVERS TO BE SUBMITTED TO CITY STAFF FOR APPROVAL PRIOR TO INSTALLATION.



- LEGEND**
- LANDSCAPE AREA 500
  - NEW SHALL TO MID SIZE SHADE TREE. OVERALL HEIGHT AND SPREAD OF 12'-0" - 6" AT TIME OF INSTALLATION. TREES SHOULD BE SPECIFIED AS: GRACE GEGER, BROAD VIL, GRACE GEGER, BROAD VIL.
  - EXISTING TREE TO REMAIN
  - EXISTING TREE TO BE RELOADED
  - RELOCATED TREE
  - ACCEPTABLE GROUNDCOVERS:
    - INDIAN HAWTHORN, GREEN ISLAND
    - LEUCODENDRON, YELLOW LANTANA
    - LEUCODENDRON, YELLOW LANTANA
    - LEUCODENDRON, YELLOW LANTANA
    - LEUCODENDRON, YELLOW LANTANA
    - MULTI GRASS

**SCOPE OF WORK:**  
REMOVE EXISTING SPILL SHADE FOR NEW SEAT RESTAURANT

1. NEW ELECTRICAL SERVICE
2. NEW PLUMBING WORK
3. NEW GAS SERVICE WORK
4. NEW SPRINKLER SYSTEM
5. EXISTING STAIRWELL FROM SEAT RESTAURANT TO BE RELOCATED TO SEAT RESTAURANT
6. NEW SEATING PLAN
7. NEW SEATING PLAN
8. OUTDOOR SEATING: 24 SEATS

**PROPOSED OUTDOOR SEATING PLAN**

24 SEATS  
24 SEATS  
24 SEATS  
24 SEATS

OUTDOOR SEATING: 24 SEATS  
24 SEATS  
24 SEATS  
24 SEATS

**STIR MOON**  
816 COMMERCE STREET  
Miami Beach, FL

**PERMIT SET**

Edward A. Landers, P.E.  
CONSULTING ENGINEERS  
Tel: (305) 423-3838  
Fax: (305) 623-3525

A-1.1



# MIAMI BEACH

## PLANNING DEPARTMENT INTEROFFICE MEMORANDUM

TO: Ana Cecilia Velasco, Asset Manager

FROM: Jorge G. Gomez, Planning Director

RGL for JGG

Digitally signed by Richard Lerner  
DN: cn=Richard Lerner, o=City of  
Miami Beach, ou=Planning  
Department,  
email=lerner@miamibeach.gov,  
c=US  
Date: 2009.03.03 10:12:05 -0500

DATE: March 3, 2009

SUBJECT: Analysis of Proposed Lease with Moon Thai South Beach, Inc.  
22 Washington Avenue

Pursuant to your request, this memorandum will serve as a planning analysis of the proposed lease agreement between the City and Moon Thai South Beach, Inc., for the use of two thousand eighty (2,216) square feet of vacant City-owned property, located at 22 Washington Avenue, for an outdoor café associated with a restaurant operation located at 816 Commerce Street, which is directly adjacent to and west of the subject property.

Section 82-38 of the Code of the City of Miami Beach requires that any proposed sale or lease of City-owned land be analyzed from a planning perspective so that the City Commission and the public are fully appraised of all conditions relating to the proposed sale or lease. The following is an analysis of the criteria delineated in the Code:

**1. Whether or not the proposed use is in keeping with City goals and objectives and conforms to the City Comprehensive Plan.**

The subject property, 22 Washington Avenue, is designated CPS-1, Commercial Limited Mixed-Use on the Future Land Use Map of the City's Comprehensive Plan. The Lease Agreement between the City and Moon Thai South Beach, Inc. for the use of this area as an outdoor café would be consistent with the land use designation contained in the Comprehensive Plan.

**2. The impact on adjacent property, including the potential positive or negative impacts such as diminution of open space, increased traffic, noise level or enhanced property values, improved development patterns and provision of necessary services. Based on the proposed use of the property, the City shall determine the potential impact of the project on City utilities and other infrastructure needs and the magnitude of costs associated with needed infrastructure improvements. Should it become apparent that further evaluation of traffic impact is needed, the proponent shall be responsible for obtaining a traffic impact analysis from a reputable traffic engineer.**

The site is currently vacant. The proposed outdoor café would diminish open space only in the sense that the currently vacant area becomes occupied with tables, chairs and landscaping; however, the site would remain open to the sky and the landscaping would be improved. There would be a moderate increase in traffic generation and demand for necessary services due to the increased occupancy of the restaurant. Noise levels should be contained, as there is no entertainment permitted in this district. An additional condition of approval, prohibiting outdoor speakers, is part of the lease, in order to ensure that there is

no negative impact as a result of background music being played too loudly.

**3. A determination as to whether or not the proposed use is in keeping with a public purpose and community needs, such as expanding the City's revenue base, reducing City costs, creating jobs, creating a significant revenue stream and improving the community's overall quality of life.**

The subject property is the remaining portion of a lot that had been previously acquired by the City for the expansion of a portion of Washington Avenue (between Commerce Street and South Pointe Drive) which has already been completed, and the subject parcel does not readily lend itself for public use at this time.

**4. Determination as to whether or not the development is in keeping with the surrounding neighborhood, will block views, or create other environmental intrusions, and evaluation of the design and aesthetic considerations of the project.**

The proposed development is generally in keeping with the commercial nature of the district, will not block views or create aesthetic intrusions, as long as the operation is regulated to minimize crowds, noise and impacts upon the surrounding neighborhoods.

**5. The impact on adjacent properties, whether or not there is adequate parking, street, and infrastructure needs.**

Proper safeguards and precautions should be taken to ensure that there are no negative impacts on adjacent properties. No entertainment or outdoor music will be permitted; the lease prohibits outdoor speakers from being placed in the outdoor café area. Parking is a problem throughout the City, and the proposed lease may have a moderate effect on the need for parking, since it would add a number of seats to the proposed restaurant.

**6. A determination as to whether or not alternatives are available for the proposed disposition, including assembly of adjacent properties, and whether the project could be accomplished under a private-ownership assembly.**

Due to the configuration of these properties, after the expansion of Washington Avenue, there is sound reasoning for assembling the parcels. Otherwise, the City owned property would continue to prevent access to the Washington Avenue façade of the 816 Commerce Street building. By leasing the property to the restaurant for use as a outdoor café area, the City is helping to alleviate a problematic situation.

**7. Within the constraints of public objectives, the department should examine financial issues such as job generation, providing housing opportunities, and the return to the City for its disposition of property.**

The proposed lease should increase the viability of the restaurant at the subject location, thereby enhancing the economic vitality of the area. No housing opportunities are contemplated. The City will receive a return for its property.

**8. Such other items as the Planning Department may deem appropriate in analysis of the proposed disposition.**

Planning Staff recommends that the any approved lease continue to contain a provision prohibiting outdoor speakers from being attached to the exterior of the building or placed in any manner in the outdoor café area..

RESOLUTION NO. \_\_\_\_\_

**A RESOLUTION OF THE MAYOR AND CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA, APPROVING ON FIRST READING, A LEASE AGREEMENT BETWEEN THE CITY AND MOON THAI SOUTH BEACH, INC. (MOON THAI), FOR THE LEASE OF APPROXIMATELY 2216 SQUARE FEET OF CITY OWNED PROPERTY, LOCATED AT 22 WASHINGTON AVENUE, MIAMI BEACH, FLORIDA, FOR THE PURPOSE OF AN OUTDOOR CAFÉ ASSOCIATED WITH THE RESTAURANT TO BE OPERATED BY MOON THAI AT 816 COMMERCE STREET, WHICH IS DIRECTLY ADJACENT TO AND WEST OF THE SUBJECT CITY PROPERTY; SAID LEASE HAVING AN INITIAL TERM OF FIVE YEARS, WITH AN OPTION TO RENEW FOR FOUR YEARS AND 364 DAYS, AT THE CITY'S SOLE DISCRETION; WAIVING BY 5/7THS VOTE, THE COMPETITIVE BIDDING AND APPRAISAL REQUIREMENTS, AS REQUIRED BY SECTION 82-39 OF THE MIAMI BEACH CITY CODE; FURTHER SETTING A PUBLIC HEARING ON APRIL 22, 2009, FOR THE SECOND READING (AND FINAL APPROVAL) OF THE LEASE AGREEMENT.**

**WHEREAS,** the City and Moon Thai South Beach, Inc. (Moon Thai) have negotiated a five (5) year lease, with an option to renew for an additional four (4) years and three hundred sixty four (364) days, at the City's sole discretion, for the use of approximately 2216 square feet of vacant City-owned property located at 22 Washington Avenue (the Property) for an outdoor café associated with Moon Thai's operation of a restaurant located at 816 Commerce Street, (which is directly adjacent to and west of the Property); and

**WHEREAS,** Section 82-39 of the Miami Beach City Code, governing the sale/lease of public property, requires a public bidding process, a Planning Department analysis, and an independent appraisal to determine the value of the leasehold interest; as well as a public hearing to obtain citizen input; and

**WHEREAS,** On March 2, 2009 Land Use and Development Committee voted to move forward to the City Commission for approval the Lease Agreement for the said property with Moon Thai South Beach, Inc.; and

**WHEREAS,** Section 82-39 of the City Code further provides for the waiver of the competitive bidding and appraisal requirements, by 5/7ths vote of the Mayor and City Commission, for leases of City land, upon a finding by the Mayor and City Commission that the public interest would be served by waiving such conditions, and the Administration would hereby recommend that the Mayor and City Commission approve said waiver; and

**WHEREAS,** The Administration recommends that the City Commission approve the Lease Agreement for said property with Moon Thai as the property does not readily lend itself for public use at this time.

**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 on first reading, a Lease Agreement between the City and Moon Thai South Beach, Inc. (Moon Thai), for the lease of approximately 2216 square feet of City-owned property, located at 22 Washington Avenue, Miami Beach, Florida for the purpose of an outdoor café associated with restaurant to be operated by Moon Thai at 816 Commerce Street, which is directly adjacent to and

west of the subject City property; said lease having an initial term of five years, with an option to renew for four years and 364 days, at the City's sole discretion; waiving by 5/7ths vote, the competitive bidding and appraisal requirements, as required by Section 82-39 of the Miami Beach City Code; further setting a public hearing on April 22, 2009, for the second reading (and final approval) of the Lease Agreement.

**PASSED and ADOPTED** this 18th day of March, 2009.

**ATTEST:**

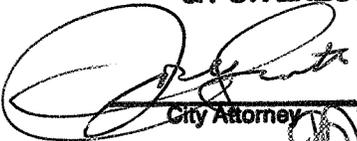
\_\_\_\_\_  
**CITY CLERK**

\_\_\_\_\_  
**MAYOR**

JMG\HMF\AP\ACV\mis

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

  
\_\_\_\_\_  
City Attorney

3/13/09  
\_\_\_\_\_  
Date

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**Condensed Title:**

A resolution of the Mayor and City Commission of the City of Miami Beach, Florida, approving a roadway configuration for 16<sup>th</sup> Street from Alton Road to Lenox Court that consists of no parking on the north side, parking on the south side, two travel lanes, a left turn lane, and bike lanes, which was presented at the Neighborhoods/Community Affairs Committee on January 21, 2009.

**Key Intended Outcome Supported:**

Improve or maintain traffic flow.

**Supporting Data (Surveys, Environmental Scan, etc.):** Transportation remains one of the most significant areas to address from the survey results (often mentioned as a key quality of life issue). 24% of residents rated traffic flow excellent or good, and 37% as poor. 35% of residents rated the availability of pedestrian trails and bicycle paths/lanes as excellent or good, and 30% as poor.

**Issue:**

Shall the City Commission adopt the Resolution?

**Item Summary/Recommendation:**

In September 2007, the Public Works Department striped and signed bike lanes on 16th Street between Bay Road and Washington Avenue. This required the removal of a left turn lane on 16<sup>th</sup> Street approaching Alton Road westbound. After the implementation of the bike lanes, residents complained to elected officials and City staff that the elimination of the left turn lane resulted in a significant back-up of vehicles. City staff was directed by the Office of the Mayor and Commissioners to address this issue. The City retained the services of PBS&J to perform a qualitative analysis of the operational conditions of the existing intersection with bike lanes and the results of the study concluded that a queue on the westbound direction was caused by left turn vehicles blocking the westbound through movement. An option to improve this condition would be to introduce a left turn lane on 16<sup>th</sup> Street at Alton Road; however doing so would require either the elimination of the bike lane or elimination of the on-street parking on the north side of 16<sup>th</sup> Street between Alton Road and Lenox Court. At the November 24, 2008 Neighborhoods/Community Affairs Committee meeting, a motion was made to remove the five (5) existing parking spaces on the north side of 16<sup>th</sup> Street from Alton Road to Lenox Court to allow sufficient space for both the bike lane and a dedicated left turn lane. A relatively high number of bicyclists utilize 16<sup>th</sup> Street, since it provides directness and connectivity to bicycle traffic generators. The existing bike lanes provide a safer environment for these bicyclists, since the bike lanes minimize potential conflicts between them and motorized vehicles either parallel parked on 16<sup>th</sup> Street or traveling through the intersection of 16<sup>th</sup> Street at Alton. City staff met with Miami-Dade County on December 15, 2008 to discuss the intersection and the proposed roadway configuration received preliminary approval. At the January 21, 2009 Neighborhoods/Community Affairs Committee meeting, a motion was made to approve a proposed cross-section of no on-street parking on the north side, on-street parking on the south side, two travel lanes, a left turn lane, and bike lanes.  
**ACCEPT THE CITY MANAGER'S RECOMMENDATION.**

**Advisory Board Recommendation:**

N/A

**Financial Information:**

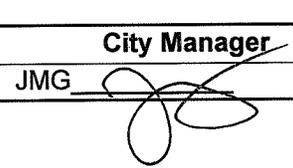
Source of Funds:		Amount	Account
<div style="border: 1px solid black; width: 40px; height: 40px; display: inline-block;"></div> OBPI	1		
	2		
	3		
	Total		

**Financial Impact Summary:**

**City Clerk's Office Legislative Tracking:**

Fernando Vazquez, P.E., ext. 6399

**Sign-Offs:**

Department Director	Assistant City Manager	City Manager
RCM 	RCM 	JMG 

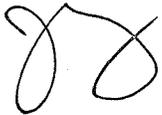
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## COMMISSION MEMORANDUM

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

FROM: City Manager Jorge M. Gonzalez 

DATE: March 18, 2009

SUBJECT: **A RESOLUTION OF THE MAYOR AND CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA, APPROVING A ROADWAY CONFIGURATION FOR 16<sup>TH</sup> STREET FROM ALTON ROAD TO LENOX COURT THAT CONSISTS OF NO PARKING ON THE NORTH SIDE, PARKING ON THE SOUTH SIDE, TWO TRAVEL LANES, A LEFT TURN LANE, AND BIKE LANES, WHICH BEST SUPPORTS THE GOALS ESTABLISHED IN THE APPROVED 16<sup>TH</sup> STREET OPERATIONAL IMPROVEMENT AND ENHANCEMENT PROJECT BASIS OF DESIGN REPORT AND WHICH WAS PRESENTED AT THE NEIGHBORHOODS/COMMUNITY AFFAIRS COMMITTEE ON JANUARY 21, 2009.**

### ADMINISTRATION RECOMMENDATION

Adopt the Resolution.

### BACKGROUND

A Basis of Design Report (BODR) was prepared for the 16<sup>th</sup> Street Operational Improvements and Enhancement project and subsequently reviewed and approved by the Commission on September 5, 2007. After existing base data for the project area was collected and analyzed, one of the goals identified in the conceptual design to minimize speeds along the corridor was traffic calming. It was indicated that traffic calming was a major missing element along the entire corridor as well as a primary recommendation for a pedestrian-friendly environment along 16<sup>th</sup> Street. The actual condition of the corridor, undivided with a wide right-of-way, was noted to encourage increased travel speeds. The wide roadway width meant that pedestrians were exposed to significant crossing distances. Sight distance was deficient and parked vehicles and signs obstructed pedestrian's views. Design recommendations included narrower lanes to reduce drive speeds, bulb outs at intersections to announce pedestrian crossings (and reduce pedestrian crossing distances) and special pavement crosswalks and parking lanes to designate these as special areas.

As part of the approved BODR some of the site design recommendations to create a more pedestrian-friendly environment included a street cross section consisting of two 10-foot travel lanes, two 5-foot bike lanes, two 8-foot on-street parking lanes, two 12-foot sidewalks in the commercial zone between, Collins Avenue and Washington Avenue and between Alton Road and Lenox Avenue and 6- to 8-foot, variable-width sidewalks in the residential zone, between Lenox Avenue and Washington Avenue, with the planting areas next to private properties varying in width. See proposed cross-section identified in the BODR (Attachment 1, Proposed BODR Cross-sections for 16<sup>th</sup> Street).

The development of the BODR included an intensive public involvement process with substantial public input. The following chart summarizes the underlined preferences of various stakeholders:

	Decorative Stamped Asphalt	Bicycle Lanes	Wider Sidewalks	Enhanced Landscaping	Parking	Removal of Encroachments
Historical Preservation Board		☐	•	•	•	•
Internal Visioning Session		☐		•	•	
Community Workshop		☐		•		
Transportation and Parking Committee		☐	•	•		
Planning Board	•	☐	•	•		•
Flamingo Neighborhood Association			•	•		
Finance and Citywide Projects Committee		☐	•	•		•

As noted in this chart, almost every stakeholder group preferred bike lanes.

In September 2007, the Public Works Department striped and signed bike lanes on 16th Street between Bay Road and Washington Avenue. This required the removal of a left turn lane on 16<sup>th</sup> Street approaching Alton Road westbound. After the implementation of the bike lanes, some residents complained to elected officials and City staff that the elimination of the left turn lane resulted in a significant back-up of vehicles. City staff was directed by the Office of the Mayor and Commissioners to evaluate this issue further and determine the viability of these complaints.

## **ANALYSIS**

Pursuant to these complaints, the City retained the services of PBS&J to perform a qualitative analysis of the operational conditions of the existing intersection with bike lanes during the morning (7:00 a.m. to 9:00 a.m.) and afternoon (4:00 p.m. to 6:00 p.m.) peak hours in order to be able to provide an assessment of the existing roadway configuration (see Attachment 2, PBSJ Study). The results of the study provided the following conclusions based on field observations:

- The right turning vehicles on both directions used the bike lane to turn, forcing bicyclists to use the sidewalk.
- The stacking on the westbound direction was caused by left turn vehicles blocking the westbound through movement while they wait for an adequate gap from opposing traffic that crosses the intersection.

The study concluded that the current condition shows stacking for the westbound movement at the intersection. An option to improve this condition would be to introduce a left turn lane on 16<sup>th</sup> Street at Alton Road. Given the current street width, to introduce a dedicated left turn lane would require the removal of the 16<sup>th</sup> Street bike lanes from Lenox Avenue up to the intersection at Alton Road or the elimination of on-street parking in the same area.

An adverse effect to removing the bike lanes would be that the continuity of bike lanes would be truncated at Lenox Avenue and therefore would introduce a safety issue to bicyclists trying to reach Alton Road as it would force the bicyclists to use the sidewalk or to have to share the street with motorized vehicles crossing 16<sup>th</sup> Street at this intersection.

A relatively high number of bicyclists utilize 16<sup>th</sup> Street, since it provides directness and connectivity between major street collectors such as Alton Road to points of destination such as Washington Avenue and the beach as well as other points of interest in South Beach. The existing bike lanes provide a safer environment for these bicyclists, since the bike lanes minimize potential conflicts between them and motorized vehicles either parallel parked on 16<sup>th</sup> Street or traveling through the intersection of 16<sup>th</sup> Street at Alton.

To evidence this, bicycle counts were conducted at the intersection of 16<sup>th</sup> Street and Alton Road before and after the bike lanes were striped along 16<sup>th</sup> Street. Miami-Dade County conducted bicycle counts in February 2007. There were a total of 20 bicyclists counted on a weekday between the hours of 7-9am, and a total of 31 bicyclists on a Saturday between the hours of 12-2pm. The City of Miami Beach Public Works Department conducted bicycle counts after the bike lanes were striped in May 2008 during the same days and hours. The number of bicyclists increased on the weekday from 20 to 28 bicyclists, and on Saturday they increased from 31 to 121. This dramatic increase demonstrates how well the bike lanes are being utilized by the community, particularly during weekend hours for both transportation and recreational use. Table 1 below summarizes the before and after bicycle counts at 16<sup>th</sup> Street and Alton Road.

**Table 1. Bicycle Counts at 16<sup>th</sup> Street and Alton Road**

BEFORE		AFTER		% Change
February 2007		May 2008		
Weekday	20	Weekday	28	40%
Saturday	31	Saturday	121	290%

The City conducted additional bicycle counts in November 2008 for all turning movements along both Alton Road and 16<sup>th</sup> Street between the hours of 4-6pm. According to these counts, there were a total of 91 bicyclists traveling eastbound/westbound along 16<sup>th</sup> Street and a total of 105 bicyclists traveling northbound/southbound along Alton Road (see Attachment 3, 16<sup>th</sup> St. and Alton Rd. Bicycle Counts).

**NEIGHBORHOODS/COMMUNITY AFFAIRS COMMITTEE**

At the November 24, 2008 Neighborhoods and Community Affairs Committee meeting, a motion was made to remove the five (5) existing parking spaces on the north side of 16<sup>th</sup> Street from Alton Road to Lenox Court. The Committee deemed that the available right of way can only support two out of three possible uses and that the turn lane and bike lane were higher priority than the parking spaces. This option would allow sufficient space for both the bike lane and a dedicated left turn lane. At the December 10, 2008 City Commission Meeting, the City Commission referred this item to the next Neighborhoods and Community Affairs Committee meeting for additional discussion.

Subsequent to the December 10<sup>th</sup> City Commission meeting, City staff met with Miami-Dade County on December 15, 2008 to discuss the intersection and the proposed roadway configuration received preliminary approval. At the January 21, 2009 Neighborhoods and Community Affairs Committee meeting, a motion was made to approve the proposed cross-section (see Attachment 4, Proposed Cross-section for 16<sup>th</sup> Street and Alton Road). While the removal of parking spaces is generally of concern anywhere in the City, the intersection configuration recommended by city and county staff addresses a good solution for both bicycle use and safety and for vehicle movements. As such, the trade off of parking spaces in this instance is justified.

**CONCLUSION:**

The Administration recommends that the Mayor and City Commission adopt and approve a

roadway configuration for 16<sup>th</sup> Street from Alton Road to Lenox Court that consists of no on-street parking on the north side, on-street parking on the south side, two travel lanes, a left turn lane, and bike lanes. This street cross section best supports the approved BODR for the 16<sup>th</sup> Street Operational Improvement and Enhancement project goals to improve the safety of the corridor for bicyclists and pedestrians and to enhance the quality of life for local residents and visitors.

Attachments:

1. Proposed BODR Cross-sections for 16<sup>th</sup> Street
2. PBSJ Study
3. 16<sup>th</sup> St. and Alton Rd. Bicycle Counts
4. Proposed Cross-section for 16<sup>th</sup> Street and Alton Road

JMG/RCM//XF/CB

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RESOLUTION NO. \_\_\_\_\_

**A RESOLUTION OF THE MAYOR AND CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA, APPROVING A ROADWAY CONFIGURATION FOR 16<sup>TH</sup> STREET FROM ALTON ROAD TO LENOX COURT THAT CONSISTS OF NO PARKING ON THE NORTH SIDE, PARKING ON THE SOUTH SIDE, TWO TRAVEL LANES, A LEFT TURN LANE, AND BIKE LANES, WHICH BEST SUPPORTS THE GOALS ESTABLISHED IN THE APPROVED 16<sup>TH</sup> STREET OPERATIONAL IMPROVEMENT AND ENHANCEMENT PROJECT BASIS OF DESIGN REPORT AND WHICH WAS PRESENTED AT THE NEIGHBORHOODS/COMMUNITY AFFAIRS COMMITTEE ON JANUARY 21, 2009.**

**WHEREAS**, a Basis of Design Report (BODR) was prepared for the 16<sup>th</sup> Street Operational Improvements and Enhancement project and subsequently reviewed and approved by the Commission on September 5, 2007; and

**WHEREAS**, as part of the approved BODR some of the site design recommendations to create a more pedestrian-friendly environment included a street cross section consisting of a two 10-foot travel lanes, two 5-foot bike lanes, two 8-foot on-street parking lanes, two 12-foot sidewalks in the commercial zone and 6- to 8-foot, variable-width sidewalks in the residential zone, with the planting areas next to private properties varying in width; and

**WHEREAS**, the development of the BODR included an intensive public involvement process with substantial public input and almost every stakeholder group preferred bike lanes; and

**WHEREAS**, in September 2007, the Public Works Department striped and signed bike lanes on 16<sup>th</sup> Street between Bay Road and Washington Avenue and this required the removal of a left turn lane on 16<sup>th</sup> Street approaching Alton Road westbound; and

**WHEREAS**, after the implementation of the bike lanes, residents complained to elected officials and City staff that the elimination of the left turn lane resulted in a significant back-up of vehicles, and City staff was directed by the Office of the Mayor and Commissioners to address this issue; and

**WHEREAS**, the City retained the services of PBS&J to perform a qualitative analysis of the operational conditions of the existing intersection with bike lanes and the results of the study concluded that a queue on the westbound direction was caused by left turn vehicles blocking the westbound through movement; and

**WHEREAS**, an option to improve this condition would be to introduce a left turn lane on 16<sup>th</sup> Street at Alton Road; however doing so would require either the elimination of the bike lane or elimination of the on-street parking on the north side of 16<sup>th</sup> Street between Alton Road and Lenox Court; and

**WHEREAS**, at the November 24, 2008 Neighborhoods/Community Affairs Committee meeting, a motion was made to remove the five (5) existing parking spaces on the north side of 16<sup>th</sup> Street from Alton Road to Lenox Court to allow sufficient space for

both the bike lane and a dedicated left turn lane and at the January 21, 2009 Neighborhoods/ Community Affairs Committee meeting, a motion was made to approve a proposed cross-section of no parking on the north side, parking on the south side, two travel lanes, a left turn lane, and bike lanes; and

**WHEREAS**, a relatively high number of bicyclists utilize 16<sup>th</sup> Street, since it provides directness and connectivity to bicycle traffic generators, and the existing bike lanes provide a safer environment for these bicyclists, since the bike lanes minimize potential conflicts between them and motorized vehicles either parallel parked on 16<sup>th</sup> Street or traveling through the intersection of 16<sup>th</sup> Street at Alton; and

**WHEREAS**, the City Administration would recommend that the Mayor and City Commission approve a roadway configuration for 16<sup>th</sup> Street from Alton Road to Lenox Court that consists of no parking on the north side, parking on the south side, two travel lanes, a left turn lane, and bike lanes, which best supports the approved BODR for the 16<sup>th</sup> Street Operational Improvement and Enhancement project goals and which was presented at the Neighborhoods/Community Affairs Committee on January 21, 2009.

**NOW, THEREFORE, BE IT DULY RESOLVED BY THE MAYOR AND THE CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA**, that the Mayor and City Commission hereby approve a roadway configuration for 16<sup>th</sup> Street from Alton Road to Lenox Court that consists of no parking on the north side, parking on the south side, two travel lanes, a left turn lane, and bike lanes, which best supports the goals established in the approved 16<sup>th</sup> Street Operational Improvements and Enhancement Project Basis of Design Report and which was presented at the Neighborhoods/Community Affairs Committee on January 21, 2009.

**PASSED and ADOPTED** this \_\_\_\_ day of \_\_\_\_\_, 2009.

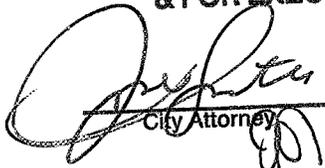
**ATTEST:**

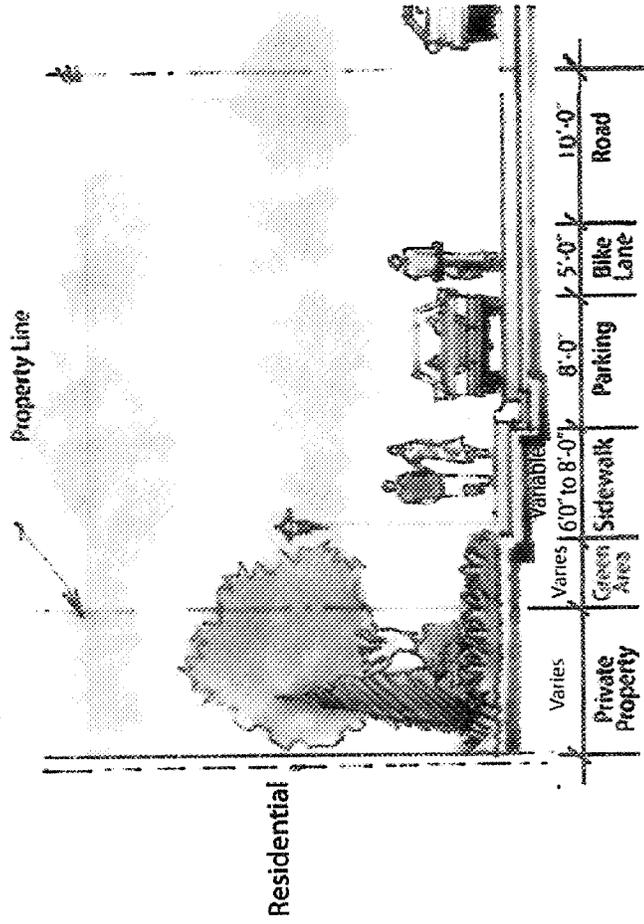
\_\_\_\_\_  
**MAYOR**

\_\_\_\_\_  
**CITY CLERK**

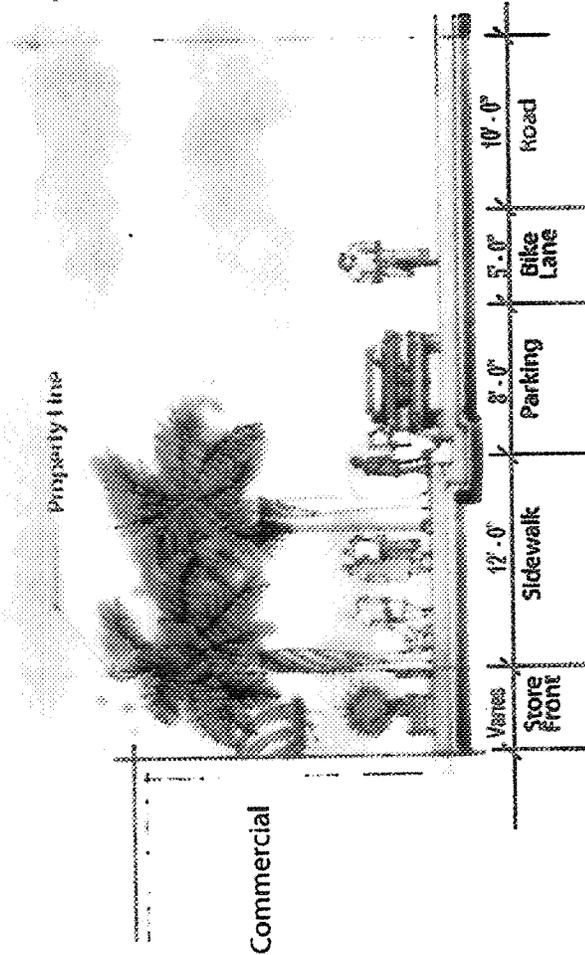
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**APPROVED AS TO  
FORM & LANGUAGE  
& FOR EXECUTION**

  
\_\_\_\_\_  
City Attorney      2/19/09  
Date



16<sup>th</sup> Street Residential Zone



16<sup>th</sup> Street Commercial Zone



Figure 2 - 4  
 Revised Concept Plan Typical Section  
 16th Street Phase I - Basis of Design Report  
 City of Miami Beach, Florida



MEMORANDUM

To: Xavier Falconi, P.E., Transportation Manager, City of Miami Beach  
From: Sanhita Lahiri, P.E., PTOE  
Cc: Rafiq Alqasem, P.E., PTOE  
Christine Leduc, Transportation Coordinator, City of Miami Beach  
Date: June 26, 2008  
Re: Intersection of 16<sup>th</sup> Street and Alton Road – Left turn storage lanes on the East and Westbound direction.

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PBS&J has performed a field review of the intersection of 16<sup>th</sup> Street and Alton Road, and have also reviewed the BODR SYNCHRO model of this intersection, provided by the City. Following are the summary and recommendations:

- It was identified in the meeting with the City of Miami Beach and PBS&J on May 6, 2008 that the methodology to be adopted for the study would be –
  - (a) Modify the 2007 PM peak BODR SYNCHRO model (obtained from the City) for the intersection 16<sup>th</sup> Street and Alton Road, to test a split phase operation for the Eastbound and Westbound movements. It was agreed that no other parameters in the model would be changed so that the delay before and after may be compared.
  - (b) Depending on the delay comparison, a further course of action will be decided, including the possibility of full traffic impact study.
- Review of the 2007 PM peak BODR SYNCHRO model showed that the intersection was evaluated with an Eastbound left turn storage lane of 80ft and a Westbound left turn storage lane of 110ft. The existing operating conditions are however much more constrained with no left turn storage lanes on the eastbound and westbound direction. The model was modified and the left turn lanes were eliminated and split phase introduced. Table 1 below shows that removing the left turn storage lane, cause significantly more delay to both the approaches and introduction of split phase on the Eastbound and Westbound direction further exacerbate the condition.

**Table 1 – Summary of Approach Delays Obtained from SYNCHRO Model for 16<sup>th</sup> Street and Alton Road**

Approach	2007 PM PEAK BODR MODEL APPROACH DELAY (s)		2007 PM PEAK MODEL WITH SPLIT PHASE FOR EASTBOUND AND WESTBOUND MOVEMENTS APPROACH DELAY (s)	
	Obtained from City of Miami Beach – Including Eastbound and Westbound Left turn Storage lanes	Modified by PBS&J – Excluding Eastbound and Westbound Left turn Storage lanes	Modified by PBS&J – Including Eastbound and Westbound Left turn Storage lanes	Modified by PBS&J – Excluding Eastbound and Westbound Left turn Storage lanes
Eastbound	46.7	195.8	74.2	362.5
Westbound	33.4	34.1	66.0	84.5

- The BODR reports the PM peak hour to be between 5:00PM and 6:00PM, and field review was done on May 20, 2008 to observe and assess the existing conditions including geometric and operational during the above mentioned time period.

It was observed that the existing Eastbound and Westbound vehicular movement at the intersection of 16th Street and Alton Road has a shared operation with only 1 lane sharing the Left, Through and Right turn movements. The roadway at this location also has bike lanes on both sides of the roadways.

The signal operation shows the Eastbound and Westbound left turn movements operating on a permissive phase. Queues on both directions were observed and sample counts were taken for 15 consecutive signal cycles (130sec per cycle). The field observation clearly shows no left over queues on the Eastbound direction and up to 14 cars on the Westbound direction. This does not match with the queues observed in the 2007 PM peak BODR SYNCHRO model (the model shows total 463veh on the Eastbound and 122veh on the Westbound direction). Table 2 below shows the left over queue data collected in the field.

**Table 2 – Sample Queue Counts Observed on May 20, 2008 at the intersection of 16<sup>th</sup> Street and Alton Road**

Sample Queue Counts	Left Over Queue from Previous Cycle (veh)	
	Eastbound	Westbound
1st Cycle	0	7
2nd Cycle	0	0
3rd Cycle	0	0
4th Cycle	0	0
5th Cycle	0	0
6th Cycle	0	1
7th Cycle	0	7
8th Cycle	0	4
9th Cycle	0	9
10th Cycle	0	14
11th Cycle	0	9
12th Cycle	0	0
13th Cycle	0	0
14th Cycle	0	3
15th Cycle	0	4

It was also observed that the right turning vehicles on both the directions used the bike lanes to turn, forcing bikers to use the sidewalk, a significant number of bikers were observed to this in the time period observed.

The queue on the westbound direction was observed to be caused by the left turn vehicles blocking the westbound through movement. As mentioned earlier the left turn movement operates on a permissive phase and has to wait for adequate gap from opposing traffic to cross the intersection.

- The qualitative field assessment shows that westbound movement has queues, which spill back to the intersection on the east of Alton Road. This condition could be improved by introducing a left turn lane. The physical geometry of the roadway at this point of time does not offer any other option than removing the bike lane and installing a left turn lane. However it may be noted that the removal of a bike lane from a particular section of roadway with continuous bike lanes, may not be safe as it would force the bikers on the sidewalk in that section.



Lane Group	EBL	EBT	EBR	WBL	WBT	WBR	NBL	NBT	NBR	SBL	SBT	SBR
Lane Configurations	↔	↔	↔	↔	↔	↔	↔	↕	↕	↔	↕	↔
Ideal Flow (vphpl)	1900	1900	1900	1900	1900	1900	1900	1900	1900	1900	1900	1900
Lane Width (ft)	10	16	12	10	16	12	10	12	12	10	12	10
Storage Length (ft)	80		0	110		0	120		0	140		75
Storage Lanes	1		0	1		0	1		0	1		1
Total Lost Time (s)	4.0	4.0	4.0	4.0	4.0	4.0	4.0	4.0	4.0	4.0	4.0	4.0
Leading Detector (ft)	50	50		50	50		50	50		50	50	50
Trailing Detector (ft)	0	0		0	0		0	0		0	0	0
Turning Speed (mph)	15		9	15		9	15		9	15		9
Lane Util. Factor	1.00	1.00	1.00	1.00	1.00	1.00	1.00	0.95	0.95	1.00	0.95	1.00
Frt		0.912			0.955			0.992				0.850
Flt Protected	0.950			0.950			0.950			0.950		
Satd. Flow (prot)	1652	1637	0	1652	1714	0	1652	3511	0	1652	3274	1478
Flt Permitted	0.652			0.402			0.274			0.199		
Satd. Flow (perm)	1134	1637	0	699	1714	0	476	3511	0	346	3274	1478
Right Turn on Red			Yes			Yes			Yes			Yes
Satd. Flow (RTOR)		56			17			7				32
Headway Factor	1.09	1.05	1.00	1.09	1.05	1.00	1.09	1.00	1.00	1.09	1.11	1.09
Link Speed (mph)		30			30			30				30
Link Distance (ft)		407			196			276				591
Travel Time (s)		9.3			4.5			6.3				13.4
Volume (vph)	215	102	146	22	70	30	101	886	48	159	895	49
Peak Hour Factor	0.92	0.92	0.92	0.92	0.92	0.92	0.92	0.92	0.92	0.92	0.92	0.92
Parking (#/hr)		10			10							10
Adj. Flow (vph)	234	111	159	24	76	33	110	963	52	173	973	53
Lane Group Flow (vph)	234	270	0	24	109	0	110	1015	0	173	973	53
Turn Type	Perm			Perm			Perm			pm+pt		Perm
Protected Phases		4			8			2			6	6
Permitted Phases	4			8			2				6	6
Detector Phases	4	4		8	8		2	2		1	6	6
Minimum Initial (s)	27.0	27.0		27.0	27.0		30.0	30.0		5.0	30.0	30.0
Minimum Split (s)	38.0	38.0		38.0	38.0		79.0	79.0		8.0	79.0	79.0
Total Split (s)	42.0	42.0	0.0	42.0	42.0	0.0	79.0	79.0	0.0	9.0	88.0	88.0
Total Split (%)	32.3%	32.3%	0.0%	32.3%	32.3%	0.0%	60.8%	60.8%	0.0%	6.9%	67.7%	67.7%
Maximum Green (s)	37.0	37.0		37.0	37.0		74.0	74.0		6.0	83.0	83.0
Yellow Time (s)	4.0	4.0		4.0	4.0		4.0	4.0		3.0	4.0	4.0
All-Red Time (s)	1.0	1.0		1.0	1.0		1.0	1.0		0.0	1.0	1.0
Lead/Lag							Lag	Lag		Lead		
Lead-Lag Optimize?							Yes	Yes		Yes		
Vehicle Extension (s)	3.0	3.0		3.0	3.0		3.0	3.0		3.0	3.0	3.0
Recall Mode	None	None		None	None		C-Max	C-Max		None	C-Max	C-Max
Walk Time (s)	7.0	7.0		7.0	7.0		56.0	56.0		56.0	56.0	56.0
Flash Dont Walk (s)	26.0	26.0		26.0	26.0		18.0	18.0		18.0	18.0	18.0
Pedestrian Calls (#/hr)	0	0		0	0		0	0		0	0	0
Act Effct Green (s)	32.7	32.7		32.7	32.7		78.5	78.5		89.2	89.2	89.2
Actuated g/C Ratio	0.25	0.25		0.25	0.25		0.60	0.60		0.69	0.69	0.69
v/c Ratio	0.82	0.59		0.14	0.24		0.38	0.48		0.57	0.43	0.05
Uniform Delay, d1	45.8	33.3		37.6	32.4		13.3	14.3		7.1	9.1	2.6
Control Delay	57.8	36.7		37.3	32.5		19.2	15.6		16.6	10.3	4.1



Lane Group	EBL	EBT	EBR	WBL	WBT	WBR	NBL	NBT	NBR	SBL	SBT	SBR
Queue Delay	0.0	0.4		0.0	0.0		0.0	0.0		0.1	0.0	0.0
Total Delay	57.8	37.1		37.3	32.5		19.2	15.7		16.7	10.3	4.1
LOS	E	D		D	C		B	B		B	B	A
Approach Delay		46.7			33.4			16.0			11.0	
Approach LOS		D			C			B			B	

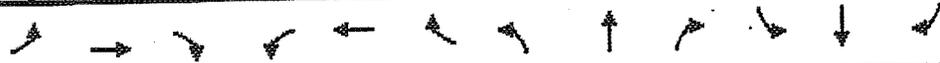
**Intersection Summary**  
 Area Type: Other  
 Cycle Length: 130  
 Actuated Cycle Length: 130  
 Offset: 51 (39%), Referenced to phase 2:NBTL and 6:SBTL, Start of Green  
 Natural Cycle: 125  
 Control Type: Actuated-Coordinated  
 Maximum v/c Ratio: 0.82  
 Intersection Signal Delay: 20.0      Intersection LOS: B  
 Intersection Capacity Utilization 82.5%      ICU Level of Service E  
 Analysis Period (min) 15

Splits and Phases: 10: 16 St. & Alton Rd

φ1	φ2	φ4
9 s	79 s	42 s
φ6		φ8
88 s		42 s



Lane Group	EBL	EBT	EBR	WBL	WBT	WBR	NBL	NBT	NBR	SBL	SBT	SBR
Lane Configurations	↔			↔			↗	↖		↗	↖	↗
Ideal Flow (vphpl)	1900	1900	1900	1900	1900	1900	1900	1900	1900	1900	1900	1900
Lane Width (ft)	10	16	12	10	16	12	10	12	12	10	12	10
Storage Length (ft)	0		0	0		0	120		0	140		75
Storage Lanes	0		0	0		0	1		0	1		1
Total Lost Time (s)	4.0	4.0	4.0	4.0	4.0	4.0	4.0	4.0	4.0	4.0	4.0	4.0
Leading Detector (ft)	50	50		50	50		50	50		50	50	50
Trailing Detector (ft)	0	0		0	0		0	0		0	0	0
Turning Speed (mph)	15		9	15		9	15		9	15		9
Lane Util. Factor	1.00	1.00	1.00	1.00	1.00	1.00	1.00	0.95	0.95	1.00	0.95	1.00
Frt		0.957			0.967			0.992				0.850
Flt Protected		0.977			0.991		0.950			0.950		
Satd. Flow (prot)	0	1678	0	0	1720	0	1652	3511	0	1652	3274	1478
Flt Permitted		0.738			0.882		0.274			0.199		
Satd. Flow (perm)	0	1267	0	0	1530	0	476	3511	0	346	3274	1478
Right Turn on Red			Yes			Yes			Yes			Yes
Satd. Flow (RTOR)		18			13			7				32
Headway Factor	1.09	1.05	1.00	1.09	1.05	1.00	1.09	1.00	1.00	1.09	1.11	1.09
Link Speed (mph)		30			30			30				30
Link Distance (ft)		407			196			276				591
Travel Time (s)		9.3			4.5			6.3				13.4
Volume (vph)	215	102	146	22	70	30	101	886	48	159	895	49
Peak Hour Factor	0.92	0.92	0.92	0.92	0.92	0.92	0.92	0.92	0.92	0.92	0.92	0.92
Parking (#/hr)		10			10							10
Adj. Flow (vph)	234	111	159	24	76	33	110	963	52	173	973	53
Lane Group Flow (vph)	0	504	0	0	133	0	110	1015	0	173	973	53
Turn Type	Perm			Perm			Perm			pm+pt		Perm
Protected Phases		4			8			2			6	
Permitted Phases		4			8			2			6	
Detector Phases	4	4		8	8		2	2		1	6	6
Minimum Initial (s)	27.0	27.0		27.0	27.0		30.0	30.0		5.0	30.0	30.0
Minimum Split (s)	38.0	38.0		38.0	38.0		79.0	79.0		8.0	79.0	79.0
Total Split (s)	42.0	42.0	0.0	42.0	42.0	0.0	79.0	79.0	0.0	9.0	88.0	88.0
Total Split (%)	32.3%	32.3%	0.0%	32.3%	32.3%	0.0%	60.8%	60.8%	0.0%	6.9%	67.7%	67.7%
Maximum Green (s)	37.0	37.0		37.0	37.0		74.0	74.0		6.0	83.0	83.0
Yellow Time (s)	4.0	4.0		4.0	4.0		4.0	4.0		3.0	4.0	4.0
All-Red Time (s)	1.0	1.0		1.0	1.0		1.0	1.0		0.0	1.0	1.0
Lead/Lag							Lag	Lag		Lead		
Lead-Lag Optimize?							Yes	Yes		Yes		
Vehicle Extension (s)	3.0	3.0		3.0	3.0		3.0	3.0		3.0	3.0	3.0
Recall Mode	None	None		None	None		C-Max	C-Max		None	C-Max	C-Max
Walk Time (s)	7.0	7.0		7.0	7.0		56.0	56.0		56.0	56.0	56.0
Flash Dont Walk (s)	26.0	26.0		26.0	26.0		18.0	18.0		18.0	18.0	18.0
Pedestrian Calls (#/hr)	0	0		0	0		0	0		0	0	0
Act Effct Green (s)		38.0			38.0		75.0	75.0		84.0	84.0	84.0
Actuated g/C Ratio		0.29			0.29		0.58	0.58		0.65	0.65	0.65
v/c Ratio		1.32			0.29		0.40	0.50		0.63	0.46	0.05
Uniform Delay, d1		43.8			31.9		15.1	16.2		9.1	11.6	3.3
Control Delay		195.8			34.1		20.6	17.3		21.3	12.4	4.3



Lane Group	EBL	EBT	EBR	WBL	WBT	WBR	NBL	NBT	NBR	SBL	SBT	SBR
Queue Delay		0.0			0.0		0.0	0.1		0.1	0.0	0.0
Total Delay		195.8			34.1		20.6	17.3		21.4	12.4	4.3
LOS		F			C		C	B		C	B	A
Approach Delay		195.8			34.1			17.7				13.4
Approach LOS		F			C			B				B

**Intersection Summary**  
 Area Type: Other  
 Cycle Length: 130  
 Actuated Cycle Length: 130  
 Offset: 51 (39%), Referenced to phase 2:NBTL and 6:SBTL, Start of Green  
 Natural Cycle: 145  
 Control Type: Actuated-Coordinated  
 Maximum v/c Ratio: 1.32  
 Intersection Signal Delay: 47.0  
 Intersection LOS: D  
 Intersection Capacity Utilization: 92.9%  
 ICU Level of Service: F  
 Analysis Period (min): 15

Splits and Phases: 10: 16 St. & Alton Rd

9%	79%		42%
8%			42%



Lane Group	EBL	EBT	EBR	WBL	WBT	WBR	NBL	NBT	NBR	SBL	SBT	SBR
Lane Configurations	↖	↗		↖	↗		↖	↗		↖	↗	↖
Ideal Flow (vphpl)	1900	1900	1900	1900	1900	1900	1900	1900	1900	1900	1900	1900
Lane Width (ft)	10	16	12	10	16	12	10	12	12	10	12	10
Storage Length (ft)	80		0	110		0	120		0	140		75
Storage Lanes	1		0	1		0	1		0	1		1
Total Lost Time (s)	4.0	4.0	4.0	4.0	4.0	4.0	4.0	4.0	4.0	4.0	4.0	4.0
Leading Detector (ft)	50	50		50	50		50	50		50	50	50
Trailing Detector (ft)	0	0		0	0		0	0		0	0	0
Turning Speed (mph)	15		9	15		9	15		9	15		9
Lane Util. Factor	1.00	1.00	1.00	1.00	1.00	1.00	1.00	0.95	0.95	1.00	0.95	1.00
Frt		0.912			0.955			0.992				0.850
Flt Protected	0.950			0.950			0.950			0.950		
Satd. Flow (prot)	1652	1637	0	1652	1714	0	1652	3511	0	1652	3274	1478
Flt Permitted	0.950			0.950			0.274			0.199		
Satd. Flow (perm)	1652	1637	0	1652	1714	0	476	3511	0	346	3274	1478
Right Turn on Red			Yes			Yes			Yes			Yes
Satd. Flow (RTOR)		48			13			7				32
Headway Factor	1.09	1.05	1.00	1.09	1.05	1.00	1.09	1.00	1.00	1.09	1.11	1.09
Link Speed (mph)		30			30			30				30
Link Distance (ft)		407			953			276				591
Travel Time (s)		9.3			21.7			6.3				13.4
Volume (vph)	215	102	146	22	70	30	101	886	48	159	895	49
Peak Hour Factor	0.92	0.92	0.92	0.92	0.92	0.92	0.92	0.92	0.92	0.92	0.92	0.92
Parking (#/hr)		10			10							10
Adj. Flow (vph)	234	111	159	24	76	33	110	963	52	173	973	53
Lane Group Flow (vph)	234	270	0	24	109	0	110	1015	0	173	973	53
Turn Type	Split			Split			Perm			pm+pt		Perm
Protected Phases	4	4		8	8			2		6		6
Permitted Phases												
Detector Phases	4	4		8	8		2	2		1	6	6
Minimum Initial (s)	5.0	5.0		5.0	5.0		30.0	30.0		5.0	30.0	30.0
Minimum Split (s)	21.0	21.0		10.0	10.0		79.0	79.0		8.0	79.0	79.0
Total Split (s)	26.0	26.0	0.0	16.0	16.0	0.0	79.0	79.0	0.0	9.0	88.0	88.0
Total Split (%)	20.0%	20.0%	0.0%	12.3%	12.3%	0.0%	60.8%	60.8%	0.0%	6.9%	67.7%	67.7%
Maximum Green (s)	21.0	21.0		11.0	11.0		74.0	74.0		6.0	83.0	83.0
Yellow Time (s)	4.0	4.0		4.0	4.0		4.0	4.0		3.0	4.0	4.0
All-Red Time (s)	1.0	1.0		1.0	1.0		1.0	1.0		0.0	1.0	1.0
Lead/Lag							Lag	Lag		Lead		
Lead-Lag Optimize?							Yes	Yes		Yes		
Vehicle Extension (s)	3.0	3.0		3.0	3.0		3.0	3.0		3.0	3.0	3.0
Recall Mode	None	None		None	None		C-Max	C-Max		None	C-Max	C-Max
Walk Time (s)	5.0	5.0					56.0	56.0		56.0	56.0	56.0
Flash Dont Walk (s)	11.0	11.0					18.0	18.0		18.0	18.0	18.0
Pedestrian Calls (#/hr)	0	0					0	0		0	0	0
Act Effect Green (s)	21.1	21.1		11.2	11.2		76.3	76.3		85.6	85.6	85.6
Actuated g/C Ratio	0.16	0.16		0.09	0.09		0.59	0.59		0.66	0.66	0.66
v/c Ratio	0.87	0.88		0.17	0.68		0.39	0.49		0.61	0.45	0.05
Uniform Delay, d1	53.0	43.5		55.0	50.7		14.5	15.5		8.5	10.8	3.0
Control Delay	77.8	67.7		57.2	68.0		20.2	16.7		20.0	11.9	4.3

Miami Beach BODR\_Revised With Split Phase  
Lanes, Volumes, Timings

10: 16 St. & Alton Rd  
2007 PM



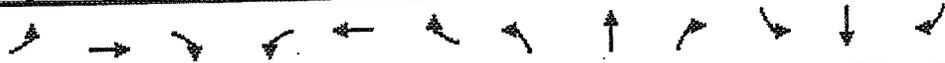
Lane Group	EBL	EBT	EBR	WBL	WBT	WBR	NBL	NBT	NBR	SBL	SBT	SBR
Queue Delay	2.0	1.6		0.0	0.0		0.0	0.1		0.1	0.0	0.0
Total Delay	79.7	69.3		57.2	68.0		20.2	16.8		20.1	11.9	4.3
LOS	E	E		E	E		C	B		C	B	A
Approach Delay		74.2			66.0			17.1				12.7
Approach LOS		E			E			B				B

**Intersection Summary**  
 Area Type: Other  
 Cycle Length: 130  
 Actuated Cycle Length: 130  
 Offset: 51 (39%), Referenced to phase 2:NBTL and 6:SBTL, Start of Green  
 Natural Cycle: 120  
 Control Type: Actuated-Coordinated  
 Maximum v/c Ratio: 0.88  
 Intersection Signal Delay: 27.3  
 Intersection LOS: C  
 Intersection Capacity Utilization: 78.6%  
 ICU Level of Service: D  
 Analysis Period (min) 15

Splits and Phases: 10: 16 St. & Alton Rd

91%	79%	25%	16%
68%			

Miami Beach BODR\_ Revised With Existing Geometry and Split Phase 10: 16 St. & Alton Rd  
 Lanes, Volumes, Timings 2007 PM

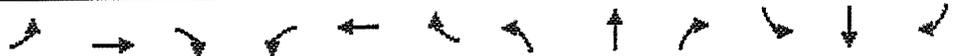


Lane Group	EBL	EBT	EBR	WBL	WBT	WBR	NBL	NBT	NBR	SEL	SBT	SBR
Lane Configurations		↔			↔		↗	↗		↖	↖	↖
Ideal Flow (vphpl)	1900	1900	1900	1900	1900	1900	1900	1900	1900	1900	1900	1900
Lane Width (ft)	10	16	12	10	16	12	10	12	12	10	12	10
Storage Length (ft)	0		0	0		0	120		0	140		75
Storage Lanes	0		0	0		0	1		0	1		1
Total Lost Time (s)	4.0	4.0	4.0	4.0	4.0	4.0	4.0	4.0	4.0	4.0	4.0	4.0
Leading Detector (ft)	50	50		50	50		50	50		50	50	50
Trailing Detector (ft)	0	0		0	0		0	0		0	0	0
Turning Speed (mph)	15		9	15		9	15		9	15		9
Lane Util. Factor	1.00	1.00	1.00	1.00	1.00	1.00	1.00	0.95	0.95	1.00	0.95	1.00
Frnt		0.957			0.967			0.992				0.850
Flt Protected		0.977			0.991		0.950			0.950		
Satd. Flow (prot)	0	1678	0	0	1720	0	1652	3511	0	1652	3274	1478
Flt Permitted		0.977			0.991		0.274			0.199		
Satd. Flow (perm)	0	1678	0	0	1720	0	476	3511	0	346	3274	1478
Right Turn on Red			Yes			Yes			Yes			Yes
Satd. Flow (RTOR)		15			10			7				32
Headway Factor	1.09	1.05	1.00	1.09	1.05	1.00	1.09	1.00	1.00	1.09	1.11	1.09
Link Speed (mph)		30			30			30				59
Link Distance (ft)		407			953			276				13.4
Travel Time (s)		9.3			21.7			6.3				13.4
Volume (vph)	215	102	146	22	70	30	101	886	48	159	895	49
Peak Hour Factor	0.92	0.92	0.92	0.92	0.92	0.92	0.92	0.92	0.92	0.92	0.92	0.92
Parking (#/hr)		10			10							10
Adj. Flow (vph)	234	111	159	24	76	33	110	963	52	173	973	53
Lane Group Flow (vph)	0	504	0	0	133	0	110	1015	0	173	973	53
Turn Type	Split			Split			Perm			pm+pt		Perm
Protected Phases	4	4		8	8		2	2		6	6	6
Permitted Phases												
Detector Phases	4	4		8	8		2	2		6	6	6
Minimum Initial (s)	5.0	5.0		5.0	5.0		30.0	30.0		5.0	30.0	30.0
Minimum Split (s)	21.0	21.0		10.0	10.0		79.0	79.0		8.0	79.0	79.0
Total Split (s)	26.0	26.0	0.0	16.0	16.0	0.0	79.0	79.0	0.0	9.0	88.0	88.0
Total Split (%)	20.0%	20.0%	0.0%	12.3%	12.3%	0.0%	60.8%	60.8%	0.0%	6.9%	67.7%	67.7%
Maximum Green (s)	21.0	21.0		11.0	11.0		74.0	74.0		6.0	83.0	83.0
Yellow Time (s)	4.0	4.0		4.0	4.0		4.0	4.0		3.0	4.0	4.0
All-Red Time (s)	1.0	1.0		1.0	1.0		1.0	1.0		0.0	1.0	1.0
Lead/Lag							Lag	Lag		Lead		
Lead-Lag Optimize?							Yes	Yes		Yes		
Vehicle Extension (s)	3.0	3.0		3.0	3.0		3.0	3.0		3.0	3.0	3.0
Recall Mode	None	None		None	None		C-Max	C-Max		None	C-Max	C-Max
Walk Time (s)	5.0	5.0					56.0	56.0			56.0	56.0
Flash Dont Walk (s)	11.0	11.0					18.0	18.0			18.0	18.0
Pedestrian Calls (#/hr)	0	0					0	0			0	0
Act Effct Green (s)		22.0					75.0	75.0		84.2	84.2	84.2
Actuated g/C Ratio		0.17			0.09		0.58	0.58		0.65	0.65	0.65
v/c Ratio		1.70			0.81		0.40	0.50		0.62	0.46	0.05
Uniform Delay, d1		51.2			53.5		15.1	16.2		9.0	11.5	3.2
Control Delay		362.5			84.5		20.6	17.3		20.9	12.4	4.3

5/22/2008  
 NCL  
 PBS&J Inc.

PBS&J Revised

Miami Beach BODR\_Revised With Existing Geometry and Split Phase 10: 16 St. & Alton Rd  
 Lanes, Volumes, Timings 2007 PM



Lane Group	EBL	EBT	EBR	WBL	WBT	WBR	NBL	NBT	NBR	SBL	SBT	SBR
Queue Delay		0.0			0.0		0.0	0.1		0.1	0.0	0.0
Total Delay		362.5			84.5		20.6	17.3		21.0	12.4	4.3
LOS		F			F		C	B		C	B	A
Approach Delay		362.5			84.5			17.7			13.2	
Approach LOS		F			F			B			B	

**Intersection Summary**  
 Area Type: Other  
 Cycle Length: 130  
 Actuated Cycle Length: 130  
 Offset: 51 (39%), Referenced to phase 2:NBTL and 6:SBTL, Start of Green  
 Natural Cycle: 150  
 Control Type: Actuated-Coordinated  
 Maximum v/c Ratio: 1.70  
 Intersection Signal Delay: 77.6      Intersection LOS: E  
 Intersection Capacity Utilization: 92.9%      ICU Level of Service: F  
 Analysis Period (min) 15

Splits and Phases: 10: 16 St. & Alton Rd

01	02	04	08
9s	79s	26s	16s
05			
88s			

**CITY OF MIAMI BEACH  
PUBLIC WORKS DEPARTMENT  
ENGINEERING DIVISION**

Intersection: 16th ST & Alton Road

11/18/2008

Time		4:00-4:15 PM	4:15-4:30 PM	4:30-4:45 PM	4:45-5:00 PM	Total
Total Observed		44	26	28	26	124
Mode	Bicycle					
Direction	from 16 ST Left on to Alton Rd. South	4	0	2	8	14
	from 16 ST Right on to Alton Rd. North	3	4	1	1	9
	from 16 ST across Alton Rd. Westbound	2	2	4	2	10
	from 16 ST Left on to Alton Rd. North	1	1	0	1	3
	from 16 ST Right on to Alton Rd. South	1	0	0	1	2
	from 16 ST across Alton Rd. Eastbound	6	5	5	4	20
	from Alton Rd Left on to 16 ST East	11	0	5	1	17
	from Alton Rd Right on to 16 ST West	1	0	0	0	1
	from Alton Rd across 16 ST Southbound	6	5	6	2	19
	from Alton Rd Left on to 16 ST West	1	0	0	1	2
	from Alton Rd Right on to 16 ST East	0	0	1	0	1
	from Alton Rd across 16 ST Northbound	8	9	4	5	26

Attachment 3

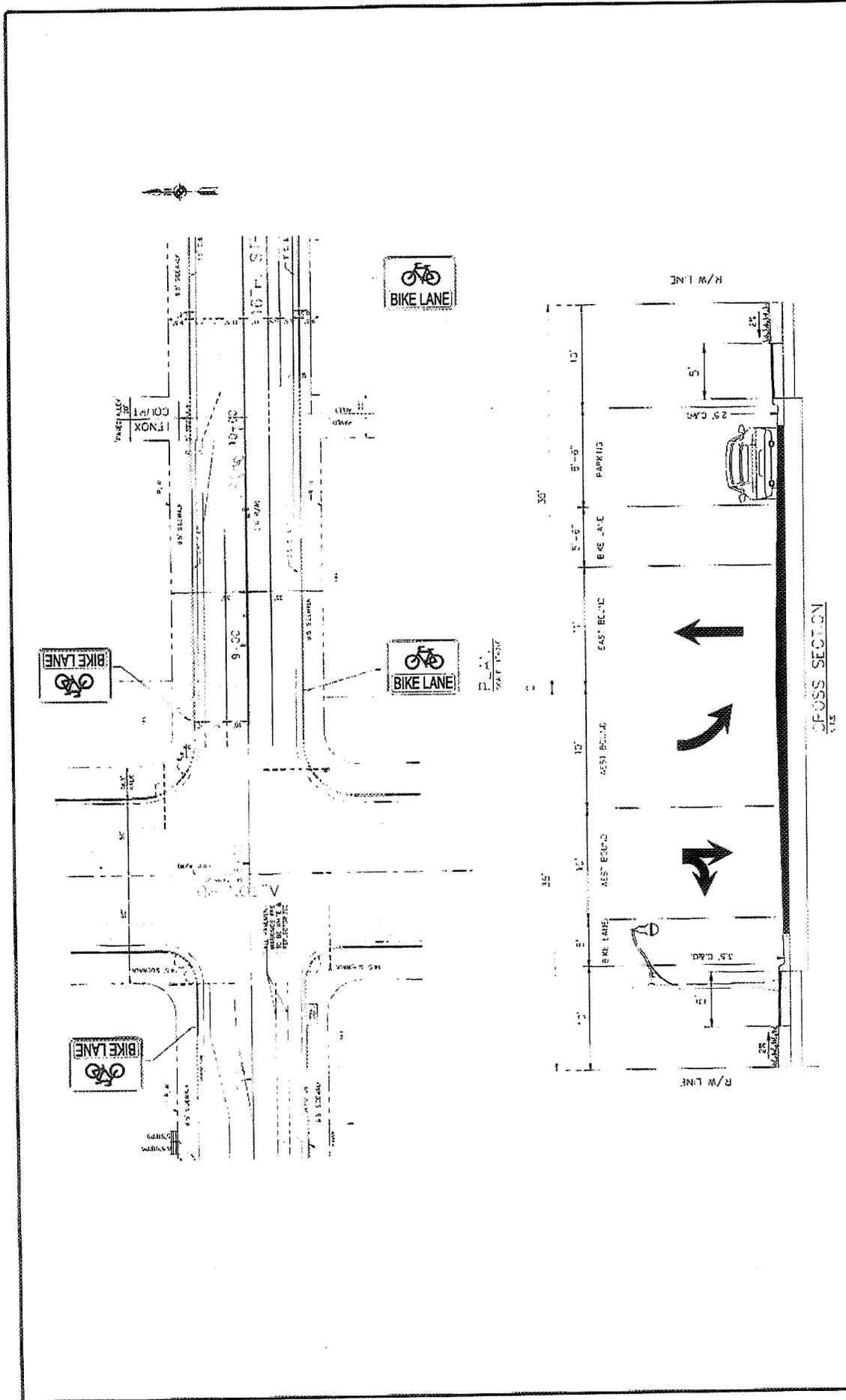
**CITY OF MIAMI BEACH  
PUBLIC WORKS DEPARTMENT  
ENGINEERING DIVISION**

Intersection: 16th ST & Alton Road

11/18/2008

Time		5:00-5:15 PM	5:15-5:30 PM	5:30-5:45 PM	5:45-6:00 PM	Total
Total Observed		21	19	20	12	72
Mode	Bicycle					
Direction	from 16 ST Left on to Alton Rd. South	2	2	2	0	6
	from 16 ST Right on to Alton Rd. North	1	1	2	2	6
	from 16 ST across Alton Rd. Westbound	3	3	1	3	10
	from 16 ST Left on to Alton Rd. North	1	0	0	1	2
	from 16 ST Right on to Alton Rd. South	1	0	1	0	2
	from 16 ST across Alton Rd. Eastbound	4	1	1	1	7
	from Alton Rd Left on to 16 ST East	0	3	2	1	6
	from Alton Rd Right on to 16 ST West	0	2	1	0	3
	from Alton Rd across 16 ST Southbound	2	4	2	0	8
	from Alton Rd Left on to 16 ST West	3	0	1	1	5
	from Alton Rd Right on to 16 ST East	1	1	1	0	3
	from Alton Rd across 16 ST Northbound	3	2	6	3	14

Attachment 4



<p><b>CITY OF MIAMI BEACH, FLORIDA</b> PUBLIC WORKS DEPARTMENT 1750 S.W. 15TH AVENUE, SUITE 2000, MIAMI, FL 33135</p>	<p><b>16th. STREET STRIPING PROJECT</b> <b>ALTON ROAD TO LENOX AVENUE</b></p>		<p>DATE: 10/15/10</p>
	<p>CITY MANAGER: JORGE DOMESTICO DIRECTOR: FRED H. BERTOLANO CITY ENGINEER: TERESA-ANNE MACTELLI</p>	<p>DESIGNER OF RECORD: ARTHUR J. VECCHI DRAWN BY: R.V.A.L. CHECKED BY: M.A. SCALE: AS SHOWN</p>	<p>PROJECT NO.: 10738-1000 JOB ORDER: 10738-1000 DATE: 10/15/10 DRAWING: 16th. STRE.</p>

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**Condensed Title:**

A resolution approving the City's planned use of Neighborhood Stabilization Funds to purchase and rehabilitate, as necessary, foreclosed or abandoned multi-unit buildings to be made available as rental properties for income-qualified households or, as an alternative, foreclosed or abandoned land for land-banking purposes, as per NSP rules.

**Key Intended Outcome Supported:**

Increase access to workforce or affordable housing.

**Supporting Data (Surveys, Environmental Scan, etc.):** Based on the 2007 Customer Satisfaction Survey, affordable housing was a concern for 82% of those surveyed.

**Issue:**

Shall the City use NSP funds for the purchase of one or more multi-unit buildings and make them available as rental properties for income qualified households, or alternatively, for the purchase of foreclosed or abandoned land for land-banking purposes, in accordance with the Neighborhood Stabilization Program requirements?

**Item Summary/Recommendation:**

The City of Miami Beach was awarded a total of \$2,545,511 from HUD's Neighborhood Stabilization Program (NSP), the primary purpose of which is to use to purchase foreclosed and abandoned properties. The State's Department of Community Affairs (DCA), the pass-through entity handling Miami Beach's NSP allocation, requires a formal application due to DCA by April 6, 2009, along with a plan for the use of the funding. The City Commission must make a policy decision at its March 18, 2009, meeting to comply with this deadline.

From the City's total allocation of \$2,545,511, \$907,719 is the supplemental allocation which is required to be used to purchase units to create rental housing for households earning no more than 50% of the area median income (AMI). Use of the regular NSP funds (\$1.6 million) must benefit those households whose incomes do not exceed 120% AMI and can result in rental or homeownership opportunities. Regular NSP funds may also be used for homebuyer assistance and to create land banks to assemble, temporarily manage, and dispose of vacant land for the purpose of stabilizing neighborhoods and encouraging re-use or redevelopment of property.

The Administration recommends using the City's regular NSP allocation to purchase one or more multi-unit buildings, for the units to be made available as rental units. Due to the volatility of the real estate market, and because the prospective income-qualifying homebuyers would generally not qualify for single family residences in Miami Beach, any homebuyer opportunities would be geared toward purchases of units in condominium buildings. However, the Administration recommends minimizing homebuyer assistance with regular NSP funds to limit potential exposure that the targeted income-qualified purchasers would face due to unanticipated condo assessments, and maintenance fees. Furthermore, focusing the use of the regular NSP allocation for one or two large purchases best streamlines the obligation of those funds within the 10-month obligation deadline set by the DCA, to prevent the possibility of recapture of funds allocated to the City.

At the Neighborhoods/Community Affairs Committee meeting of March 11, 2009, the Committee expressed their interest in preference being given for those rental units to serve moderate income [workforce] families. Additionally, the Committee recommended that the Commission also consider, after the competitive process is concluded, whether the regular NSP funding should alternatively be used for the purchase of foreclosed or abandoned land for land-banking purposes (capped at 10% of total allocation). In order to meet the required application deadline, approval of the proposed strategy is required.

**Advisory Board Recommendation:**

On March 11, 2009 the Neighborhood /Community Affairs Committee recommended that the City use the NSP funds as outlined above.

**Financial Information:**

Source of Funds:	Amount	Account	Approved
1			
2			
<b>Total</b>			

NSP  
OBPI

**Financial Impact Summary:**

**City Clerk's Office Legislative Tracking:**

Anna Parekh

**Sign-Offs:**

Department Director AP	Assistant City Manager <i>[Signature]</i>	City Manager <i>[Signature]</i>
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T:\AGENDA\2009\March 18\Regular\NSP Application (SUMM).doc



## COMMISSION MEMORANDUM

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

FROM: Jorge M. Gonzalez, City Manager

DATE: March 18, 2009

**SUBJECT A RESOLUTION OF THE MAYOR AND THE CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA, APPROVING THE CITY'S PLANNED USE OF AND RELATED APPLICATION FOR NEIGHBORHOOD STABILIZATION PROGRAM (NSP) FUNDS, IN THE AMOUNT OF \$2,545,511, TO PURCHASE AND REHABILITATE, AS NECESSARY, ONE OR MORE FORECLOSED OR ABANDONED MULTI-FAMILY BUILDINGS IN THE CITY OF MIAMI BEACH AS DETERMINED BY THE CITY'S GREATEST NEED, TO BE MADE AVAILABLE AS RENTAL PROPERTIES FOR INCOME QUALIFIED HOUSEHOLDS IN ACCORDANCE WITH NSP RULES, AS PROMULGATED BY THE FLORIDA DEPARTMENT OF COMMUNITY AND THE UNITED STATES DEPARTMENT HOUSING AND URBAN DEVELOPMENT.**

### ADMINISTRATION RECOMMENDATION

Adopt the Resolution.

### ANALYSIS

The City of Miami Beach was awarded a total of \$2,545,511 from HUD's Neighborhood Stabilization Program (NSP). The State's Department of Community Affairs (DCA) is the pass-through entity handling Miami Beach's NSP allocation. While the City was allocated a sum on a formula basis, a formal application for the use of the funds is due to DCA by April 6, 2009, along with a plan for the use of the funding, which will be the City's Housing Assistance Plan (HAP). To meet the DCA's application deadline, the City Commission must make a policy decision at its March 18, 2009, meeting. Therefore, a recommended use for the NSP funds is outlined below.

On February 6, 2009, we issued a second Letter to Commission delineating the parameters of the NSP, and the funding that we have been allocated. As mentioned in the LTC, from the City's allocation of \$2,545,511, the DCA has determined that \$1,637,792 is the "regular NSP allocation" and \$907,719 is the supplemental allocation which is to be dedicated for *rental* housing to meet the low-income requirements of the NSP (referred to as the "NSPLI allocation"); use of the NSPLI allocation must be allocated specifically to rental housing for low-income households which earn no more than 50% of the AMI (for a one-person household 50% AMI is a maximum of \$21,100). Use of the regular NSP funds must benefit those households whose incomes do not exceed 120% of Area Median Income (AMI). The DCA has also added strict spending deadlines for use of the NSP funds: The City, as sub-grantee, has just 10 months to obligate its allocation or risk forfeiting it. The regular NSP funds may be used for activities including:

- Purchasing and rehabilitating abandoned or foreclosed homes and residential properties
- Establishing financing mechanisms (down-payment assistance, soft-second mortgages) for purchase and redevelopment of foreclosed homes and residential properties
- Creating "land banks" to assemble, temporarily manage, and dispose of vacant land for the purpose of stabilizing neighborhoods and encouraging re-use or redevelopment of property
- Demolishing or rehabilitating abandoned properties

A recommended use for all of the NSP funds is outlined below. Once the policy decision is made regarding the use of the NSP funding, a competitive process will be conducted in which the City will seek a sponsor or sponsors with demonstrated capacity and experience in providing housing to the target populations to provide the required services.

### **RECOMMENDATION**

As stated above, the NSPLI of \$907,719 must be utilized to assist in the purchase of units which ultimately are kept and rented to households earning no more than 50% AMI. The Administration recommends using the NSPLI to assist in the purchase of one or more foreclosed or abandoned multi-unit buildings to meet this requirement. Although the regular allocation (\$1.6 million) can be used for other purposes, including buying units to resell them, at this time the Administration recommends that the regular allocation also be utilized for purchase of a foreclosed or abandoned multi-unit apartment building, with the end purpose of renting all of the units to income qualified households—which in the case of the regular allocation are households earning up to 120% AMI.

While staff initially recommended using the regular NSP funds to provide assistance to homebuyers to purchase individual foreclosed condominium units, due to the volatility of the real estate market, at this time the Administration recommends that NSP funding be used primarily to purchase foreclosed or abandoned multi-unit buildings for rental housing, or alternatively the regular NSP funds may be used to create land banks, for these reasons:

- In Miami Beach, the majority of foreclosed housing units available for purchase for income qualified homebuyer applicants of NSP would be in multi-unit condominium buildings. The purchase and re-sale of scattered sites to our required target population poses the risk of having the new owner face unanticipated condo fees and/or assessments arising from other foreclosed units in the building and owners of other condo units defaulting on their condominium dues. Purchasing an entire building, in contrast, means that the project sponsor is in the best position to control management costs.
- Buying multi-unit buildings, or foreclosed or abandoned land, instead of individual scattered sites most efficiently meets the 10 month obligation-of-funding deadline that the DCA requires, thus minimizing the possibility of the City forfeiting its allocation. There is a chance that the City may receive additional funding since forfeited NSP money throughout the state will be reallocated by the DCA to communities having met their obligation deadline.
- The NSPLI allocation of \$907,719, requiring the purchase of units to be rented to households at 50% AMI, comprises approximately 35% of the City's allocation. Dedicating the regular allocation funding portion to the same purpose as NSPLI will allow for mixed income levels in the rental buildings purchased, since the regular allocation allows families earning up to 120% AMI. Having higher income families in the same building as those households at 50% AMI better enables the project sponsor to charge higher rents and better meet all the carrying costs inherent in owning the rental building(s).

While it is impossible to predict the actual number of qualifying foreclosed or abandoned multi-family properties available for purchase when funding is received, preliminary research undertaken by staff on Real Quest, a reliable real estate search engine, indicates that on March 9, 2009 there were a total of 18 multi-unit REOs within the 33139, 33140 and 33141 zip codes, and 40 properties within the same zip codes showing a Lis Pendens status (potential pre-foreclosure). It is unknown how many other buildings would also qualify as eligible for NSP funding that are abandoned.

In the event there are funds remaining after the purchase of one or more multi-unit buildings, or the City receives additional NSP funding, the Administration would then recommend the purchase of condominium units for resale to income qualified homebuyers. The selected sponsor would be required

to engage in the necessary due diligence in advance of any condo unit purchase so as to determine, to the extent possible, the financial health of the condominium association, as well as its future health. This would also ensure the homebuyer has sufficient capacity to address any fluctuations. The competitive process to secure a sponsor(s) shall solicit and accept applications for this secondary homeownership activity, with the understanding that this activity will be funded only as funding may be available. For both activities, preference in scoring will be given to applicants who can demonstrate the ability to leverage other funds, including private financing. It should be noted that the City awarded State Housing Initiative Partnership (SHIP) funds for fiscal years 2007/08 and 2008/09 for first time homebuyers to purchase and rehabilitate, as needed, foreclosed homes. As such, other funding is currently available to assist in homebuyer assistance for foreclosed properties.

#### **COMMITTEE REVIEW AND RECOMMENDATION**

At the Neighborhoods/Community Affairs Committee meeting of March 11, 2009, the Committee considered the recommended strategy for the use of the regular and NSPLI allocations. Committee members expressed their interest in preference being given for rental units made available from the purchase of one or more multi-family buildings to serve moderate income [workforce] families. Additionally, the Committee recommended that the Commission also consider, after the competitive process is concluded, whether the regular NSP funding should alternatively be used for the purchase of foreclosed or abandoned land for land-banking purposes. Subsequent to the Committee meeting, staff reviewed the NSP guidelines and has confirmed that a *maximum of ten (10) percent* of the NSP allocation to the City may be used for land banking activities. Attached, please refer to page 6 of the NSP application that references this limitation.

#### **OTHER FORECLOSURE-RELATED FUNDING**

Related to foreclosure prevention activities, the federal government, as part of its latest stimulus package, has informed the City that it will receive Homeless Prevention Funds in the amount of \$715,418. Funds provided under this grant may be used for homelessness prevention and re-housing of persons who have become homeless, including activities such as housing search, mediation or outreach to property owners, credit repair, rental and utility assistance, and moving costs. The full program guidelines have not yet been released. Due to stimulus funding, the City will also receive an additional \$467,896 in Community Development Block Grant (CDBG) funding for FY 2009/10. Furthermore, it is anticipated that additional NSP-type funding will be made available to entitlement communities on a competitive application basis. Details have not been provided on when or how the additional NSP fund may be used.

#### **CONCLUSION**

The Administration recommends that the Mayor and City Commission of the City of Miami Beach, Florida, adopt a resolution approving the City's planned use of and related application for Neighborhood Stabilization Program (NSP) funds, in the amount of \$2,545,511, to purchase and rehabilitate, as necessary, one or more foreclosed or abandoned multi-family buildings in the City of Miami Beach as determined by the City's greatest need, to be made available as rental properties for income qualified households. The Neighborhoods Committee has further recommended a preference that those rental units serve moderate income workforce families and that, alternatively, depending on the outcome of the competitive process, that the City may consider using regular NSP funds may be used to create land banks to assemble, temporarily manage, and dispose of vacant land for the purpose of stabilizing neighborhoods and encouraging re-use or redevelopment of property, in accordance with NSP rules, as promulgated by the Florida Department of Community Affairs and the United States Department of Housing and Urban Development.

RESOLUTION NUMBER \_\_\_\_\_

**A RESOLUTION OF THE MAYOR AND THE CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA, APPROVING THE CITY'S PLANNED USE OF AND RELATED APPLICATION FOR NEIGHBORHOOD STABILIZATION PROGRAM (NSP) FUNDS, IN THE AMOUNT OF \$2,545,511, TO PURCHASE AND REHABILITATE, AS NECESSARY, ONE OR MORE FORECLOSED OR ABANDONED MULTI-FAMILY BUILDINGS IN THE CITY OF MIAMI BEACH AS DETERMINED BY THE CITY'S GREATEST NEED, TO BE MADE AVAILABLE AS RENTAL PROPERTIES FOR INCOME QUALIFIED HOUSEHOLDS IN ACCORDANCE WITH NSP RULES, AS PROMULGATED BY THE FLORIDA DEPARTMENT OF COMMUNITY AND THE UNITED STATES DEPARTMENT HOUSING AND URBAN DEVELOPMENT.**

**WHEREAS**, on July 31, 2008, the United States Congress enacted the Housing and Economic Recovery Act of 2008, thereby creating the Neighborhood Stabilization Program, which directed the Department of Housing and Urban Development (HUD) to allocate \$3.93 billion to states and units of local government as emergency assistance for the purchase and redevelopment of abandoned and foreclosed homes; and,

**WHEREAS**, the State of Florida received an NSP allocation of \$91,141,478 to provide funding to those units of local government, including the City of Miami Beach, which under HUD's allocation formula would receive under \$2 million in NSP funds; and,

**WHEREAS**, the State of Florida, acting through its Department of Community Affairs (DCA), has determined the City of Miami Beach's allocation to be \$1,641,832 as the regular NSP allocation and an additional \$907,719 as a supplemental allocation to be dedicated for rental housing to meet the low-income requirements of the NSP; and,

**WHEREAS**, the DCA requires that the supplemental allocation be used exclusively for the purchase of foreclosed properties to be held and rented to households earning no more than 50% of the area median income; and,

**WHEREAS**, the regular allocation of NSP funds may be used for the purchase and needed rehabilitation of foreclosed properties for rental or resale to income qualified households earning no more than 120% of the area median income; and,

**WHEREAS**, the DCA has placed on its NSP sub-recipients a timeframe of ten (10) months to obligate their allocations or risk forfeiting them; and,

**WHEREAS**, the City is allowed to retain 6.6% of its total allocation for its administration costs, leaving a net of \$847,809 and \$1,533,471 for the regular and rental allocations, respectively; and,

**WHEREAS**, the Administration is recommending that both the regular and the low-income allocations be used for the purchase and rehabilitation, as needed, of one or more multi-family buildings to be kept as rental properties to benefit income qualified households in accordance with the NSP program; and,

**WHEREAS**, in the event there are funds remaining after the purchase of one or more multi-family buildings, or the City receives additional NSP funding, the Administration recommends the purchase of condominium units for resale to income qualified homebuyers, only after due diligence is undertaken into the physical and financial health of the condominium, and such due diligence indicates likely stability; and,

**WHEREAS**, a formal application showing the planned use of the funding is due to DCA by April 6, 2009; and,

**WHEREAS**, to meet the DCA's application deadline, the Administration now requests that the Mayor and City Commission approve the planned use of NSP funds as outlined above; and

**NOW, THEREFORE, BE IT RESOLVED BY THE MAYOR AND CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA**, that the Mayor and City Commission hereby approve the City's planned use of and related application for Neighborhood Stabilization Program (NSP) funds, in the amount of \$2,545,511, to purchase and rehabilitate, as necessary, one or more foreclosed and abandoned multi-family buildings in the City of Miami Beach as determined by the City's greatest need, to be made available as rental properties for income qualified households, in accordance with NSP rules, as promulgated by the Florida Department of Community Affairs and the United States Department of Housing and Urban Development.

Passed and adopted this \_\_\_\_\_ day of \_\_\_\_\_, 2009.

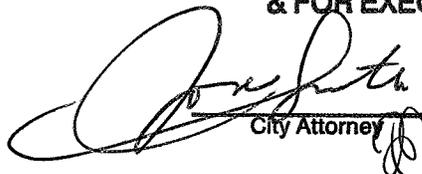
\_\_\_\_\_  
MAYOR

ATTEST:

\_\_\_\_\_  
CITY CLERK

APPROVED AS TO  
FORM & LANGUAGE  
& FOR EXECUTION

T:\AGENDA\2009\March 18\Regular\NSP Application (RESO).doc

  
\_\_\_\_\_  
City Attorney      3/12/09  
Date

**STATE OF FLORIDA  
NEIGHBORHOOD STABILIZATION PROGRAM**

**APPLICATION INSTRUCTIONS**

**DUE DATE APRIL 6, 2009**

**FLORIDA DEPARTMENT OF COMMUNITY AFFAIRS**

**CDBG NEIGHBORHOOD STABILIZATION PROGRAM**

**2555 SHUMARD OAK BOULEVARD  
TALLAHASSEE, FLORIDA 32399-2100**

**850/487-3644**

***FAX 850/922-5609***

## GENERAL INFORMATION

Florida's Neighborhood Stabilization Program (NSP) is described in the Substantial Amendment to the 2008 Community Development Block Grant (CDBG) Program Action Plan which is posted to the website at: <http://www.floridacommunitydevelopment.org/cdbg/nsp.cfm>. Please read and refer to the Substantial Amendment as you prepare your Application. Additional information will be available in the NSP Emergency Rule and Policy Guide. Under the State's allocation formula, 26 local governments are eligible for assistance. The Department allocated funds in a manner that will ensure that at least 25 percent of the funding will serve individuals at or below 50 percent of the area median income (AMI). Applications must include the total amount allocated to your jurisdiction by the Department.

Regular State NSP allocations with minimum grant awards of \$1.25 million are available to the following communities:

Local Government Jurisdiction	County	Allocation Amount	Included Cities (not funded by HUD or State)
Alachua County	Alachua	\$1,411,917	All cities included
Bay County	Bay	\$1,615,436	All cities included
Titusville	Brevard	\$1,625,481	N/A
Melbourne	Brevard	\$1,343,243	N/A
Davie	Broward	\$1,715,568	N/A
Charlotte County	Charlotte	\$5,364,020	All cities included
Citrus County	Citrus	\$1,478,164	All cities included
Clay County	Clay	\$2,722,894	All cities included
Palm Coast	Flagler	\$2,177,980	N/A
Hernando County	Hernando	\$4,299,472	All cities included
Indian River County	Indian River	\$3,598,543	All cities included
Tallahassee	Leon	\$1,693,435	N/A
Bradenton	Manatee	\$1,975,077	N/A
Ocala	Marion	\$1,313,887	N/A
Martin County	Martin	\$2,645,982	All cities included
Miami Beach	Miami-Dade	\$1,641,832	N/A
Okaloosa County	Okaloosa	\$2,255,252	All cities included
Apopka	Orange	\$1,547,689	N/A
Osceola County	Osceola	\$11,524,826	All cities included EXCEPT Kissimmee
Delray Beach	Palm Beach	\$1,351,043	N/A
Clearwater	Pinellas	\$2,034,862	N/A
Santa Rosa County	Santa Rosa	\$1,662,215	All cities included
St. Johns County	St. Johns	\$1,761,096	All cities included

Local Government Jurisdiction	County	Allocation Amount	Included Cities (not funded by HUD or State)
Ft. Pierce	St. Lucie	\$1,505,403	N/A
St. Lucie County	St. Lucie	\$3,144,510	All cities included EXCEPT Ft. Pierce & Port St. Lucie
Daytona Beach	Volusia	\$1,668,161	N/A
Total =		\$65,077,988	

A separate funding allocation, NSP Low Income (NSPLI), provides supplemental funding to each geographic area receiving a regular state allocation based on both its proportionate allocation of regular state NSP funds and its proportionate concentration of NSPLI target population. This allocation ensures that 25 percent of the funding is made available to individuals whose incomes do not exceed 50 percent of the AMI. These funds must be used to provide rental housing. Applications must show these funds reflected under Strategy 5 and that they will be allocated for rental housing.

Local Government Jurisdiction	County	Allocation Amount	Included Cities (not funded by HUD or State)
Alachua County	Alachua	\$1,517,321	All cities included
Bay County	Bay	\$908,311	All cities included
Titusville	Brevard	\$488,300	N/A
Melbourne	Brevard	\$576,948	N/A
Davie	Broward	\$600,724	N/A
Charlotte County	Charlotte	\$1,423,037	All cities included
Citrus County	Citrus	\$693,256	All cities included
Clay County	Clay	\$915,629	All cities included
Palm Coast	Flagler	\$486,923	N/A
Hernando County	Hernando	\$1,344,912	All cities included
Indian River County	Indian River	\$1,082,282	All cities included
Tallahassee	Leon	\$1,252,235	N/A
Bradenton	Manatee	\$601,190	N/A
Ocala	Marion	\$429,318	N/A
Martin County	Martin	\$891,481	All cities included
Miami Beach	Miami-Dade	\$907,719	N/A
Okaloosa County	Okaloosa	\$1,003,183	All cities included
Apopka	Orange	\$362,277	N/A
Osceola County	Osceola	\$2,566,992	All cities included EXCEPT Kissimmee
Delray Beach	Palm Beach	\$553,962	N/A

Local Government Jurisdiction	County	Allocation Amount	Included Cities (not funded by HUD or State)
Clearwater	Pinellas	\$810,889	N/A
Santa Rosa County	Santa Rosa	\$703,188	All cities included
St. Johns County	St. Johns	\$728,347	All cities included
Ft. Pierce	St. Lucie	\$579,993	N/A
St. Lucie County	St. Lucie	\$840,091	All cities included EXCEPT Ft. Pierce & Port St. Lucie
Daytona Beach	Volusia	\$694,981	N/A
Total =		\$22,963,490	

### RULES AND REGULATIONS

All applications must meet the intent of the federal regulation and comply with the State's special requirements. Applications should review the following sources of information before beginning the application process.

1. Federal Register Notice dated October 6, 2008
2. State's Substantial Amendment to the 2008 CDBG Action Plan
3. State NSP Emergency Rule
4. State NSP Policy Guide

Additional information, including responses to frequently asked questions, may be accessed at the following websites:

1. HUD NSP website: <http://www.hud.gov/offices/cpd/communitydevelopment/programs/neighborhoodspg/>
2. State of Florida NSP website: <http://www.floridacommunitydevelopment.org/cdbg/nsp.cfm>

### CITIZEN PARTICIPATION

Citizen participation, including the participation of stakeholders or affected municipalities, is an important part of the application process. Applicants must conduct a public hearing on the proposed application prior to submitting it to the Department. Specific requirements are set out in the State's NSP Policy Guide.

### GENERAL INSTRUCTIONS

1. Prepare a narrative that describes the overall strategy the Applicant will use to address priority needs related to foreclosed and abandoned properties, particularly those that are residential (single or multi-family, owner or renter-occupied). Describe how the "area(s)" or "jurisdiction(s)" to be served as well as the "activities" to be undertaken meet a priority need. Identify the estimated amount to be expended and provide a time line for accomplishing major actions.
2. Submit one Application reflecting priority needs even if activities will take place in more than one area or jurisdiction. (Copies can be made of application pages as necessary.)
3. Submit two copies of the Application, with original signatures of the Chief Elected Official or individual authorized by resolution to sign on behalf of the local government. If applicable, submit a copy of the resolution.

4. Provide the following information in numbered appendices:
  - (a) A detailed map depicting the boundaries of the jurisdiction(s), the NSP target area(s), the anticipated location of the activities, the flood plain and other relevant details such as the location and concentration of foreclosed and abandoned properties.
  - (b) Identify any policies that the local government currently has adopted that related to CDBG (i.e., citizen complaint policy, acquisition and relocation policy, fair housing plan, procurement policy, housing assistance plan, etc.). These policies will be reviewed during the site visit prior to execution of the Award Agreement.
5. Comply with the Intergovernmental Coordination and Review (Clearinghouse Review) process outlined below.
  - (a) Mail one copy of the Application to the Florida State Clearinghouse, Department of Environmental Protection, Commonwealth Building, Tallahassee, Florida 32399.
  - (b) A transmittal letter should accompany the materials requesting that the Clearinghouse send copies of any correspondence to the Applicant and to the Department of Community Affairs.
6. Submit one copy of the Application to the Regional Planning Council that serves the jurisdiction(s).
7. Submit one copy of the Application to the State Historic Preservation Office, Florida Department of State, 500 South Bronough Street, Tallahassee, Florida 32399-0250.
8. Begin now to collect the documentation for HUD's environmental review process. Technical assistance resources are available online at [www.Floridacommunitydevelopment.org/cdbg/environmental](http://www.Floridacommunitydevelopment.org/cdbg/environmental).

#### **I. APPLICANT INFORMATION FORM**

Under Applicant Information, provide general information relating to the State recipient of the funds (the Applicant), including legislative districts, and person(s) or organization that assisted with the preparation of the application.

Indicate whether or not the jurisdiction(s) or neighborhood(s) to be served are located in a flood plain. Also, indicate whether or not compliance with federal and state historic preservation standards may be applicable. Flood plain and historic preservation issues will need immediate attention once an Award Agreement is executed by the Department.

#### **II. APPLICANT'S NEIGHBORHOOD STABILIZATION PLAN**

Applicants must prepare an overall narrative description of the plan to utilize NSP funds to address abandoned and foreclosed properties in areas of greatest need. The information should specify where there are a large number of abandoned or foreclosed properties and whether or not the area identified will be addressed. If another target area is selected, the Applicant must explain why the use of the funds in such area will make a more meaningful impact. The Plan should describe all activities that are proposed to be undertaken, sources of any other funds (such as SHIP, CDBG, local general revenue, etc.) that will be used with State NSP funding, and where possible what parties the Applicant will work with to implement the Plan.

#### **III. NSP STRATEGY**

As noted in the NSP Strategy descriptions in the application, each activity addresses either homeownership or rental OR both homeownership and rental. Keep this in mind as you plan your project. All activities must meet the national objective of providing benefit to low, moderate and middle income persons as described in the Federal

Register Notice and must be directly related to the Applicant's overall plan to address foreclosed and abandoned housing.

The state will restrict the amount of funding allocated to land banking to 10 percent of the overall allocation, excluding the funds set aside for rental housing for low income persons.

For each of the NSP strategies you plan to undertake, provide:

- ∇ The total NSP Budget that will be allocated for the strategy.
- ∇ A justification for selecting the target area and why you propose to undertake the NSP strategy. (This justification should be somewhat different for each strategy.)
- ∇ If known, potential Nonprofit or For-Profit Subrecipients (including Property Management Companies), Potential Lending Partners, and Potential Counseling Agencies.
- ∇ A tentative timeline that, in general, reflects the start dates for each of the activities that will be conducted under the particular NSP strategy.
- ∇ Proposed accomplishments and beneficiaries by income level.
- ∇ A description of any unmet need that you wish to be taken into consideration should recaptured funds from another grantee or program income be made available for persons at or below 50 percent AML.

Please note that NSP Strategy #5 includes the 25 percent set-aside for rental housing. Provide the amount of funds that will be used for rental housing from the regular allocation and include the amount of the set-aside allocated to the Applicant.

Overall program administration costs cannot exceed 6.8 percent of the allocation. All activity delivery costs should be included in the non-administration activity (i.e. rehabilitation, acquisition, disposition, etc.) and should not be reflected as overall program administration.

Be sure that the information entered on the budget forms corresponds to the narrative pages.

#### **IV. ASSURANCES, CERTIFICATIONS AND SIGNATURE**

This section includes a list of federal regulations, certifications of documentation, and other assurances required for submission with this application. The local government jurisdiction must certify the validity and availability of statements and data contained within the application. Applications must contain original signatures of the Chief Elected Official or individual authorized by resolution to sign on behalf of the local government. If applicable, submit a copy of the resolution.

## ATTACHMENT A

### BUDGET, PROPOSED ACCOMPLISHMENT AND BENEFICIARIES INSTRUCTIONS

Each Recipient must submit a project budget and proposed accomplishments and beneficiaries for each activity undertaken. This information should be provided on an Attachment A - Activity Form.

ATTACHMENT A – Activity and Budget Summary: This form should reflect the total budget (and related information) for all activities.

- Activity – enter specific activities to be carried out on the appropriate Activity form. After all forms have been completed, summarize the information on the Attachment A - Activity and Budget Summary.
- Accomplishments – Enter the unit of measure and estimated number of units to be addressed.
- Beneficiaries – Enter the estimated number of low, moderate and middle income beneficiaries as required for the activity.
- Budget – Enter the amount of NSP funding that will be allocated to the activity. Enter the amount budgeted for overall program administration separately (this amount should not include project delivery costs). Enter the amount of other funds that will be allocated to the activity and identify the source of the other funding.
  - Please note that Strategy 5 and the Summary require that you identify the total amount of NSP funding for activities that will benefit persons at or below 50% AMI

### INSTRUCTIONS FOR PREPARING AN ESTIMATED PROJECT BUDGET

The “Cost Standard Used” to estimate project costs will be reviewed by the Department for reasonableness. The Department reserves the right to request justification of the cost reasonableness of any budgetary item. If the Applicant cannot justify a cost, the Department will reduce the line item budget prior to entering into a contract. If the Applicant wishes to be reimbursed for the cost of preparing the application, the eligibility of the expense must be documented. To be an eligible expenditure, the following requirements apply:

- The Preparer must have been procured pursuant to 24 CFR Section 85.36, as it existed on the day of advertising for the Request for Proposals.
- If the Recipient’s staff prepared the Application, or if the staff of another governmental agency was selected pursuant to Chapter 287, *Florida Statutes*, the Recipient may seek payment only for direct costs incurred as part of the grant proposal preparation.
- Invoices or other documentation to justify the amount requested must also be included. The Department will review this procurement or expense, and if it determines that the procurement process or contracting process was not carried out correctly, or the expense is ineligible, the Department will disallow the expense.

## ATTACHMENT B

### HOUSING ASSISTANCE PLAN INSTRUCTIONS

A Housing Assistance Plan must accompany the application, and the following criteria must be marked or highlighted for easy location by Department staff during the application review. The Housing Assistance Plan must address at least the following items:

#### Type of Assistance

The terms and conditions under which assistance will be provided.

The process for soliciting, accepting, reviewing and approving requests for assistance, including any proposed geographic distribution. The following should be addressed:

1. A process to notify members of the local governing body of the names of the beneficiaries selected to ensure that potential conflicts of interest are timely addressed.
2. Establishes a formal written notification process that advises when a previously selected housing unit is deleted from the rehabilitation program.
3. A process for soliciting assistance which includes a reasonable notice or advertisement in the community that specifies the following:
  - Where individuals can gain access to an application, if applicable;
  - The period during which applications will be received, if appropriate;
  - Criteria for selection;
  - A ranking/scoring process with higher points given for extenuating circumstances, and
  - Whether or not the local government will assist in the acquisition and rehabilitation of foreclosed or abandoned mobile homes, modular homes or other forms of manufactured housing.

Types of insurance (fire, casualty, flood etc.) that will be required, at what points in time the insurance must be in effect, and length of time after administrative closeout of the grant that it must be maintained.

#### Rehabilitation Standards

The process for determining what work must be done on each housing structure acquired and rehabilitated with NSP funds to ensure that upon completion, the housing unit will meet all of the following standards:

1. HUD Section 8 Housing Quality Standards (24CFR982.401)
2. Local zoning ordinances
3. State of Florida Building Code
4. Local building code
5. Modern, green building and energy-efficiency improvements
6. Florida Energy Efficiency Code for Building Construction (Newly Constructed Housing)
7. Accessibility requirements of 24 CFR Part 8, 24 CFR 100.201, and 24 CFR 100.205
8. For manufactured housing, 24 CFR Part 3280 (Preempts state and local codes covering the same for manufactured housing)

A process to ensure that before initiation of housing rehabilitation, the property on which the unit is located meets other appropriate local codes (i.e., nuisance, trash, and other environmental or health codes).

The types of insurance (fire, casualty, flood etc.) that will be required, at what points in time the insurance must be in effect, and length of time after administrative closeout of the grant that it must be maintained.

The process for determining when the rehabilitation is completed, including final acceptance of a contractor's work and final inspection of a housing structure (example: Certificate of Occupancy issued by local building inspector).

A process for ensuring ownership of non-rental housing units by the occupying beneficiary, or the process for ensuring the legal status of the occupying beneficiary to encumber the property, and to provide permission for a contractor to undertake construction work on the housing unit.

The process that will be used to solicit contractors and assist in reviewing the contractor's performance including the following requirements:

1. Bids for rehabilitation or reconstruction of housing units must specify that they shall only be accepted from contractors licensed by the State of Florida, Department of Business and Professional Regulation.
2. The Contractor must agree in his or her bid and subsequent contract, that any change orders for rehabilitation or reconstruction of housing units which cumulatively exceed one thousand dollars (\$1,000) above the original contract amount, shall only be paid with CDBG funds if those change orders are to correct documented code violations based on a bonafide code violation report or to meet Section 8 Housing Quality Standards.
3. The Contractor must agree in his or her bid and contract that all change orders for NSP housing rehabilitation or reconstruction shall be approved by the contractor and a representative of the local government prior to any initiation of additional work based on that change order.

The process of determining the age of housing units to be addressed and the actions to take with the Bureau of Historic Preservation when addressing units more than 50 years old.

A lead-based paint abatement procedure to follow when addressing pre-1978 houses.

A procedure for addressing structures in the 100-year flood plain.

Specifies that the local government will document the completion of construction by ensuring that each housing unit case file shall contain the following information:

1. A statement from the contractor that all items on the initial work write-up as modified through change orders have been completed;
2. An acknowledgment that the housing unit meets the applicable local code and Section 8 Housing Quality Standards, signed and dated by the local building inspector;

This documentation shall be completed prior to the submission of the administrative closeout package and shall accompany the administrative closeout package when submitted to the Department; and

### **Rental Assistance**

For the acquisition and/or rehabilitation of rental housing structures with NSP funds, the policy must address the following:

1. Terms and conditions for providing assistance (i.e., loan or grant);
2. How ownership will be verified; and
3. What steps the local government will take to ensure that, after rehabilitation, NSP Assisted rental housing rehabilitation will meet or exceed the requirements established in 24 CFR 92.252(e) beginning after the structure is complete (period of continues affordability).

### **Acquisition/Purchase**

1. Ordering appraisal.
2. Negotiating contract with current owner. If owner accepts contract, the contract will then go to the

owner's lender for approval, which can take up to 3-4 months (this is a "short-sale," which means that the owners are delinquent in their mortgages and are trying to avoid foreclosure by asking their lender to accept less than they are owed). FYI: there are two mortgages on this property (\$94,850 and \$27,100).

3. Ordering environmental assessment (to make sure no hazardous materials on property, etc.).
4. Ordering survey (to make sure there are no encroachments).
5. Ordering title search (to make sure title is clear and no unresolved liens).
6. Handling the closing.
7. Establishes the conditions under which a housing structure will be demolished or converted to non-LMI housing structures.

#### **Disposition/Sale**

1. Marketing and locating prospective home buyer.
2. Taking a prospective home buyer from the waiting list that will be established to determine eligibility.
3. Establishes a formal written notification process that advises a homebuyer when a previously selected housing unit is deleted from the program.
4. Work with a local non-profit agency that will assist the prospective home buyer in obtaining mortgage financing.
5. Assist home buyer with down payment assistance, if applicable.
6. Terms of the mortgage.
7. If applicable, transfer property to non-profit agency.
8. Show house to prospective home buyers.
9. Handle the purchase agreement with home buyer.
10. Handle the sale to home buyer (including all paperwork required for sale).

#### **Homeownership Assistance**

1. Types of financing to be provided.
2. Terms of assistance.

#### **Homeownership Counseling**

Establishes process for providing the required eight hours of homeownership counseling as required under NSP. Counseling must be classroom style, individual (one on one) or a combination of both formats.

#### **Conflict of Interest**

Pursuant to 24 CFR Section 570.489 and Chapter 112.311-112.3143, *Florida Statutes*, address conflicts of interest by establishing a process for the following:

1. Identifying potential conflicts of interest (contractors as well as beneficiaries);
2. Acknowledging by name in the minutes of the Citizens Advisory Task Force and commission/council meetings so that previously unknown conflicts may be surfaced;
3. Making those conflicts publicly known along with the final rankings based on the criteria outlined in the local government's housing assistance plan;
4. Dealing with those conflicts on a local level; and
5. Requesting waivers of those conflicts when appropriate.

#### **Closeout Documentation**

The following data must be provided by housing unit and summarized by activity as part of the administrative closeout for each activity providing direct benefit (i.e., housing rehabilitation, temporary relocation, hookups, etc.):

1. Address of each housing unit acquired and/or rehabilitated with NSP funds, the date the construction or sale was completed on the housing unit, and the amount of NSP funds spent on that housing unit;
2. Whether the household is headed by a female, the number of handicapped persons in the household, the number of elderly persons in the household, and the LMMI status of the household;
3. The number of occupants in the household, categorized by sex; and
4. The racial demographics of the head of household by number (White, Black, Hispanic, Asian/Pacific Islander, or American Indian/Alaskan Native).

## INCOMPLETE APPLICATIONS

The information presented in the application will be considered the Applicant's plan to address foreclosed and abandoned properties with NSP funding. If a local government submits an application that is insufficient for the Department to determine whether or not it meets the intent as stated in the federal register notice, State Substantial Amendment to the 2008 Action Plan or other guidance provided by the Department, the local government will be asked to provide clarification or additional information. Such clarification or additional information must be received within 21 calendar days.

## OTHER REQUIREMENTS

Experience. If the Applicant does not have at least 5 years experience providing rental housing to the NSPLI target population, it must either partner with one or more local housing authorities or non-profit organization in the county with such experience or designate one to be the eligible applicant for supplemental funding.

Interlocal Agreement. If an Applicant will conduct public facility or infrastructure projects within the boundaries of another jurisdiction, an interlocal agreement must be submitted with the application for funds. Housing acquisition and disposition, including homeownership assistance and counseling, will not require an interlocal agreement.

Land Banking. Applicants that plan to use funds for land banking must develop a strategic plan for the acquisition, redevelopment and disposition of land banks purchased with NSP funds. The plan must be submitted as part of the Application and will be reviewed and approved prior to awarding NSP grant funds for this activity. All plans must incorporate a requirement that the land bank may not hold the property for more than ten (10) years without obligating the property for a specific NSP eligible activity. A land bank plan should address the following:

- (1) If awarding funds to a nonprofit for land banking, indicate what type of nonprofit and how you will determine their capacity to carry out the NSP requirements.
- (2) Describe in general terms how land bank properties will be acquired and temporarily managed. If possible, provide information on the tentative NSP target area.
- (3) Provide **detailed** information concerning when and how you will obligate the property for a specific, eligible redevelopment in accordance with NSP requirements.
- (4) Include a timeline that indicates the timeframe for acquisition, temporary management and redevelopment.

## TECHNICAL ASSISTANCE

List topics that you will need technical assistance on to administer the program within the given timeframe:

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  - Non Entitlement CDBG Grants In Hawaii
  - CDBG Insular Areas
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  - Neighborhood Stabilization
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- HUD news
- Homes
- Resources
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- Working with HUD
- Tools
  - Webcasts
  - Mailing lists
  - RSS Feeds
  - Help

## NSP Frequently Asked Questions

The following are links to Frequently Asked Questions divided by category.

[Information by State](#)

[Print version](#)

- [Acquisition & Relocation](#)
- [Action Plan Amendments](#)
- [Affordability Requirements](#)
- [Demolition](#)
- [Distribution of Funds](#)
- [DRGR](#)
- [Eligible Use Scenarios](#)
- [Environmental Review](#)
- [Financing Mechanisms](#)
- [Formula Allocation](#)
- [Homeownership Counseling](#)
- [Land Banks](#)
- [25% Low-Income Set-Aside](#)
- [NSP Information Sessions](#)
- [Program Administration](#)
- [Program Income](#)
- [Prorating NSP Funds](#)
- [Public Facilities](#)
- [Public Housing](#)
- [Purchase Discount](#)
- [Redevelopment](#)
- [Regulatory Information](#)
- [Rehabilitation Standards](#)
- [State Distributions](#)
- [Tax Liens](#)
- [Timeliness of Use & Expenditure of NSP Funds](#)

[View all Frequently Asked Questions.](#)

- o [Complete List](#)

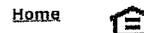
Content current as of 5 December 2008

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U.S. Department of Housing and Urban Development  
 451 7th Street S.W., Washington, DC 20410  
 Telephone: (202) 708-1112 TTY: (202) 708-1455  
[Find the address of a HUD office near you](#)



## LAND BANKS

*Updated 12/5/08*

**Can land banking include purchasing a foreclosed or abandoned property that has a structure on it or does the property have to be vacant land?**

As stated in the statute “[NSP funds can be used to] establish land banks for homes that have been foreclosed.” Therefore, in order to acquire property for land banking purposes, the property must have a structure on it.

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**Condensed Title:**

A resolution approving on 1st Reading a 2<sup>nd</sup> Addendum to the Development Agreement between the City and the New World Symphony (NWS), approving the final Garage Budget in the amount of \$16,798,000, amending the Preliminary Park Budget from \$14,960,000 to \$13,372,000 and modifying certain provisions in the Development Agreement and the First Addendum pertaining to the Garage and the Park as noted in the following summary.

**Key Intended Outcome Supported:**

Increase community rating of cultural activities and ensure well maintained facilities.

**Supporting Data (Surveys, Environmental Scan, etc.):** While a majority of residents say that the City has the right amount of cultural activities, approximately 30% of those surveyed say there are too few cultural activities. The NWS Project will significantly enhance the City's attraction as a cultural destination.

**Issue:**

Shall the City Commission approve the proposed 2<sup>nd</sup> Addendum to the Development Agreement between the City of Miami Beach and the NWS?

**Item Summary/Recommendation:**

Pursuant to the provisions set forth in the Development Agreement between the City and NWS and the 1<sup>st</sup> Addendum thereto, dated February 20, 2007, NWS is required to secure the City's approval of the Final Garage Budget prior to NWS entering into a Guaranteed Maximum Price ("GMP") contract with a contractor to construct the Garage. In accordance with these provisions, NWS and Hines conducted an RFP process which resulted in the selection of KVC Construction, Inc., (KVC) as the lowest and most responsive bidder. KVC's proposal to build a garage, containing over 500 parking spaces came in at \$20,789,459, exceeding the not-to-exceed Preliminary Budget set forth in the First Addendum by \$5,579,324. Pursuant to direction of the Finance Committee on February 11, 2009, NWS and Hines proceeded to reduce the proposed cost of the Garage to \$16,798,000, for a difference of \$1,588,000 from the Preliminary Budget allocation. The revised cost was present to the Finance Committee on March 10, 2009. It was also reported that since Gehry Partners would not lower their fees for the design of the Park, NWS and Hines recommended that the City consider an alternative design professional for the Park. The resulting savings could be moved from the Park Budget to fund the projected difference in the Final Garage Budget, without any reduction in scope to the proposed Park.

The Administration is recommending a 2<sup>nd</sup> Addendum to the Development Agreement, generally providing for the following modifications to the Development Agreement and the 1<sup>st</sup> Addendum: modifying the definition of "Garage" to state that the Garage will have approximately 535 parking spaces, but no less than 520 parking spaces; approving the Final Garage Budget in the amount of \$16,798,000; approving the Design-To Park Budget in the amount of \$13,372,000; waiving the "Key Man" requirement for Gehry Partners, LLC., to design the Park component; authorizing NWS to proceed in selecting an Architect and/or Architectural Consultant for the Park project pursuant to a competitive process approved by the City Manager, and approval by the City Commission of the recommended Architect and/or Architectural Consultant; providing for the City Commission to determine at the time of the Park Concept Plan approval, to decide whether or not to place the architectural treatment on the east façade of the Garage; and providing that the Final Garage Budget will not include funding for the two (2) elevators in the middle of the Garage (on the East side), having a construction value of \$275,000, which shall be funded at the sole cost and expense of NWS. In addition, given the time requirements of the Project, NWS should be authorized to proceed with design/engineering of the Garage upon approval of the 1<sup>st</sup> Reading of the Second Addendum.

**Advisory Board Recommendation:**

Finance & Citywide Projects Committee, Feb 11, 2009 & Mar 10, 2009: Recommendation in favor of proposed modifications to the Development Agreement and 1st Addendum as noted above.

**Financial Information:**

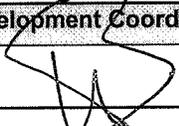
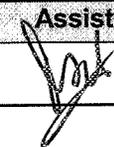
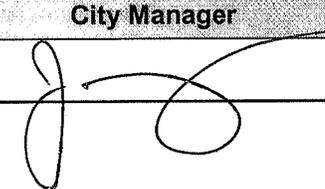
Source of Funds:	Amount	Account	Approved
OBPI	Total 1,588,000		

**Financial Impact Summary:** The difference between the Preliminary Garage Budget and the Final Garage Budget in the amount of \$1,588,000 is being proposed to be funded from the FY 2009/10 appropriation for the Park, thereby reducing the overall Park Budget from \$14,960,000 to \$13,372,000. No new appropriation of funding is required, just a reallocation from planned future capital appropriations.

**City Clerk's Office Legislative Tracking:**

Kent O. Bonde, Redevelopment Coordinator

**Sign-Offs:**

Redevelopment Coordinator	Assistant City Manager	City Manager
		





# 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

FIRST READING  
PUBLIC HEARING

DATE: March 18, 2009

**SUBJECT: A RESOLUTION OF THE MAYOR AND CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA, APPROVING ON FIRST READING, IN ACCORDANCE WITH THE REQUIREMENTS OF SECTIONS 163.3220 – 163.3243, FLORIDA STATUTES, ALSO REFERRED TO AS THE “FLORIDA LOCAL GOVERNMENT DEVELOPMENT ACT”, A SECOND ADDENDUM (“SECOND ADDENDUM”) TO THE DEVELOPMENT AGREEMENT BETWEEN THE CITY OF MIAMI BEACH (“CITY”) AND THE NEW WORLD SYMPHONY (“NWS”), DATED JANUARY 5, 2004 (THE DEVELOPMENT AGREEMENT), AS AMENDED BY THAT CERTAIN FIRST ADDENDUM TO DEVELOPMENT AGREEMENT, DATED FEBRUARY 20, 2007 (THE FIRST ADDENDUM) (COLLECTIVELY, THE JANUARY 5, 2004 DEVELOPMENT AGREEMENT AND THE FIRST ADDENDUM MAY ALSO COLLECTIVELY BE REFERRED TO AS THE “NWS DEVELOPMENT AGREEMENT”); SAID SECOND ADDENDUM PROVIDING FOR THE FOLLOWING: 1) APPROVAL OF THE FINAL GARAGE BUDGET, IN THE AMOUNT OF \$16,798,000; 2) AMENDING THE PRELIMINARY PARK PROJECT BUDGET FROM \$14,960,000, TO \$13,372,000; 3) DELETING THE REFERENCE IN THE FIRST ADDENDUM SPECIFYING GEHRY PARTNERS, LLC, AS THE ARCHITECTURAL CONSULTANT FOR THE PARK PROJECT, AND ALSO WAIVING THE REQUIREMENT UNDER SECTION 26.20 OF THE DEVELOPMENT AGREEMENT (“KEY MAN” CLAUSE) AND SECTION 9 OF THE FIRST ADDENDUM BUT ONLY AS IT PERTAINS TO GEHRY PARTNERS, LLC’S PARTICIPATION AS THE ARCHITECTURAL CONSULTANT FOR THE PARK PROJECT; 4) AUTHORIZING NWS TO PROCEED WITH THE SELECTION OF A NEW ARCHITECTURAL CONSULTANT AND/OR ARCHITECTURAL ENGINEERING (A/E) FIRM FOR THE DESIGN OF THE PARK PROJECT, WITH NWS’S SELECTION PROCESS THEREFORE SUBJECT TO THE PRIOR WRITTEN APPROVAL OF THE CITY MANAGER (PRIOR TO IMPLEMENTATION BY NWS); 5) IN CONJUNCTION WITH THE CITY COMMISSION’S FUTURE CONSIDERATION AND REVIEW OF THE PARK PROJECT CONCEPT PLAN, DIRECTING NWS TO ALSO, AT THAT TIME, BRING TO THE CITY COMMISSION, FOR REVIEW AND CONSIDERATION, THE PENDING ISSUE OF WHETHER TO ADD CERTAIN ARCHITECTURAL TREATMENTS (AS DISCUSSED AT THE CITY’S FINANCE COMMITTEE MEETING ON MARCH 10, 2009 AND INCLUDING, WITHOUT LIMITATION, THE STAINLESS STEEL MESH AND LED LIGHTING) FOR THE EAST FAÇADE ELEVATION OF THE NWS GARAGE, WITH THE FINAL DECISION ON WHETHER TO ADD SUCH TREATMENTS TO BE SUBJECT TO THE APPROVAL OF THE CITY COMMISSION AT THAT TIME; 6) AMENDING**

**SECTION 23.2.1 OF THE DEVELOPMENT AGREEMENT (“GARAGE”) DELETING THE REFERENCE THAT THE NWS GARAGE ACCOMMODATE APPROXIMATELY 320 CARS AND, FURTHER, AMENDING THE DEFINITION OF “GARAGE” IN SECTION 2(j) OF THE FIRST ADDENDUM TO INCLUDE THAT THE GARAGE, AS CONTEMPLATED BY THE PARTIES, SHALL CONTAIN APPROXIMATELY 535 SPACES (BUT NO LESS THAN 520 SPACES) AND SHALL BE DESIGNED, DEVELOPED, AND CONSTRUCTED BY DEVELOPER IN ACCORDANCE AND CONSISTENT WITH THAT CERTAIN ORDER OF THE CITY’S DESIGN REVIEW BOARD (FILE NO. 22010), APPROVED ON MARCH 3, 2009; AND 7) THAT THE FINAL GARAGE BUDGET WILL NOT INCLUDE FUNDING FOR THE TWO (2) ELEVATORS IN THE MIDDLE OF THE GARAGE (ON THE EAST SIDE), AND HAVING A CONSTRUCTION VALUE OF \$275,000, WHICH HAVE BEEN DESIGNED TO PRIMARILY ACCESS NWS’ BUILDING, HOWEVER, SAID ELEVATORS WILL BE INCLUDED IN THE GARAGE AND FUNDED AT THE SOLE COST AND EXPENSE OF NWS; AND FURTHER AUTHORIZING NWS TO PROCEED WITH DESIGN AND ENGINEERING OF THE GARAGE UPON APPROVAL OF FIRST READING OF THE SECOND ADDENDUM OF THE DEVELOPMENT AGREEMENT.**

**Administration Recommendation**

Adopt the Resolution.

**Funding**

Pursuant to the City’s Capital Plan, the balance of funding for the Park component, in the amount of \$13,910,000 is anticipated to be appropriated as part of the FY 2009/10 Capital Budget, to be funded from City Center Redevelopment Agency TIF. The Administration is recommending to fund the difference between the Preliminary Garage Budget and the Final Garage Budget in the amount of \$1,588,000 from the FY 2009/10 appropriation for the Park, thereby reducing the overall Park Budget from \$14,960,000 to \$13,372,000.

**Background**

On January 5, 2004, the City of Miami Beach (City) and the New World Symphony (NWS), entered into a Development Agreement and Ground Lease Agreement (the Agreements), providing for design, development and construction of an educational performance and internet broadcast facility and exterior screen (formally known as “Soundspace”) and a public parking garage to be located on the westernmost portion of the 17<sup>th</sup> Street surface parking lots, bounded by 17<sup>th</sup> Street to the north; North Lincoln Lane to the south; Drexel Avenue to the east; and Pennsylvania Avenue to the west. Pursuant to the direction of the City Commission on September 8, 2004 and consistent with the Planning Board’s August 24, 2004 recommendation, the Project site was expanded east to Washington Avenue to include both surface lots, to be designed as an integrated site, to include the development of a Park and certain other public improvements.

The Agreements have NWS serving as the Developer of the site and, in this capacity; NWS enters also into separate agreements with its vendors to plan, design, and construct the Garage and the Park on the City’s behalf. The City is obligated to provide funding for these improvements upon approval of the scope of work and budgets for each.

On February 20, 2007, the City and NWS executed the First Addendum to the Development Agreement (First Addendum) that established the City's Preliminary Budgets for the Garage Project and the Park Project and established a \$15 million Grant-in-Aid for the NWS building. The Preliminary Garage Budget was established as \$15,210,135, and the Preliminary Park Budget was established as \$14,960,000.

The First Addendum requires that NWS secure City approval of the Final Garage Budget prior to NWS entering into a Guaranteed Maximum Price ("GMP") contract with a contractor to construct the Garage. NWS has advised the City that it is ready to proceed with the Garage design/build contract.

### **Architectural Consultant Criteria**

The Development Agreement and the First Addendum contain language that names "Gehry Partners, LLC", as the Architectural Consultant for the Project (including the Garage and the Park components). A considerable amount of importance was placed on having the entire project site developed in accordance with the "single design vision of the Architectural Consultant...". The City and NWS agreed that a "Gehry" designed Project (including Garage and Park) was a material and integral part of the development of the site. In deciding that a "Gehry" design was a material element, the City Commission carefully considered the potential financial costs attached to making the Architectural Consultant a material requirement.

The firm "Gehry Partners, LLC" is an architectural company created by Frank O. Gehry. The services of Mr. Gehry and his firm, Gehry Partners, are in demand throughout the world. Mr. Gehry is particularly known for the Guggenheim Museum in Bilbao, Spain; the Millennium Park in Chicago; the Walt Disney Concert Hall in downtown Los Angeles; the Experience Music Project in Seattle; the Weisman Art Museum in Minneapolis; the Dancing House in Prague, Czech Republic; and his private residence in Santa Monica, California. His work is often sought by owners to distinguish themselves from others, as the buildings that he designs become tourist attractions in and of themselves.

The projects designed by Gehry Partners are considered to be world class facilities. This type of distinction, which carefully and uniquely combines art with function is, by its nature, higher in expense than a typical municipal project. The firm is able to command a premium in fees, and the projects that are designed by them are high end products with a commensurate premium in the cost of construction. In approving the First Addendum, the City Commission considered the premium that went with making a Gehry design a material element, and determined that the distinctive value of the end product, a world class design, was worth the premium cost of design and construction.

### **The Garage Project**

From the inception of the Project, the Garage has been an integral component. The Project site, including the Park and the Garage, was previously two (2) City surface parking lots that contained just over 500 parking spaces. Throughout the course of the Project's development, the City Commission has taken the position that the Project should not result in a net loss of parking spaces. For this reason, the Project has consistently contemplated a Gehry designed Garage containing 500 to 600 parking spaces.

The First Addendum increased the total Preliminary Garage Budget from approximately \$7 million, to \$15,210,135, for 608 spaces, and including the City Code required retail component on the ground floor. The Preliminary Garage Budget provided by NWS and approved by the City Commission in the First Addendum was generally divided as follows:

Total Architectural/Engineering Cost	\$1,511,000
Total Construction Cost	\$12,106,000
Total Site Cost	\$650,680
Total Tax/Insurance Cost	\$215,608
Total Owner Expenses	\$10,000
Total General/Admin Costs	\$568,755
Total Contingency Cost	\$148,092
<b>Total Project Cost</b>	<b>\$15,210,135</b>

The First Addendum anticipated a potential change between the Preliminary Garage Budget and the Final Garage Budget, and therefore requires NWS to bring back its Final Garage Budget, for consideration and potential approval by the City Commission. As of March 10, 2009, NWS advised the City that it is prepared to present a Final Garage Budget.

Since execution of the First Addendum on February 20, 2007, NWS has proceeded with both the construction of the NWS building (now known as the "NWS Campus Expansion") as well as the conceptual design for the Garage with Gehry Partners. The recommended and approved process (in large part to help limit the design fees) was to have Gehry Partners do the conceptual design and obtain Design Review Board approval. Currently, the conceptual design has been bid to design/build contractors, and the selected contractor and its design professional will be responsible for finishing the design and engineering in accordance with the DRB approved conceptual plans (when that occurs), and then construct the Garage. The selected design/build contractor is contemplated to be a sub-contractor of the NWS Campus Expansion, general contractor, Facchina McGaughan, LLC.

**Schedule**

Successful completion of the Garage is on the same Critical Path as for completion of the NWS Campus Expansion building, for two reasons: (1) The electrical power vaults for both the Campus Expansion building and the Garage are located within the Garage. At this point, permanent power cannot be provided to the Campus Expansion building without the Garage commencing construction. In order to meet the Critical Path for the Campus Expansion building, final engineering for the Garage would need to commence by the beginning of April 2009 (at the latest); and (2) Pursuant to Resolution No. 2007-26704, the City Commission approved a temporary license agreement for NWS to count 175 parking spaces within the proposed Garage to meet its City Code required parking for a period of five (5) years from the date of Certificate of Occupancy (C.O.) of the Campus Expansion building. This requires that the Garage be constructed and open in order for a C.O. to be granted on the Campus Expansion building. After five (5) years, NWS would need to provide for its 175 Code-required parking spaces at an alternate location.

As soon as approval from the City Commission is obtained, NWS can hire the design/build contractor (Facchina McGaughan) and finalize the design and initiate the permitting and construction of the site. If this schedule is met, then completion of the Garage is projected to be August/September 2010.

## **Park**

The planning effort for the Park has not yet officially commenced. Up until March 1, 2009, NWS was still in negotiations with Gehry Partners regarding the proposed design services and fees for this component. The Preliminary Park Budget in the First Addendum is \$14,960,000.

## **Total Project Funding**

The allocated funding for the NWS Project comes from City Center RDA funds. The funding approved by the City is as follows:

Garage (FY 09)	\$15,210,135
Additional Improvements (FY 08)	\$6,400,000
Park (Design FY 09/Const FY 2010)	\$14,960,000
Grant in Aid (FY 2010)	\$15,000,000
<b>Total Funding Commitment</b>	<b>\$51,570,135</b>

As noted above, the funding commitments for the Garage, the Additional Improvements, and the design for the Park have already been appropriated by the City Commission.

The funding commitment for the construction of the Park and for the Grant-in-Aid will be due as of October 1, 2009.

## **Finance and Citywide Projects Committee – February 11, 2009**

At the February 11, 2009 FCWPC Meeting, the status of the proposed Garage and of the Park were discussed. The Committee was generally advised that the Garage budget at that time was over the allocated amount. NWS also advised that no Agreements had been executed with Gehry Partners to design the Park and that the negotiations regarding the Park were ongoing. Based on the information from this meeting, the Committee made the following requests and recommendations:

- 1) For NWS/Hines to continue to work with the low bidder(s) for the proposed Garage and to continue to reduce the proposed cost of the Garage;
- 2) For NWS, and specifically, Michael Tilson Thomas, to contact Frank Gehry directly and see if the design fees for the Park portion of the Project can be brought to within \$1.5 million with Gehry Partners remaining as the Architect or Architectural Consultant;
- 3) If it is determined that Gehry Partners cannot be retained on the Park Project within the design fee target identified by the City, then the FCWPC requested that NWS/Hines work with City staff to determine if a high end urban park can be designed and built to compliment the Gehry designed Campus Expansion building for the identified construction budget of \$8.5 million with an alternative designer.
- 4) For NWS/Hines to proceed to the March 3, 2009 Design Review Board Meeting with the proposed Gehry designed Garage to see if DRB Approval for

the proposed Garage, with certain design alternatives, such as the elimination of the stainless steel mesh and LED lighting on the eastern façade, would be approved.

- 5) For NWS/Hines to identify an alternative that would allow for the Park to be designed, permitted, and constructed in time for the planned Grand Opening of the new Campus Expansion building in winter 2010/2011.

**Finance and Citywide Projects Committee – March 10, 2009**

At the March 10, 2009 FCWPC meeting, the following information was provided:

The NWS/Hines development team has selected a low bidder for the Garage. The low bidder for the Garage is a local company doing business as KVC Construction (KVC). The principals of KVC are Miami Beach residents and, although not related, currently have a contract with the City as the Construction Manager at Risk for the Scott Rakow Youth Center project.

As of the February 11, 2009 FCWPC Meeting, the cost projected for the proposed Garage was as follows:

Total Architectural/Engineering Cost	\$2,255,612
Total Construction Cost	\$16,235,372
Total Site Cost	Included in Construction Cost
Total Tax/Insurance Cost	\$331,500
Total Owner Expenses	\$0
Total General/Admin Costs	\$977,000
Total Contingency Cost	\$989,974
<b>Total Project Cost</b>	<b>\$20,789,458</b>

The current proposed Garage costs as of March 11, 2009 by NWS/Hines are:

Total Architectural/Engineering Cost	\$2,155,612
Total Construction Cost	\$13,132,888
Total Site Cost	Included in Construction Cost
Total Tax/Insurance Cost	\$181,500
Total Owner Expenses	\$0
Total General/Admin Costs	\$578,000
Total Contingency Cost	\$750,000
<b>Total Project Cost</b>	<b>\$16,798,000</b>

At the current proposed total cost of \$16,798,000, the projected amount over the contractually allocated \$15,210,135 is \$1,587,865 (for purposes of the 2<sup>nd</sup> Addendum, this amount has been rounded up to \$1,588,000). KVC's design/build proposal projects approximately 535+ parking spaces, although the final count will not be known until the full engineering and permitting effort is completed.

The proposed Garage received approval by the DRB at the March 3, 2009 meeting. The DRB approval calls for the stainless steel mesh on 3 sides of the structure with the proposed LED lights. The DRB Order does not include the façade treatment on the eastern elevation, but does allow for it if funds become available to add the treatment at a future date.

Update on Park Agreement with Gehry Partners

NWS advised the City that Michael Tilson Thomas discussed the proposed Park fees with Frank Gehry over the February 28/March 1, 2009 weekend. NWS advised the City that Gehry Partners will not lower their requested fees.

Proposed Park Status and Potential Alternatives

NWS/Hines is proposing that the City consider an alternative design professional for the Park, such as a well-known Landscape Architect. NWS/Hines has advised the City that it has had initial discussions with several firms since the February 11, 2009 FCWPC meeting and believes that the design costs for the park can be substantially reduced from the Gehry Partners proposed fee.

Presently, NWS/Hines is proposing to the City that if the design professional is changed, then the projected shortage to the Garage can be moved from the Park project without any reduction in scope to the proposed Park. NWS/Hines has advised the City that the current Park construction budget can be increased under the NWS proposal described above. The previous Park budget, as of February 11, 2009 was:

Total Architectural/Engineering Cost	\$4,662,800
Total Construction Cost	\$8,628,600
Total Tax/Insurance Cost	\$300,000
Total Owner Expenses	\$300,000
Total General/Admin Costs	\$878,600
Total Contingency Cost	\$190,000
<b>Total Project Cost</b>	<b>\$14,960,000</b>

The proposed Park Budget by NWS/Hines is summarized below for a 535+ space Garage, if the Park design professional is changed:

Total Architectural/Engineering Cost	\$1,500,000
Total Construction Cost	\$10,344,000
Total Tax/Insurance Cost	\$300,000
Total Owner Expenses	0
Total General/Admin Costs	\$578,000
Total Contingency Cost	\$650,000
<b>Total Project Cost</b>	<b>\$13,372,000</b>

Under this proposal from NWS/Hines, the NWS would meet its commitments to provide a 500 to 600 space parking garage and a high end urban park to compliment the total campus site and remain within the overall contractual amounts for the Project. It does require the City

Commission to approve the transfer of dollars between budgets (\$1,588,000) within the current NWS Development Agreement, as well as removing the Gehry "key man" requirement for the Park design. This proposal would also increase the construction budget for the Park by approximately \$1.7 million above the current allocation.

### Park Schedule

The schedule for the Park is largely dependent upon how the City elects to proceed at this point. If Gehry Partners is maintained as the Park Project consultant, then the current Development Agreement allows for a Planning and Design phase of 18 months, followed by a construction period of 12 months. If this schedule is met, then the opening of the Park would be 30 months from the time that Park notice to proceed is issued to Gehry Partners. If this were to be done on May 1, 2009, then the proposed opening date would be around November 2011.

If the decision is made to proceed with an alternative design professional to Gehry Partners, then the timeline would be directly affected by the selection process required by the City. A full City procurement process for an alternative design professional would take at least 4 months. The projected Planning and Design period is 12 months, followed by a 12 month construction period. Under this scenario, assuming authorization to proceed is granted by May 1<sup>st</sup> 2009, the projected opening date for the Park would be September 2011.

Alternatively, if the City authorized NWS/Hines to select an alternative design professional, then this timeline may be reduced by as much as 60 to 120 days.

In any event, depending upon the quality of the design professional, it may be possible to shorten both the design and construction timelines; however, staff is not prepared to adjust these timelines until a design professional is selected.

### **Proposed Second Addendum to the Development Agreement**

Based on the above, and pursuant to the recommendation of the FCWPC, the City Administration is recommending that the City Commission consider a Second Addendum to the Development Agreement to memorialize the changes to the Development Agreement and the First Addendum requested by New World Symphony. Although more specifically delineated above, NWS is requesting the following changes be considered by the City Commission:

- 1) The definition of Garage will be modified to specifically state that the Garage will have approximately 535 parking spaces, but no less than 520 parking spaces; and
- 2) Approving the Final Garage Budget in the amount of \$16,798,000; and
- 3) Approving the Design To Park Budget in the amount of \$13,372,000; and
- 4) Waiving the "Key Man" requirement for Gehry Partners, LLC., to design the Park component under the Development Agreement; and
- 5) Authorizing NWS to proceed in selecting an Architect and/or Architectural Consultant, or both, for the Park project, pursuant to a competitive process approved by the City Manager, and with a reservation that the City Commission

must approve the recommended Architect and/or Architectural Consultant; and

- 6) The City Commission, may, in its sole and absolute discretion, determine at the time of Concept Plan approval for the Park, whether or not to place the architectural treatment (i.e., stainless steel mesh and LED lighting) on the east façade of the building; and
- 7) The Final Garage Budget will not include funding for the two (2) elevators in the middle of the Garage (on the East side), and having a construction value of \$275,000, which have been designed to primarily access NWS' Building; however, said elevators will be included in the Garage and funded at the sole cost and expense of NWS.

The proposed Second Addendum has the same force and effect of the original Development Agreement and the First Addendum. The purpose of the proposed Addendum is to formalize the agreement of the parties of the above noted items, as well as to clarify the intent of the parties in some areas of the previous Agreements.

### **Disputed Items**

The Second Addendum to the Development Agreement is essentially agreed to by staff and New World Symphony with one exception.

At the March 10, 2009 FCWPC Meeting, the recommendation of the Committee was for the Garage to have four (4) elevators. Two (2) of the elevators are to be paid by the City and two by NWS. The two NWS elevators are located in the middle of the Garage on the East elevation and serve primarily NWS patrons. The value of these two elevators is \$275,000. The elevators are appropriate to address the rush of attendees as functions in the facility begin or end.

The value of \$275,000, has been removed from the City's portion of the Final Garage Budget and the City's expectation is the NWS will separately fund these two elevators.

Subsequent to the March 10<sup>th</sup> meeting, NWS has advised the City that it will not fund these two elevators. NWS is recommending that these two elevators be removed from the Garage. If this is done, this would result in only two elevators for the Garage, one (1) in the Southwest corner, and the other in the Northeast corner.

### **Design for Garage**

Due to the timing of the Project, NWS would like to proceed with the design and engineering of the Garage as approved at the March 3, 2009 DRB Hearing. If the Second Addendum is approved by the City Commission on First Reading, I recommend that NWS be authorized to proceed with the design and engineering for the Garage.

The proposed Addendum is attached.

### **Conclusion**

As noted the Garage component is a critical piece of the overall development of the NWS campus. At the present time, it is appropriate to move forward with the Garage as

recommended by the FCWPC. The overall cost for the Garage is competitive for a Frank Gehry designed building and will provide an appropriate architectural companion to the Symphony Campus Expansion Building. The proposed transfer of funds from the Park Budget, combined with the waiver of the "Key Man" clause will result in a higher Park construction budget. It is possible to construct a well-designed and high end Urban Park for the \$10 million proposed.

The issue of the elevators for the NWS building is the only remaining issue in dispute between staff and NWS. The elevators will serve a necessary purpose during periods of entry or exit from events within the Symphony building and are appropriate given how the Garage is likely to be used. Since the elevators would serve primarily the NWS building, it is appropriate for NWS to fund same.

I recommend that the Commission approve on First Reading the Second Addendum as recommended by the FCWPC.

**Attachment**

T:\AGENDA\2009\March 18\Regular\New World Symphony 2nd Addendum MEMO2.doc

RESOLUTION NO. \_\_\_\_\_

A RESOLUTION OF THE MAYOR AND CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA, APPROVING ON FIRST READING, IN ACCORDANCE WITH THE REQUIREMENTS OF SECTIONS 163.3220 – 163.3243, FLORIDA STATUTES, ALSO REFERRED TO AS THE “FLORIDA LOCAL GOVERNMENT DEVELOPMENT ACT”, A SECOND ADDENDUM (“SECOND ADDENDUM”) TO THE DEVELOPMENT AGREEMENT BETWEEN THE CITY OF MIAMI BEACH (“CITY”) AND THE NEW WORLD SYMPHONY (“NWS”), DATED JANUARY 5, 2004 (THE DEVELOPMENT AGREEMENT), AS AMENDED BY THAT CERTAIN FIRST ADDENDUM TO DEVELOPMENT AGREEMENT, DATED FEBRUARY 20, 2007 (THE FIRST ADDENDUM) (COLLECTIVELY, THE JANUARY 5, 2004 DEVELOPMENT AGREEMENT AND THE FIRST ADDENDUM MAY ALSO COLLECTIVELY BE REFERRED TO AS THE “NWS DEVELOPMENT AGREEMENT”); SAID SECOND ADDENDUM PROVIDING FOR THE FOLLOWING: 1) APPROVAL OF THE FINAL GARAGE BUDGET, IN THE AMOUNT OF \$16,798,000; 2) AMENDING THE PRELIMINARY PARK PROJECT BUDGET FROM \$14,960,000, TO \$13,372,000; 3) DELETING THE REFERENCE IN THE FIRST ADDENDUM SPECIFYING GEHRY PARTNERS, LLC, AS THE ARCHITECTURAL CONSULTANT FOR THE PARK PROJECT, AND ALSO WAIVING THE REQUIREMENT UNDER SECTION 26.20 OF THE DEVELOPMENT AGREEMENT (“KEY MAN” CLAUSE) AND SECTION 9 OF THE FIRST ADDENDUM BUT ONLY AS IT PERTAINS TO GEHRY PARTNERS, LLC’S PARTICIPATION AS THE ARCHITECTURAL CONSULTANT FOR THE PARK PROJECT; 4) AUTHORIZING NWS TO PROCEED WITH THE SELECTION OF A NEW ARCHITECTURAL CONSULTANT AND/OR ARCHITECTURAL ENGINEERING (A/E) FIRM FOR THE DESIGN OF THE PARK PROJECT, WITH NWS’S SELECTION PROCESS THEREFORE SUBJECT TO THE PRIOR WRITTEN APPROVAL OF THE CITY MANAGER (PRIOR TO IMPLEMENTATION BY NWS); 5) IN CONJUNCTION WITH THE CITY COMMISSION’S FUTURE CONSIDERATION AND REVIEW OF THE PARK PROJECT CONCEPT PLAN, DIRECTING NWS TO ALSO, AT THAT TIME, BRING TO THE CITY COMMISSION, FOR REVIEW AND CONSIDERATION, THE PENDING ISSUE OF WHETHER TO ADD CERTAIN ARCHITECTURAL TREATMENTS (AS DISCUSSED AT THE CITY’S FINANCE COMMITTEE MEETING ON MARCH 10, 2009 AND INCLUDING, WITHOUT LIMITATION, THE STAINLESS STEEL MESH AND LED LIGHTING) FOR THE EAST FAÇADE ELEVATION OF THE NWS GARAGE, WITH THE FINAL DECISION ON WHETHER TO ADD SUCH TREATMENTS TO BE SUBJECT TO THE APPROVAL OF THE CITY COMMISSION AT THAT TIME; 6) AMENDING SECTION 23.2.1 OF THE DEVELOPMENT AGREEMENT (“GARAGE”) DELETING THE REFERENCE THAT THE NWS GARAGE ACCOMMODATE APPROXIMATELY 320 CARS AND, FURTHER, AMENDING THE DEFINITION OF “GARAGE” IN SECTION 2(j) OF THE FIRST ADDENDUM TO INCLUDE THAT THE GARAGE, AS CONTEMPLATED BY THE PARTIES, SHALL CONTAIN APPROXIMATELY 550 SPACES (BUT NO LESS THAN 535 SPACES) AND SHALL BE DESIGNED, DEVELOPED, AND CONSTRUCTED BY DEVELOPER IN ACCORDANCE AND CONSISTENT WITH THAT CERTAIN ORDER OF THE CITY’S DESIGN REVIEW BOARD (FILE NO. 22010), APPROVED ON MARCH 3, 2009; AND 7) THAT THE FINAL GARAGE BUDGET WILL NOT INCLUDE FUNDING FOR THE TWO (2) ELEVATORS IN THE MIDDLE OF THE GARAGE (ON THE EAST SIDE), AND HAVING A CONSTRUCTION VALUE OF \$275,000, WHICH HAVE BEEN DESIGNED TO PRIMARILY

**ACCESS NWS' BUILDING, HOWEVER, SAID ELEVATORS WILL BE INCLUDED IN THE GARAGE AND FUNDED AT THE SOLE COST AND EXPENSE OF NWS; AND FURTHER AUTHORIZING NWS TO PROCEED WITH DESIGN AND ENGINEERING OF THE GARAGE UPON APPROVAL OF FIRST READING OF THE SECOND AMENDMENT OF THE DEVELOPMENT AGREEMENT.**

**WHEREAS**, on January 5, 2004, the City of Miami Beach (City) and the New World Symphony (NWS), entered into a Development Agreement and Ground Lease Agreement (the Agreements), providing for design, development and construction of an educational performance and internet broadcast facility and exterior screen (formally known as "Soundspace" and now known as the "NWS Campus Expansion Project") and a public parking garage to be located on the westernmost portion of the 17<sup>th</sup> Street surface parking lots, bounded by 17<sup>th</sup> Street to the north; North Lincoln Lane to the south; Drexel Avenue to the east; and Pennsylvania Avenue to the west; and

**WHEREAS**, pursuant to the direction of the City Commission on September 8, 2004, and consistent with the Planning Board's August 24, 2004, recommendation, the Project site was expanded east to Washington Avenue to include both surface lots; and

**WHEREAS**, on February 20, 2007, the City and NWS executed the First Addendum to the Development Agreement (First Addendum) which further established the Parties' respective obligations (including processes, scopes for implementation, and estimated costs and budgets for the NWS Campus Expansion, the Garage, and also pertaining to certain Additional Improvements, Infrastructure Improvements, and the design, development and construction of a Park); and

**WHEREAS**, the First Addendum also established the City's Preliminary Budgets for the Garage Project at \$15,210,135, and the Park Project at \$14,960,000, and approved a \$15 million Grant-in-Aid for the NWS building; and

**WHEREAS**, throughout the course of the Project's development, the City Commission has consistently taken the position that the Project should not result in a net loss of parking spaces and has consistently contemplated a Frank Gehry designed Garage containing 500 to 600 parking spaces; and

**WHEREAS**, the First Addendum requires that NWS secure the City's approval of the Final Garage Budget prior to NWS entering into a Guaranteed Maximum Price ("GMP") contract with a contractor to construct the Garage; and

**WHEREAS**, NWS and Hines (NWS's Project Manager) conducted a proposal/solicitation process for a design/build contractor for the Garage, which resulted in the selection of KVC Construction, Inc., (KVC) as the lowest responsive bidder; and

**WHEREAS**, KVC's proposal to build the Garage (containing 550-562 parking spaces) came in at \$20,789,459, exceeding the Preliminary Budget set forth in the First Addendum (by \$5,579,323); and

**WHEREAS**, on February 11, 2009, the Finance and Citywide Projects Committee (the Committee) discussed KVC's proposal in the context of the overall Project; the costs involved; and the status and design of the Park; and

**WHEREAS**, the Committee requested that NWS and Hines continue working with KVC to reduce the proposed cost of the Garage; that NWS contact Gehry Partners, LLC to determine if Gehry's proposed design fees for the Park could be reduced in order to potentially free up funding for the difference in the Garage cost; and that NWS proceed to the March 3, 2009, Design Review Board meeting for approval of the Garage design (with certain design alternatives, including elimination of the stainless steel mesh and LED lighting on the eastern façade); and

**WHEREAS**, the Committee also requested that NWS and Hines work with the City to identify alternative options that would allow for the Park to be designed, permitted and constructed in time for the grand opening of the NWS Campus Expansion; and

**WHEREAS**, on March 10, 2009, the Administration reported back to the Committee, indicating that the proposed cost of the Garage had been reduced to \$16,798,000, for a difference of \$1,588,000 from the Preliminary Garage Budget allocation; and

**WHEREAS**, since Gehry Partners would not lower its fees for the design of the Park, NWS and Hines recommended that the City be considered an alternative design professional for the Park, so that the projected difference in the Garage costs could be moved from the Preliminary Park Project Budget without any reduction in scope to the proposed Park; and

**WHEREAS**, pursuant to the recommendations of the Committee at its March 10<sup>th</sup> meeting, the City and the NWS have negotiated a Second Addendum to the Development Agreement, providing for the following:

- 1) The definition of the Garage will be modified to specifically state that the Garage will have approximately 550 parking spaces, but no less than 535 parking spaces; and
- 2) Approving the Final Garage Budget, in the amount of \$16,798,000; and
- 3) Approving the Design to the Park Budget, in the amount of \$13,372,000; and
- 4) Waiving the "Key Man" requirement for Gehry Partners, LLC., but only as to Gehry Partners having to be the Architectural Consultant for the Park Project; and
- 5) Authorizing NWS to proceed in preparing a selection/solicitation for a new architect (A/E firm) for the Park Project, pursuant to a competitive process to be approved by the City Manager, and requiring further that the City Commission must approve the new recommended A/E firm; and
- 6) The City Commission may, in its sole and absolute discretion, at the time of its consideration of the Park Project Concept Plan, determine whether or not to include the certain architectural treatments (i.e., stainless steel mesh and LED lighting) on the east façade of the Garage (which approval would be subject to Gehry Partners' concurrence and, if approved, the treatments would be included at the City's cost); and
- 7) The Final Garage Budget, as approved by the City, does not contemplate the City funding the two (2) elevators in the middle of the Garage (on the East side and having a construction value of \$275,000), which have been designed to primarily access NWS' building; said elevators will be included in the Garage and shall be funded at the sole cost and expense of NWS.

**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, on First Reading, in accordance with Sections 163.3220 – 163.3243, Florida Statutes, also referred to as the "Florida Local Government Development Act", a Second Addendum to the Development Agreement between the City of Miami Beach and the New World Symphony (NWS), dated January 5, 2004, (the Development Agreement), as amended by that certain First Addendum to the Development Agreement, dated February 20, 2007 (the First Addendum) (collectively, the January 5 2004 Development Agreement and the First Addendum may be referred to as the "NWS Development Agreement"); said Second Addendum providing for the following 1) approval of the Final Garage Budget in the amount of \$16,798,000; 2) amending the Preliminary Park Project Budget from

\$14,960,000 to \$13,372,000; 3) deleting the reference in the First Addendum specifying Gehry Partners, LLC, as the architectural consultant on the Park Project, and also waiving the requirement under section 26.20 of the Development Agreement ("Key Man" clause) and section 9 of the First Addendum, but only as it pertains to Gehry Partners, LLC's participation as the architectural consultant for the Park Project; 4) authorizing NWS to proceed with the selection of a new architectural and/or architectural engineering (A/E) firm for the design of the Park Project, with NWS' selection process therefore subject to the prior written approval of the City Manager (prior to implementation by NWS); 5) in conjunction with the City Commission's future consideration and review of the Park Project Concept Plan, directing NWS to also, at that time, bring to the City Commission, for review and consideration, the pending issue of whether to add certain architectural treatments (as discussed at the City's Finance Committee meeting on March 10, 2009, and including without limitation, the stainless steel mesh and LED Lighting) for the east façade elevation of the NWS Garage, with the final decision on whether to add such treatments to be subject to the approval of the City Commission at that time; 6) amending Section 23.2.1 of the Development Agreement ("Garage"), deleting the reference that the NWS Garage accommodate approximately 320 cars and, further amending the definition of "Garage" in section 2(j) of the First Addendum to include that the Garage, as contemplated by the parties, shall contain approximately 540 spaces (but not less than 525 spaces) and shall be designed, developed, and constructed by the Developer in accordance and consistent with that certain order of the City's Design Review Board (File no. 22010), approved on March 3, 2009; and 7) that the final Garage Budget will not include funding for the two (2) elevators in the middle of the Garage (on the east side), and having a construction value of \$275,000, which have been designed to primarily access the NWS building; however said elevators will be included in the Garage and funded at the sole cost and expense of NWS; and further authorizing NWS to proceed with design and engineering of the Garage upon approval of First Reading of the Second Addendum to the Development Agreement.

**PASSED and ADOPTED** this 18<sup>th</sup> day of March, 2009.

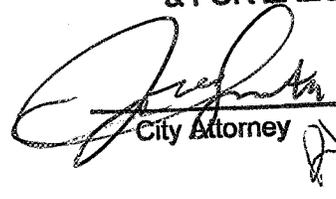
\_\_\_\_\_  
MATTI HERRERA BOWER, MAYOR

ATTEST:

\_\_\_\_\_  
ROBERT PARCHER, CITY CLERK

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APPROVED AS TO  
FORM & LANGUAGE  
& FOR EXECUTION

  
\_\_\_\_\_  
City Attorney      3/13/09  
Date

## SECOND ADDENDUM TO DEVELOPMENT AGREEMENT

THIS SECOND ADDENDUM TO DEVELOPMENT AGREEMENT is made as of this \_\_\_\_\_ day of \_\_\_\_\_, 2009 (this "Second Addendum") by and between the CITY OF MIAMI BEACH, FLORIDA ("Owner" or "City"), a municipal corporation duly organized and existing under the laws of the State of Florida, and NEW WORLD SYMPHONY, a not-for-profit Florida corporation ("Developer") (the Owner and Developer, each a "Party" and collectively, the "Parties").

### RECITALS

A. Owner and Developer entered into an Agreement of Lease ("Lease") dated as of January 5, 2004, pursuant to which Owner leased to Developer certain real property described in Exhibit "A" to said Lease (the "Land").

B. Concurrently therewith, Owner and Developer also entered into a Development Agreement ("Development Agreement") dated as of January 5, 2004, setting forth, among other things, the Owner's and Developer's respective responsibilities and agreement to coordinate and cooperate in the planning, scheduling and approval of the development, design and construction of an automobile parking garage (the "Garage") to be located on land adjacent to the Land, and a performance, educational and internet broadcast facility, together with certain related amenities, facilities and other infrastructure improvements on the Land ("Developer's Improvements"), as set forth in the Development Agreement.

C. On February 20, 2007, Owner and Developer entered into a First Addendum to Development Agreement ("First Addendum"), further clarifying the parties' respective obligations (including processes, scopes for implementation, and estimated costs and budgets) for the Garage and Developer's Improvements, and also pertaining to certain Additional Improvements and Infrastructure Improvements, and the design, development, and construction of the Park (collectively, for purposes of these Recitals, the "Project").

D. On January 23, 2008, Developer commenced construction of Developer's Improvements. Notwithstanding the preceding, subsequent to the execution of the Lease, Development Agreement and First Addendum, and commencement of construction, and given the current fiscal/financial realities affecting the U.S. and global economies, the Parties now wish to enter into this Second Addendum, further clarifying and memorializing their agreements regarding the ongoing development of the Project (including, without limitation, the Garage and Park components).

NOW THEREFORE, it is hereby mutually covenanted and agreed by and between the Parties hereto that this Second Addendum is made in consideration of the terms, covenants and conditions hereinafter set forth.

1. Capitalized Terms; Recitals. All capitalized terms not defined herein shall have the meanings given to them in the Development Agreement, as amended by the First Addendum. Hereafter, all references to the Development Agreement shall mean the Development

Agreement, as modified and augmented by the First Addendum and this Second Addendum, unless the context indicates otherwise. The Recitals are incorporated herein by reference.

2. Additional and Revised Definitions. The following definitions, as initially set forth in the Development Agreement or as may have been subsequently added or amended pursuant to the First Addendum are amended as follows:

(a) “Design-to Park Project Budget” means the preliminary total costs budgeted by the City for the Park Project, which is the preliminary estimate of costs, including estimated hard and soft construction costs, anticipated as of the date hereof, to be incurred in connection with the design, development and construction of the Park Project. As of the date hereof, the parties acknowledge and agree that the City has budgeted an amount not to exceed ~~\$13,810,000~~ \$13,372,000 for Zones 3.1, 3.2 and 3.3, ~~and an additional \$1,150,000 for Zone 3.4,~~ for a total of ~~\$14,960,000~~ \$13,372,000, for the entire Park Project.

(b) “Garage” means the public municipal parking garage comprising Zone 1.1 to be designed, developed and constructed by Developer for Owner and funded as set forth in Section 13 of the First Addendum (as amended hereto), and operated by Owner at its sole cost and expense on City-owned property adjacent to the Land, legally described in Exhibit “C.” It is anticipated that the Garage will maximize public parking and minimize any net loss of public parking within Zone 1.1 and will have approximately 535 (but no less than 520 spaces; have six (6) stories, including five (5) stories of covered parking plus open rooftop parking; two (2) FPL vaults; four (4) elevators [NOTE: **DISPUTED ITEM**]; a pedestrian bridge to Developer’s Project; and ground-floor retail space along 17th Street and Pennsylvania Avenue. Owner shall be responsible for operation and management of the Garage, including the leasing and management operations of the retail portion of the Garage.

(c) “Preliminary Park Project Budget” means the total cost budgeted by the City for the Park Project, as mutually agreed to by the Parties and as shall be approved by the City Commission concurrently with the approval of the Park Project Concept Plan (pursuant to the provisions of Section 10 and Exhibit “D” of the First Addendum, as amended hereto), which is the preliminary estimate of costs, including estimated hard and soft construction costs, anticipated as of the date thereof to be incurred in connection with the design, development and construction of the Park Project, including the sound system. The Parties acknowledge and agree that the Preliminary Park Project Budget shall be established in accordance with the dollar amounts set forth in the “Design to” Park Project Budget, in the amount of ~~\$14,960,000~~ \$13,372,000.

(d) All reference (s) in the Agreement to “Zone 3.4” (as said term is defined in the First Addendum) is hereby deleted. Accordingly, the area encompassing Zone 3.4, and any improvements to be designed, developed and constructed thereon, shall not be part of the Park Project or Park Project Zone, and the budgeted amount allocated to Zone 3.4 in the Design-to Park Project Budget (or \$1,150,000), as defined in the First Addendum, has been allocated to the Park Project Budget for Zones 3.1, 3.2 and 3.3 (which shall hereafter consist of the Park Project Zone).

3. Amendment or Replacement of Certain Sections of Development Agreement.

The following section or subsections in the Development Agreement or the First Addendum, as noted respectively below, are amended as follows:

(a) Section 23.2.1 of the Development Agreement is deleted in its entirety and replaced with the following:

Developer shall design and construct the Garage (as set forth in the Development Agreement), at Owner's cost and expense, and as further set forth and subject to the provisions of the Development Agreement. The Parties acknowledge that the timing of construction and completion of the Garage is critical; therefore, Developer agrees to, and shall, as expeditiously as reasonably possible, obtain Substantial Completion of the Garage prior to completion of Developer's Improvements.

(b) Section 26.20 of the Development Agreement ("Key Man" Clause), shall not be deemed to include Gehry Partners, LLC as the Architectural Consultant (as said term is defined in the Development Agreement) for the Park Project. Accordingly, to the extent that there is any other reference in the Development Agreement, or any exhibits thereto, to the Architectural Consultant in relation to the design, development, and construction of the Park Project (but **only** as to the Park Project), then such reference shall not be interpreted as referring to Gehry Partners, LLC but, rather, shall refer to the successor architect/engineering (A/E) firm selected by NWS, and approved by the City, for the Park Project.

(c) (i) In accordance with Section 3(b) above, Section 9 of the First Addendum ("Park Project Design") shall also be amended to delete the reference to Gehry Partners, LLC, as the architectural consultant for the Park Project, and the use of the defined term "Architectural Consultant" in Section 9 (as well as in any other section of the First Addendum, and/or exhibits thereto) referring to, or intending to refer to, the Architectural Consultant, in relation to the Park Project **only**, shall be deemed to refer to the successor A/E firm selected by Developer, and approved by the City, for the Park Project.

(ii) The first sentence of Section 9(b) of the First Addendum is deleted.

4. Garage Costs.

(a) The amount for the Garage Costs, as set forth in Section 5(a)(i) of the First Addendum, is hereby amended from \$15,210,135, to \$16,798,000

(b) The City and Developer hereby mutually agree upon, and the City Commission hereby approves, the Final Garage Budget, in the amount of \$16,798,000; such approval by the City is further subject to, and contingent upon, the following conditions:

- (i) The approval of the Final Garage Budget contemplates the design, development, and construction of the Garage, as said term is defined in this Second Addendum;
- (ii) At the City's sole cost, and subject to the approval of Gehry Partners, LLC, the City Commission shall retain authority and final approval over whether to add certain proposed "architectural treatments", to the east façade of the Garage including, without limitation, the stainless steel mesh and LED lighting. The City Commission shall review, consider, and approve or disapprove, the inclusion of aforesaid treatments concurrent with its review of the Park Project Concept Plan; and
- (iii) **[NOTE: DISPUTED ITEM]** The approved Final Garage Budget, as set forth in this Second Addendum, shall **not** include the cost for the two (2) elevators in the middle of the Garage (on the east side) which will primarily service NWS's patrons and guests. These elevators shall be designed, developed and constructed at NWS's sole cost and expense.
- (iv) Section 13 (c) (iii) of the First Addendum shall remain in full force and effect and Developer shall not obligate any amount in excess of \$15,210,135 for the design, development and construction of the Garage, **prior to October 1, 2009**, with the balance of the funding in the amount of \$1,588,000, available after October 1, 2009..

5. Miscellaneous.

(a) Counterparts. To facilitate execution, the Parties hereto agree that this Second Addendum may be executed in counterparts as may be required and it shall not be necessary that the signature of, or on behalf of, each Party, or that the signatures of all persons required to bind any Party, appear on each counterpart; it shall be sufficient that the signature of, or on behalf of, each Party, or that the signatures of the persons required to bind any Party, appear on one or more of such counterparts. All counterparts shall collectively constitute a single Second Addendum.

(b) References. All references in the Development Agreement (or the First Addendum) to the "Agreement" shall hereafter mean and refer to the Development Agreement, as amended by the First Addendum and this Second Addendum. If there is a contradiction between the terms of the Development Agreement, the First Addendum, and this Second Addendum, then the terms of this Second Addendum shall control. Facsimile signatures appearing hereon shall be deemed an original.

(c) Effect of Second Addendum. Except as modified herein, the Development Agreement remains in full force and effect. In the event of any conflict or ambiguity between the Development Agreement, the First Addendum, and this Second Addendum, this Second Addendum shall control.



**EXECUTION BY DEVELOPER**

WITNESSES:

**THE NEW WORLD SYMPHONY**, a not-for-profit Florida corporation

\_\_\_\_\_  
Print Name: \_\_\_\_\_

By: \_\_\_\_\_  
Howard Herring, President and CEO

\_\_\_\_\_  
Print Name: \_\_\_\_\_

ATTEST:

By: \_\_\_\_\_  
\_\_\_\_\_, Secretary

[CORPORATE SEAL]

STATE OF FLORIDA                    )  
  )ss:  
COUNTY OF MIAMI-DADE         )

The foregoing instrument was acknowledged before me this \_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_, by Howard Herring, as President and CEO, and \_\_\_\_\_, as Secretary, of THE NEW WORLD SYMPHONY, a not-for-profit Florida corporation, on behalf of such corporation. They are personally known to me or produced valid Florida driver's licenses as identification.

My commission expires:

\_\_\_\_\_  
Notary Public, State of Florida  
Print Name: \_\_\_\_\_



# MIAMI BEACH

## CITY OF MIAMI BEACH NOTICE OF PUBLIC HEARING

**NOTICE IS HEREBY** given that a public hearing will be held by the Mayor and City Commission of the City of Miami Beach, Florida, in the City Commission Chambers, 3rd floor, City Hall, 1700 Convention Center Drive, Miami Beach, Florida, on **Wednesday, March 18, 2009, at 11:00 a.m.**, to consider approval, on First Reading, of a Second Addendum to the Development Agreement between the City of Miami Beach and the New World Symphony (NWS), dated January 5, 2004, (the Development Agreement), as amended by that certain First Addendum to the Development Agreement, dated February 20, 2007 (the First Addendum) (collectively, the January 5, 2004 Development Agreement and the First Addendum may be referred to as the "NWS Development Agreement"); said Second Addendum providing for the following 1) approval of the Final Garage Budget in the amount of \$17,033,120; 2) amending the Preliminary Park Project Budget from \$14,960,000 to \$13,137,015; 3) deleting the reference in the First Addendum specifying Gehry Partners, LLC, as the architectural consultant on the Park Project, and also waiving the requirement under section 26.20 of the Development Agreement ("Key Man" clause) and section 9 of the First Addendum, but only as it pertains to Gehry Partners, LLC's participation as the architectural consultant for the Park Project; 4) authorizing NWS to proceed with the selection of a new architectural and/or architectural engineering (A/E) firm for the design of the Park Project, with NWS' selection process therefore subject to the prior written approval of the City Manager (prior to implementation by NWS); 5) in conjunction with the City Commission's future consideration and review of the Park Project Concept Plan, directing NWS to also, at that time, bring to the City Commission, for review and consideration, the pending issue of whether to add certain architectural treatments (as discussed at the City's Finance Committee meeting on March 10, 2009, and including without limitation, the stainless steel mesh and LED Lighting) for the east façade elevation of the NWS Garage, with the final decision on whether to add such treatments to be subject to the approval of the City Commission at that time; 6) amending Section 23.2.1 of the Development Agreement ("Garage"), deleting the reference that the NWS Garage accommodate approximately 320 cars and, further amending the definition of "Garage" in section 2(j) of the First Addendum to include that the Garage, as contemplated by the parties, shall contain approximately 540 spaces (but not less than 525 spaces) and shall be designed, developed, and constructed by the Developer in accordance and consistent with that certain order of the City's Design Review Board (File no. 22010), approved on March 3, 2009; and 7) that the final Garage Budget will not include funding for the two (2) elevators in the middle of the Garage (on the east side), and having a construction value of \$300,000, which have been designed to primarily access the NWS building; however said elevators will be included in the Garage and funded at the sole cost and expense of NWS.

Inquiries may be directed to the Miami Beach Redevelopment Agency at (305) 673-7295.

**INTERESTED PARTIES** are invited to appear at this meeting or be represented by an agent or to express their views in writing addressed to the City Commission c/o the City Clerk, 1700 Convention Center Drive, 1st Floor, City Hall, Miami Beach, Florida 33139. This meeting may be opened and continued and under such circumstances additional legal notice would not be provided.

Robert E. Parcher, City Clerk  
City of Miami Beach

Pursuant to Section 286.0105, FL Statutes, the City hereby advises the public that: if a person decides to appeal any decision made by the City Commission with respect to any matter considered at its meeting or its hearing, such person must ensure that a verbatim record of the proceedings is made, which record includes the testimony and evidence upon which the appeal is to be based. This notice does not constitute consent by the City for the introduction or admission of otherwise inadmissible or irrelevant evidence, nor does it authorize challenges or appeals not otherwise allowed by law.

To request this material in accessible format, sign language interpreters information on access for persons with disabilities, and/or any accommodation to review any document or participate in any City-sponsored proceeding, please contact (305) 604-2489 (voice), (305) 673-7218(TTY) five days in advance to initiate your request. TTY users may also call 711 (Florida Relay Service).

Ad #528

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# MIAMIBEACH

City of Miami Beach, 1700 Convention Center Drive, Miami Beach, Florida 33139, [www.miamibeachfl.gov](http://www.miamibeachfl.gov)

OFFICE OF THE CITY CLERK, Robert Parcher, City Clerk  
Tel: (305) 673-7411, Fax: (305) 673-7254

## COMMISSION MEMORANDUM

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

From: Jorge M. Gonzalez, City Manager 

Date: March 18, 2009

Subject: BOARD AND COMMITTEES

### ADMINISTRATION RECOMMENDATION:

That appointments be made as indicated.

### ANALYSIS:

Attached are the applicants that have filed with the City Clerk's Office for Board and Committee appointments.

### VACANCIES

BOARD OR COMMITTEE:	TOTAL MBRS.	APPOINTED BY:	TOTAL VAC	PAGE
Affordable Housing Advisory Committee	11	City Commission	1	Page 1
Art in Public Places	7	City Commission	5	Page 3
Beautification Committee	8	Mayor Matti Herrera Bower Steinberg Diaz	1 1	Page 5
Budget Advisory Committee	9	City Commission	1	Page 7
Committee for Quality Education in MB	16	Mayor Matti Herrera Bower	1	Page 9

Agenda Item R9A  
Date 3-18-09

## VACANCIES

BOARD OR COMMITTEE:	TOTAL MBRS.	APPOINTED BY:	TOTAL VAC	PAGE
Committee on the Homeless	9	Commissioner Deede Weithorn Mayor Matti Herrera Bower	1 1	Page 11
Community Development Advisory Committee	14	Steinberg Diaz	2	Page 12
Convention Center Advisory Board	7	Commissioner Victor M. Diaz, Jr.	1	Page 14
Cultural Arts Neighborhood District Overlay CANDO	7	Mayor Matti Herrera Bower	7	Page 15
Debarment Committee	7	Commissioner Ed Tobin Mayor Matti Herrera Bower	1 1	Page 16
Design Review Board	7	City Commission	1	Page 17
Disability Access Committee	7	Commissioner Victor M. Diaz, Jr.	1	Page 19
Fine Arts Board	14	Commissioner Jerry Libbin Mayor Matti Herrera Bower	1 1	Page 20
Health Advisory Committee	11	City Commission	4	Page 23
Marine Authority	7	Commissioner Victor M. Diaz, Jr.	1	Page 30
Miami Beach Commission For Women	21	Commissioner Saul Gross Mayor Matti Herrera Bower	1 2	Page 31

## VACANCIES

BOARD OR COMMITTEE:	TOTAL MBRS	APPOINTED BY:	TOTAL VAC	PAGE
Miami Beach Sister Cities Program	24	Mayor Matti Herrera Bower	9	Page 33
Normandy Shores Local Gov. Neighborhood Impv.	3	City Commission	3	Page 35
Personnel Board	10	City Commission	2	Page 37
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Safety Committee	14	Commissioner Deede Weithorn Steinberg Diaz	1 2	Page 43
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Attached is breakdown by Commissioner or City Commission:



JMG:REP/lg

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# MIAMI BEACH

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

## COMMISSION MEMORANDUM

TO: Mayor Matti Herrera Bower and Members of the City Commission  
FROM: Jorge M. Gonzalez, City Manager   
DATE: March 18, 2009  
SUBJECT: **BOARD AND COMMITTEE APPOINTMENTS – CITY COMMISSION APPOINTMENTS**

### ADMINISTRATION RECOMMENDATION

Make appointments as indicated.

### BOARDS AND COMMITTEES

1. Affordable Housing Advisory Committee
2. Arts in Public Places
3. Budget Advisory Committee
4. Design Review Board
5. Health Advisory Committee
6. Normandy Shores Local Gove. Neighborhood Improvements
- 7 Personnel Board

JMG/REP

T:\AGENDA\2008\October 7\Regular\Board and Committee City Commission App Memo.doc

Agenda Item R9A1  
Date 3-18-09

## **COMMISSION COMMITTEE APPOINTMENTS**

1. Affordable Housing Advisory Committee (one appointment)

# Board and Committees Current Members

## Affordable Housing Advisory Committee Sec. 2-167

### Composition:

The committee shall consist of eleven (11) voting members with two (2) year terms appointed at large by a majority vote of the Mayor and City Commission:

One citizen:

- 1) actively engaged in the residential home building industry in connection with affordable housing;
- 2) actively engaged in the banking or mortgage banking industry in connection with affordable housing;
- 3) representative of those areas of labor actively engaged in home building in connection with affordable housing;
- 4) actively engaged as an advocate for low-income persons in connection with affordable housing;
- 5) actively engaged as a for-profit provider of affordable housing;
- 6) actively engaged as a not-for-profit provider of affordable housing (Housing Authority member);
- 7) actively engaged as a real estate professional in connection with affordable housing;
- 8) actively serving on the local planning agency pursuant to Florida Statute § 163.3174 (Planning Board member);
- 9) who resides within the jurisdiction of the local governing body making the appointments;
- 10) who represents employers within the jurisdiction;
- 11) who represents essential services personnel as defined in the local housing assistance plan.

Members of the Loan Review Committee, members of the Community Development Advisory Committee (CDAC), Planning Board and Miami Beach Housing Authority may be appointed to fill any of the eleven (11) categories and serve as ex-officio voting members on this committee. If due to conflict of interest by prospective appointees, or other reasonable factor, the City is unable to appoint a citizen actively engaged in these activities in connection with affordable housing, a citizen engaged in the activity without regard to affordable housing may be appointed.

City Liaison: Anna Parekh

### Vacancy

To replace Brian (1) Res. Home Bldg. 12/31/2010 City Commission  
Ehrlich

### Members

Name	Last Name	Position/Title	Term Ends:	Appointed by:	Term Limit:
Ada	Llerandi	(4) Low-Income Advoc.	12/31/2009	City Commission	12/31/13
Clark	Reynolds	(9) Res. Juris. Local Gvt	12/31/2009	City Commission	12/31/13
David	Smith	(2) Banking/Mortgage	12/31/2010	City Commission	12/31/13
Dr. Barry	Ragone	(10) Rep. Employee w/jurisd	12/31/2009	City Commission	12/31/13
Jonathan	Fryd	(8) Local Planning Board	12/31/2010	City Commission	12/31/13
Lianne	Pastoriza	(11) Rep. Essential Services	12/31/2009	City Commission	12/31/13
Michael	Burnstine	(7) Real Estate Prof.	12/31/2009	City Commission	12/31/13
Robert	Saland	(5) For Profit	12/31/2010	City Commission	12/31/13
Roberto	DaTorre	(6) Not For Profit	12/31/2010	City Commission	12/31/13
Stephanie	Berman	(3) Rep. Labor Home Bldg	12/31/2010	City Commission	12/31/13

Applicants	Position/Title	Applicants	Position/Title
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## *Board and Committees Current Members*

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David Gorson  
Prakash Kumar

Mario Coryell

## **COMMISSION COMMITTEE APPOINTMENTS**

2. Art in Public Places (five appointment)

# Board and Committees Current Members

## Art in Public Places

Sec. 82-561

### Composition:

Two (2) year term.

Appointed by a minimum of 4 votes.

Seven (7) members to be appointed by a majority of the entire City Commission, and who shall possess a high degree of competence in evaluation of art history and architectural history, art, architecture, sculpture, painting, artistic structure design and other appropriate art media for display or integration in public places.

City Liaison : Dennis Leyva

### Vacancy:

To replace Jeremy Chestler	12/31/2010	City Commission
To replace James Weingarten	12/31/2010	City Commission
To replace Mariangela Capuzzo	12/31/2010	City Commission
To replace Elizabeth Resnick	12/31/2010	City Commission
To replace Heather Urban	12/31/2009	City Commission

### Members:

Name	Last Name	Position/Title	Term Ends:	Appointed by:	Term Limit:
Claire	Breukel		12/31/2009	City Commission	12/31/13
Rhonda	Mitrani-Buchman		12/31/2009	City Commission	12/31/12

Applicants	Position/Title	Applicants	Position/Title
Ana Cordero		Claire Warren	
David Alschuler		Dena Stewart	
Flavia Lowenstein-Elortegui		Francis Trullenque	
Isadore Havenick		James Lloyd	
Jeanie Hernandez		Joe Hidalgo - Gato	
Judith Wurtmen		Laura Bruney	
Lisa Cole		Lisa Ware	
Lisette Olembert Goldstein		Matthew Maffai	
Merri Mann		Michael McManus	
Nelida Barrios		Zoila Datorre	

## **COMMISSION COMMITTEE APPOINTMENTS**

3. Budget Advisory Committee (one appointment)

# Board and Committees Current Members

## Budget Advisory Committee

Sec. 2-44

### Composition:

Nine (9) members. Seven (7) direct appointments with Mayor and each Commissioner making one (1) appointment.

Two (2) at-large appointments:

one (1) certified public accountant and

one (1) for a financial advisor.

City Liaison: Jose Cruz

### Vacancy:

To replace Alan Lips

12/31/2010 City Commission

### Members:

Name	Last Name	Position/Title	Term Ends:	Appointed by:	Term Limit:
Antonio	Hernandez		12/31/2009	Commissioner Saul Gross	12/31/16
Dushan	Koller		12/31/2009	Commissioner Jonah M. Wolfson	12/31/15
Jack	Benveniste		12/31/2009	Mayor Matti Herrera Bower	12/31/15
John	Gardiner		12/31/2010	Commissioner Jerry Libbin	12/31/16
Marc	Gidney		12/31/2010	Commissioner Deede Weithorn	12/31/14
Philip	Levine		12/31/2009	Commissioner Victor M. Diaz, Jr.	12/31/16
Stephen	Hertz		12/31/2010	Commissioner Ed Tobin	12/31/16
Tony	Rodriguez	Financial Advisor	12/31/2009	City Commission	12/31/10

Applicants	Position/Title	Applicants	Position/Title
Dwight Kraai		Frank Kruszewski	
Frank Schwartz		Jared Plitt	
Jenifer Cuplan		Jonathan Fryd	
Lior Leser		Mario Coryell	
Robert Glick		Steven Gonzalez	
Theodore Berman		Willis "Chip" Arndt Jr.	

**COMMISSION COMMITTEE APPOINTMENTS**

4. Design Review Board (one appointment)

# Board and Committees Current Members

## Design Review Board

Sec. 118.71

### Composition:

Two (2) year term.

Appointed by a minimum of 4 votes.

Seven (7) regular members and two (2) ex-officio members.

The seven (7) regular members shall consist of:

two (2) registered architects,

one (1) registered architect or a member of the faculty of a school of architecture, urban planning or urban design in the state, with practical or academic expertise in the field of design, planning, historic preservation or the history of architecture, or a professional architectural designer or professional urban planner

one (1) registered landscape architect,

one (1) registered architect, professional designer or professional urban planner,

and two (2) citizens at-large.

One person appointed by the City Manager from an eligibility list provided by the Disability Access Committee shall serve in an advisory capacity with no voting authority. The Planning Director, or designee and the City Attorney or designee shall serve in an advisory capacity.

Residency and place of business in the county. The two (2) citizen-at-large members and one of the registered landscape architects, registered architects, professional designer or professional urban planners shall be residents of the city.

City Liaison: Thomas Mooney

### Vacancy:

To replace Peter Urban Land Planner 12/31/2010 City Commission  
Chevalier

### Members:

Name	Last Name	Position/Title	Term Ends:	Appointed by:	Term Limit:
Alex	David	Urban Planner	12/31/2009	City Commission	12/31/10
Clotilde	Luce	At-large	12/31/2010	City Commission	12/31/10
Gabrielle	Redfern	At-large	12/31/2009	City Commission	12/31/11
Michael F.	Steffens	Reg. Arch. TL12/31/2009	12/31/2009	City Commission	12/31/09
Seraj	Saba	Landscape Architect	12/31/2009	City Commission	12/31/13
Thomas	DeLuca	Registered Architect	12/31/2010	City Commission	12/31/11
Gary Held		advisory/City Attorney Designee			
Jorge Gomez		advisory/ Planning Director			
Vacant		ex-officio/Disability Access Committee			

Applicants	Position/Title	Applicants	Position/Title
Alan Lips		Alexander Annunziato	
Brian Ehrlich		David Wieder	
Dona Zemo		Elsa Urquiza	
Gail Thompson		Jariel Bortnick	
Jay Parker		Jorge Kuperman	
Leonor Hernandez		Lisette Olembert Goldstein	

# ***Board and Committees Current Members***

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Oliver Weirich  
Todd Glaser

Scott Diffenderfer

**COMMISSION COMMITTEE APPOINTMENTS**

- 5 Health Advisory Committee (four appointments)

# Board and Committees Current Members

## Health Advisory Committee

Sec. 2-81-2002-3458

### Composition:

Eleven (11) voting members. Appointed by the City Commission at-large, upon recommendations of the City Manager:

Two (2) members shall be the chief executive officers (CEO's) or their designated administrators from each of the following local hospitals:

- 1) Mount Sinai Medical Center,
- 2) South Shore Hospital,

One (1) member shall be the Chief Executive Officer (CEO) from Stanley C. Myers Community Health Center or his/her designee administrator;

Two (2) member shall be an administrator from an Adult Congregate Living Facility (ACLF). And/or an Assisted Living Facility (ACLF);

One (1) member shall be a representative from the nursing profession;

One (1) member shall be a health benefits provider;

Two (2) members shall be physicians.;

Two (2) members shall be consumers consisting of:

- 1) one (1) individual from the corporate level and ;
- 2) one (1) private individual.

There shall be one (1) non-voting ex-officio representative from each of the following: The Miami Dade County Health Department and the Fire Rescue Department. The director of the Office of the Children's Affairs shall be added as a non-voting ex-officio member of the board.

City Liaison: Cliff Leonard

## Vacancies

To replace kimberly Galbut	Dentist	12/31/2010	City Commission
To replace Joyce Galbut	Adm. Adult Congr. Liv.	12/31/2010	City Commission
To replace Eda Valero-Figueira	Private Industry	12/31/2009	City Commission
To replace Abraham Galbut	ACLF	12/31/2010	City Commission

## Members:

Name	Last Name	Position/Title	Term Ends:	Appointed by:	Term Limit:
Dr. Andrew	Nullman	Physician	12/31/2010	City Commission	12/31/14
Dr. Rasciel	Socarraz	Health Provider (TL 12/09)	12/31/2009	City Commission	12/31/09
Dr. Ronald	Shane	Private Industry (TL12/09)	12/31/2009	City Commission	12/31/09
Kathryn	Abbate	CEO, Stanley Myers (NTL)	12/31/2010	City Commission	
Laura	Leyva	Nursing Profession	12/31/2009	City Commission	12/31/12
Steven	Sonenreich	CEO/Mt. Sinai/MH (NTL)	12/31/2010	City Commission	
William	Zubkoff	C.E.O.. So. Shore (NTL)	12/31/2010	City Commission	

Maria Ruiz	ex-officio, Director of Children's Affairs
Sonia Albury	rep. From the Health Council of South Fla

Applicants	Position/Title	Applicants	Position/Title
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## ***Board and Committees Current Members***

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Emilio Suster  
Rolando Rodriguez

Michael Martirena  
Suzanne Stonbely

**COMMISSION COMMITTEE APPOINTMENTS**

6. Normandy Shores Local Gove. Neighborhood Improvements (three appointments)

# Board and Committees Current Members

**Composition:**

The Advisory Council shall be appointed by the Board of Directors (City Commission) and composed of three members of the Executive Committee of the Normandy Shores Homeowner Association. On behalf of the Board of Directors, the City Clerk shall solicit from the Executive Committee the eligibility list of its members for appointment consideration. The Advisory Council shall be composed of the three members of the Executive Committee of the Normandy Shores Homeowners Association as per Resolution No. 97-22449 adopted July 2, 1997.

**Vacancy**

To replace Ronald Loring	12/31/2010	City Commission
To replace Erik Schlein	12/31/2010	City Commission
To replace Joel Rodriguez	12/31/2010	City Commission

**Members**

Name	Last Name	Position/Title	Term Ends:	Appointed by:	Term Limit:
New	Member		12/31/2009	City Commission	

## **COMMISSION COMMITTEE APPOINTMENTS**

7. Personnel Board (two appointments)

# Board and Committees Current Members

## Personnel Board

Sec. 2-190.66

### Composition:

Ten (10) members appointed by a 5/7 vote.

Six (6) of which shall be citizens of Miami Beach not in the employment of the city, each having a different vocation;

and three (3) regular employees of the City of Miami Beach, to be elected by the probationary and regular employees of the city and who shall be elected from the employees of regular status in the respective groups:

Group I shall consist of the employees of the Police Department, Fire Department and Beach Patrol Department,

Group II shall consist of employees who are in clerical and executive positions,

Group III shall consist of all other employees,

The Personnel Director is a non-voting member.

City Liaison: Ramiro Inguanzo

### Vacancy

To replace James Kirkland III	12/31/2009	City Commission
To replace Zalman Bacheikov	12/31/2010	City Commission

### Members

Name	Last Name	Position/Title	Term Ends:	Appointed by:	Term Limit:
Barbara	Patchen		12/31/2009	City Commission	12/31/12
David	Alschuler		12/31/2010	City Commission	12/31/12
Elsa	Urquiza		12/31/2010	City Commission	12/31/12
Michael	Perlmutter		12/31/2009	City Commission	12/31/12
Evette Phillips		elected 09/01/07 exp. 7/31/09 Group III			
Glassome Wint		elected 01/13/09 exp 7/31/10 Group II			
Ramiro Inguanzo		Human Resources Director			
Renato Sejas		elected 06/27/08 exp. 7/31/11- Group I			

Applicants	Position/Title	Applicants	Position/Title
Elsa Oriandini		Gabriel Paez	
Ray Breslin			

**R9 - New Business and Commission Requests**

R9B1 Dr. Stanley Sutnick Citizen's Forum. (1:30 p.m.)  
R9B2 Dr. Stanley Sutnick Citizen's Forum. (5:30 p.m.)

AGENDA ITEM R9B1-2  
DATE 3-18-09

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# MIAMI BEACH

OFFICE OF THE MAYOR AND COMMISSION

## MEMORANDUM

TO: Jorge M. Gonzalez, City Manager

FROM: Victor M. Diaz, Jr., Commissioner *VM*

DATE: March 5, 2009

SUBJECT: Ordinance Approving Revocable Permits to Display Pride Flag

Please place an item on the March 18, 2009 Commission agenda to adopt a resolution which approves revocable permits to be issued by the Public Works Department for applicants wishing to display the PRIDE flag for the month of April in celebration of Miami Beach Pride 2009.

VMD/sm

2009 MAR 18 10 51 AM  
MAYOR'S OFFICE  
MAYOR JORGE M. GONZALEZ

Agenda Item R9C  
Date 3-18-09

**RESOLUTION NO. \_\_\_\_\_**

**A RESOLUTION OF THE MAYOR AND CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA, APPROVING THE ISSUANCE OF REVOCABLE PERMITS TO APPLICANTS WISHING TO DISPLAY THE RAINBOW/PRIDE FLAG DURING THE MONTH OF APRIL 2009, IN SUPPORT OF THE CITY OF MIAMI BEACH'S FIRST EVER, ANNUAL GAY PRIDE EVENT, WHICH WILL BE HELD IN THE CITY ON APRIL 18<sup>TH</sup>, 2009; PROVIDED FURTHER THAT THE DISPLAY OF SUCH FLAG(S) SHALL COMPLY WITH THE REQUIREMENTS OF SECTION 138-72 OF THE CITY CODE (WHICH REQUIREMENTS ARE ALSO ATTACHED AND INCORPORATED AS EXHIBIT "A" TO THIS RESOLUTION); AND PROVIDED FURTHER THAT THE TERM OF SAID PERMIT SHALL AUTOMATICALLY EXPIRE ON APRIL 30<sup>TH</sup>, 2009.**

**WHEREAS**, at its regular meeting on May 13, 2008, the Mayor's Gay Business Development Committee (the Committee) adopted a Resolution recommending that the Mayor and City Commission amend Section 138-72 of the City Code, entitled "Pennants, Banners, Streamers, Flags and Flagpoles," to include and allow the Rainbow "Pride" flag to be displayed in the City of Miami Beach, particularly by restaurants, retail stores, and other commercial establishments in the City wishing to display that flag as a symbol of the business's cultural diversity; and

**WHEREAS**, the Rainbow "Pride" flag, sometimes also referred to as the "freedom flag," was designed in 1978 by Gilbert Baker, a San Francisco artist, and was initially created as a symbol of gay and lesbian pride and diversity, but has since been recognized throughout the world as a cultural symbol of diversity, inclusiveness and hope; and

**WHEREAS**, since then, the Rainbow flag has been displayed and/or otherwise exhibited by various gay and lesbian organizations throughout the world including, without limitation, the use of the flag by these organizations at annual gay pride events and parades throughout the world; and

**WHEREAS**, at its regular meeting on September 10, 2008, the Mayor and City Commission unanimously adopted Resolution No. 2008-26890, agreeing with the interpretation of the City's Planning Director and the City Attorney's Office that, given the recognition of the Rainbow Flag as an internationally recognized cultural symbol of diversity, and, further, given the display and exhibition of said flag by various organizations (particularly gay and lesbian pride organizations which have traditionally exhibited and displayed the flag as a symbol of cultural diversity, exclusiveness, and hope, both on a daily basis and at annual gay and lesbian pride events throughout the world), the display of the flag is allowed under the current City Code provisions, as written; and

**WHEREAS**, in making this interpretation, the Planning Director and City Attorney's Office also concluded that, based on the aforesaid and other historical and anecdotal evidence, the Rainbow Flag has established itself, and is considered to be, a civic and cultural symbol; and

**WHEREAS**, Section 138-72 of the Code not only permits the display of national flags and flags of political subdivisions of the United States, but also flags of civic, charitable, fraternal, welfare and other organizations; and

**WHEREAS**, on April 18<sup>th</sup>, 2009, the City of Miami Beach will hold its first ever annual Gay Pride event; and

**WHEREAS**, Section 138-72 of the Code also sets forth the requirements for display of flags, whether permanently affixed to the ground or affixed to buildings or other structures; these requirements are also set forth in Exhibit "A" to this Resolution; and

**WHEREAS**, as permitted under Section 138-72, the Administration would recommend that the Mayor and City Commission approve the issuance of revocable permits to applicants wishing to display the Rainbow Pride flag during the month of April 2009, in support of the City's first annual Gay Pride event on April 18<sup>th</sup>, 2009, subject to the following conditions:

1. Applicants' shall comply with the requirements for display of flags as provided in Section 138-72 of the City Code (which are also set forth in the attached Exhibit "A"); and
2. The term of the revocable permit shall automatically expire on April 30<sup>th</sup>, 2009.

**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 the issuance of revocable permits to applicants wishing to display the Rainbow/Pride flag during the month of April 2009, in support of the City of Miami Beach's first ever, annual Gay Pride event, which will be held in the City on April 18<sup>th</sup>, 2009; provided further that the display of such flag(s) shall comply with the requirements of Section 138-72 of the City Code (which requirements are also attached and incorporated as Exhibit "A" to this Resolution); and provided further that the term of said permit shall automatically expire on April 30<sup>th</sup>, 2009.

**PASSED and ADOPTED** this \_\_\_\_\_ Day of \_\_\_\_\_, 2009.

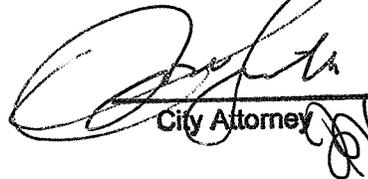
\_\_\_\_\_  
MAYOR

ATTEST:

\_\_\_\_\_  
CITY CLERK

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

  
\_\_\_\_\_  
City Attorney

3/5/09  
\_\_\_\_\_  
Date

## **EXHIBIT "A"**

**The City allows the flying of the American Flag, flags of foreign countries, state flags, and flags representing civic organizations, charitable or non-profit organizations, membership organizations, pride flags, and similar non-commercial flags.**

**Flags should be flown from a flagpole or other appropriate attachment. Installing a flagpole may require a building permit from the City of Miami Beach Building Department.**

**The Planning Department will review any flagpoles proposed to be built or attached to buildings, for the appropriate design and historic preservation compatibility.**

**Flagpoles anchored in the ground should be 10 feet setback from the front property line, and 7.5 feet from the side property lines. They can be up to 50 feet high, if appropriate. The size of flags flying from these flagpoles can be up to one-quarter the height of the flagpole.**

**Flagpoles affixed to buildings cannot be higher than 25 feet above the main roof deck. The size of flags flying from poles attached to buildings can be up to one-third the length of the pole.**

**The City of Miami Beach Public Works Department will have to approve any flagpoles projecting over public property such as sidewalks.**



# MIAMI BEACH

OFFICE OF THE MAYOR AND COMMISSION

## MEMORANDUM

TO: Jorge Gonzalez, City Manager

FROM: Matti Herrera Bower, Mayor

DATE: March 10, 2009

SUBJECT: Discussion Item for the March 18, 2009 Agenda

Please include the attached resolution for discussion in the March 18, 2009 agenda. The proposed resolution establishes the *Gay Business Development Ad Hoc Committee* as a standing committee with the new name of *GLBT Community Relations Committee*.

Please do not hesitate to contact my office with any questions and/or concerns.

MHB/ajf

RECEIVED  
OFFICE OF THE MAYOR  
2009 MAR 10 PM 2:21

**RESOLUTION NO. \_\_\_\_\_**

**A RESOLUTION OF THE MAYOR AND CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA, AUTHORIZING THE CITY ADMINISTRATION AND CITY ATTORNEYS OFFICE TO PREPARE AN ORDINANCE MAKING THE MAYOR'S GAY BUSINESS DEVELOPMENT COMMITTEE, WHICH IS CURRENTLY AN AD HOC COMMITTEE, INTO A STANDING CITY COMMITTEE, TO BE KNOWN AS THE CITY OF MIAMI BEACH GAY, LESBIAN, BISEXUAL AND TRANSGENDER (GLBT) COMMUNITY RELATIONS COMMITTEE; FURTHER INCLUDING THE INITIAL TERMS FOR ESTABLISHMENT, AS SET FORTH IN THIS RESOLUTION; AND EXTENDING THE DURATION OF THE MAYOR'S GAY BUSINESS DEVELOPMENT COMMITTEE (COMMENCING RETROACTIVELY ON MARCH 15, 2009) UNTIL SUCH TIME AS THE MAYOR AND CITY COMMISSION APPROVE THE ORDINANCE ESTABLISHING THE GLBT COMMUNITY RELATION COMMITTEE ON SECOND AND FINAL READING.**

**WHEREAS**, the Mayor's Gay Business Development Committee (the GLBT Ad Hoc Committee) was created as an ad hoc committee whose mission statement is to provide the City Commission with recommendations on initiatives to be implemented and supported by the City regarding a variety of issues to ensure the welfare and future of the Miami Beach gay, lesbian, bisexual and transgender (GLBT) community; and

**WHEREAS**, since its first meeting on March 25, 2008, the GLBT Ad Hoc Committee has successfully addressed such issues as: introducing legislation, which was adopted by the City Commission, permitting the display of the Rainbow/Pride flag in the City of Miami Beach; supporting legislation, which was adopted by the City Commission, opposing the passage of Amendment 2 to the Florida Constitution; and assisting with the creation and coordination of the City's first ever annual Gay Pride event, which is currently scheduled to take place on April 18, 2009; and

**WHEREAS**, in furtherance of its mission statement, as set forth above, the GLBT Ad Hoc Committee has expressed an interest in continuing to explore and develop GLBT issues and initiatives for presentation to, and consideration by, the Mayor and City Commission, and continuing to ensure the well being and quality of life of the City's GLBT community (particularly, as most recently discussed by the Committee in its ongoing review and subsequent recommendations to the Mayor and City Commission as to the continued support, strengthening, and improvements to the City's anti-discrimination, domestic partnership, and equal benefits legislation); and

**WHEREAS**, at its regular meeting on February 24, 2009, the Committee unanimously passed a motion requesting that the Mayor and City Commission consider sunsetting the Mayor's (Ad Hoc) Gay Business Development Committee, and creating a standing Committee in its stead, to be known as the City of Miami Beach Gay Lesbian Bisexual and Transgender Community Relations Committee (the GLBT Community Relations Committee) (and whose purpose and mission statement would be the same as the GLBT Ad Hoc Committee); and

**WHEREAS**, in considering whether to create the GLBT Community Relations Committee, the Committee further recommended that the Mayor and City Commission incorporate the following into the Committee's enabling legislation:

- That the Committee have thirteen (13) members, seven (7) of whom would be directly appointed by the Mayor, with the remaining six (6) to be directly appointed by each individual City Commissioner;
- Provided they wish to continue to serve, any current member of the GLBT Ad Hoc Committee would be automatically appointed to serve as an initial member of the

GLBT Community Relations Committee;

- Each member would serve for a two (2) term, with such terms to be staggered as per the current established procedures of the City Clerks Office; and

**WHEREAS**, as the GLBT Ad Hoc Committee's one (1) year term expired on March 15, 2009, it is hereby further recommended that the term of the Ad Hoc Committee be extended (commencing retroactively on March 15, 2009) until such time as the GLBT Community Relations Committee is approved and adopted.

**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 authorize the City Administration and City Attorneys Office to prepare an Ordinance making the Mayor's Gay Business Development Committee, which is currently an ad hoc committee, into a standing City committee, to be known as the City of Miami Beach Gay, Lesbian, Bisexual and Transgender (GLBT) Community Relations Committee; further including the initial terms for establishment, as set forth in this Resolution; and extending the duration of the Mayor's Gay Business Development Committee (commencing retroactively on March 15, 2009) until such time as the Mayor and City Commission approve the Ordinance establishing the GLBT Community Relations Committee on Second and Final Reading.

**PASSED and ADOPTED** this \_\_\_\_\_ Day of \_\_\_\_\_, 2009.

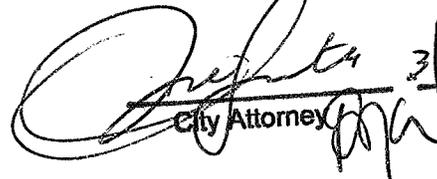
\_\_\_\_\_  
MAYOR

ATTEST:

\_\_\_\_\_  
CITY CLERK

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

  
\_\_\_\_\_  
City Attorney

3/5/09

Date

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# MIAMI BEACH

OFFICE OF THE MAYOR AND COMMISSION

## MEMORANDUM

TO: Jorge Gonzalez, City Manager

FROM: Jerry Libbin, Commissioner

DATE: March 10, 2009

SUBJECT: Agenda item for the March 18, 2009 Commission Meeting; a consideration to cancel the parking contract issued to Impark

Please place on the March 18, 2009 Commission meeting agenda a discussion for the Commission to consider canceling the Impark Contract, placing them on a month to month basis, during which time we may direct administration to issue a new RFP.

Documentation of the concerns will follow under separate cover.

Please contact our office at ext. 6722 if you have any questions.

JL/er

2009 MAR 10 10:51 AM  
COMMUNICATIONS SECTION

Agenda Item R9E  
Date 3-18-09

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**R10 - City Attorney Reports**

R10A Notice of Closed Executive Session.

Pursuant To Section 447.605, Florida Statutes, A Closed Executive Session Will Be Held During Recess Of The City Commission Meeting On Wednesday, March 18, 2009 In The City Manager's Large Conference Room, Fourth Floor, City Hall, For A Discussion Relative To Collective Bargaining.

AGENDA ITEM R10A  
DATE 3-18-09

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OFFICE OF THE CITY ATTORNEY

*City of Miami Beach*

F L O R I D A



**JOSE SMITH**  
City Attorney

**Telephone:** (305) 673-7470  
**Facsimile:** (305) 673-7002

COMMISSION MEMORANDUM

TO: Mayor Matti Herrera Bower  
Members of the City Commission  
City Manager Jorge M. Gonzalez

FROM: Jose Smith, City Attorney

SUBJECT: City Attorney's Status Report

DATE: March 18, 2009

LAWSUITS FILED BY OR AGAINST THE CITY OF MIAMI BEACH SINCE THE LAST REPORT

- 1) Countrywide Home Loans Servicing vs. Miguel Shiling a/k/a Miguel E. Shiling, et. al, Case No. 09-10058 CA 31 (Circuit Court – 11<sup>th</sup> Judicial Circuit in and for Miami-Dade County, Florida)

This is an action to foreclose a mortgage on real property located at 5151 Collins Avenue, Apt., 926, Miami Beach Florida. The Summons and Complaint were served on the City on February 17, 2009.

The City's Answer and Affirmative Defense, asserting priority for any special assessments, including, but not limited to, utility water and sewer services, demolition or board-up liens, and resort taxes was filed on March 9, 2009.

- 2) Citibank, N.A. vs. Alfred Morana, et. al, Case No. 09-10666 CA 10 (Circuit Court – 11<sup>th</sup> Judicial Circuit in and for Miami-Dade County, Florida)

This is an action to foreclose a mortgage on real property located at 2039 NE 123 Street, North Miami, Florida. The Summons and Complaint were served on the City on February 17, 2009.

The City's Answer and Affirmative Defense, asserting priority for any special assessments, including, but not limited to, utility water and sewer services, demolition or board-up liens, and resort taxes was filed March 9, 2009.

- 3) Aurora Loan Services, LLC vs. Claudio C. Henriques da Silva, et. al, Case No. 09-11331 CA 32 (Circuit Court – 11<sup>th</sup> Judicial Circuit in and for Miami-Dade County, Florida)

This is an action to foreclose a mortgage on real property located at 101 20<sup>th</sup> Street, Unit 2604, Miami Beach, Florida. The Summons and Complaint were served on the City on February 17, 2009.

Agenda Item A  
Date 3-18-09

The City's Answer and Affirmative Defense, asserting priority for any special assessments, including, but not limited to, utility water and sewer services, demolition or board-up liens, and resort taxes was filed on March 9, 2009.

- 4) Residential Funding Company, LLC vs. Thomas A. Barnick, et. al, Case No. 09-11872 CA 09 (Circuit Court – 11<sup>th</sup> Judicial Circuit in and for Miami-Dade County, Florida)

This is an action to foreclose a mortgage on real property located at 1200 West Avenue, Unit 910, Miami Beach, Florida. The Summons and Complaint were served on the City on February 17, 2009.

The City's Answer and Affirmative Defense, asserting priority for any special assessments, including, but not limited to, utility water and sewer services, demolition or board-up liens, and resort taxes was filed on March 9, 2009.

- 5) Indymac Federal Bank, FSB vs. Myrna C. Colom, et. al, Case No. 09-12103 CA 09 (Circuit Court – 11<sup>th</sup> Judicial Circuit in and for Miami-Dade County, Florida)

This is an action to foreclose a mortgage on real property located at 7610 Byron Avenue, Unit 11, Miami Beach, Florida. The Summons and Complaint were served on the City on February 18, 2009.

The City's Answer and Affirmative Defense, asserting priority for any special assessments, including, but not limited to, utility water and sewer services, demolition or board-up liens, and resort taxes was filed on March 6, 2009.

- 6) Metropolitan Mortgage Company vs. Ivor Rose, et. al, Case No. 09-10973 CA 20 (Circuit Court – 11<sup>th</sup> Judicial Circuit in and for Miami-Dade County, Florida)

This is an action to foreclose a mortgage on real property located at 1039 18<sup>th</sup> Street, Miami Beach, Florida. The Summons and Complaint were served on the City on February 19, 2009.

The City's Answer and Affirmative Defense, asserting priority for any special assessments, including, but not limited to, utility water and sewer services, demolition or board-up liens, and resort taxes will be timely filed.

- 7) Milton Raijman vs. Ivor Rose, et. al, Case No. 09-10991 CA 23 (Circuit Court – 11<sup>th</sup> Judicial Circuit in and for Miami-Dade County, Florida)

This is an action to foreclose a mortgage on real property located at 1129 71<sup>st</sup> Street, Miami Beach, Florida. The Summons and Complaint were served on the City on February 19, 2009.

The City's Answer and Affirmative Defense, asserting priority for any special assessments, including, but not limited to, utility water and sewer services, demolition or board-up liens, and resort taxes will be timely filed.

- 8) Michigan Equity Fund, LLC vs. Ivor Hano Rose, et. al, Case No. 09-11494 CA 20 (Circuit Court – 11<sup>th</sup> Judicial Circuit in and for Miami-Dade County, Florida)

This is an action to foreclose a mortgage on real property located at 1810 Michigan Avenue and at 1818 Michigan Avenue, Miami Beach, Florida. The Summons and Complaint were served on the City on February 19, 2009.

The City's Answer and Affirmative Defense, asserting priority for any special assessments, including, but not limited to, utility water and sewer services, demolition or board-up liens, and resort taxes will be timely filed.

- 9) Metropolitan Mortgage Company vs. Michael Stern, et. al, Case No. 09-8899 CA 04 (Circuit Court – 11<sup>th</sup> Judicial Circuit in and for Miami-Dade County, Florida)

This is an action to foreclose a mortgage on real property located at 2089 NW 79 Street, Miami, Florida. The Summons and Complaint were served on the City on February 19, 2009.

The City's Answer and Affirmative Defense, asserting priority for any special assessments, including, but not limited to, utility water and sewer services, demolition or board-up liens, and resort taxes will be timely filed.

- 10) Raijman Realty, Inc. vs. Michael Alan Stern, et. al, Case No. 09-11490 CA 21 (Circuit Court – 11<sup>th</sup> Judicial Circuit in and for Miami-Dade County, Florida)

This is an action to foreclose a second mortgage on real property located at 1766 Michigan Avenue, Miami Beach, Florida. The Summons and Complaint were served on the City on February 19, 2009.

The City's Answer and Affirmative Defense, asserting priority for any special assessments, including, but not limited to, utility water and sewer services, demolition or board-up liens, and resort taxes will be timely filed.

- 11) Metropolitan Mortgage Company vs. Ivan Hano Rose, et. al, Case No. 09-8883 CA 09 (Circuit Court – 11<sup>th</sup> Judicial Circuit in and for Miami-Dade County, Florida)

This is an action to foreclose a mortgage on real property located at 221-225 NE 67 Street, Miami, Florida, at 235 NE 67 Street, Miami, Florida, and at 900 Collins Avenue, Miami Beach, Florida. The Summons and Complaint were served on the City on February 19, 2009.

The City's Answer and Affirmative Defense, asserting priority for any special assessments, including, but not limited to, utility water and sewer services, demolition or board-up liens, and resort taxes will be timely filed.

- 12) Raijman Realty, Inc. vs. Ivan Hano Rose, et. al, Case No. 09-10984 CA 24 (Circuit Court – 11<sup>th</sup> Judicial Circuit in and for Miami-Dade County, Florida)

This is an action to foreclose a mortgage on real property located at 1760 Lenox Avenue, Miami Beach, Florida. The Summons and Complaint were served on the City on February 19, 2009.

The City's Answer and Affirmative Defense, asserting priority for any special assessments, including, but not limited to, utility water and sewer services, demolition or board-up liens, and resort taxes will be timely filed.

- 13) Normandy Shores Apartments Condominium Association, Inc. vs. Perry Tortorelli, et. al, Case No. 09-13273 CA 32 (Circuit Court – 11<sup>th</sup> Judicial Circuit in and for Miami-Dade County, Florida)

This is an action to foreclose a condominium lien on real property located at 2131 Calais Drive, #5, Miami Beach, Florida. The Summons and Complaint were served on the City on February 20, 2009.

The City's Answer and Affirmative Defense, asserting priority for any special assessments, including, but not limited to, utility water and sewer services, demolition or board-up liens, and resort taxes will be timely filed.

- 14) Deutsche Bank National Trust Company vs. Juan C. Valdes, et. al, Case No. 09-12503 CA 02 (Circuit Court – 11<sup>th</sup> Judicial Circuit in and for Miami-Dade County, Florida)

This is an action to foreclose a mortgage on real property located at 14961 SW 92 Terrace, Miami, Florida. The Summons and Complaint were served on the City on February 20, 2009.

The City's Answer and Affirmative Defense, asserting priority for any special assessments, including, but not limited to, utility water and sewer services, demolition or board-up liens, and resort taxes will be timely filed.

- 15) Sunset Parking Systems vs. Savoy Hotel, et. al, Case No. 09-13917 CA 30 (Circuit Court – 11<sup>th</sup> Judicial Circuit in and for Miami-Dade County, Florida)

This is to enjoin the City from accepting an application from the Savoy Hotel which, according to the Plaintiff, is in contravention of the procedures set forth in Chapter 118, Article IV, Section 188-194(c) of the Code of the City of Miami Beach, and, if accepted by the City, would modify Plaintiff's Conditional Use Permit for the parking lot located at 400-420 Collins Avenue, and 221 4<sup>th</sup> Street, Miami Beach, Florida. The Summons and Complaint were served on the City on February 20, 2009.

The City's response to the Complaint will be timely filed.

- 16) Aurora Loan Services, LLC vs. Jose Antonio Moreno, et. al, Case No. 09-11756 CA 24 (Circuit Court – 11<sup>th</sup> Judicial Circuit in and for Miami-Dade County, Florida)

This is an action to foreclose a mortgage on real property located at 1350 NE 136 Street, North Miami, Florida. The Summons and Complaint were served on the City on February 20, 2009.

The City's Answer and Affirmative Defense, asserting priority for any special assessments, including, but not limited to, utility water and sewer services, demolition or board-up liens, and resort taxes was filed on March 9, 2009.

- 17) Deutsche Bank National Trust vs. Jose J. Rodriguez, et. al, Case No. 09-10810 CA 10 (Circuit Court – 11<sup>th</sup> Judicial Circuit in and for Miami-Dade County, Florida)

This is an action to foreclose a mortgage on real property located at 15221 SW 90 Street, Unit 314, Miami, Florida. The Summons and Complaint were served on the City on February 20, 2009.

The City's Answer and Affirmative Defense, asserting priority for any special assessments, including, but not limited to, utility water and sewer services, demolition or board-up liens, and resort taxes was filed on March 9, 2009.

- 18) SunTrust Mortgage vs. Luis Maseda, et. al, Case No. 09-10208 CA 21 (Circuit Court – 11<sup>th</sup> Judicial Circuit in and for Miami-Dade County, Florida)

This is an action to foreclose a mortgage on real property located at 6365 Collins Avenue, Unit 3208, Miami Beach, Florida. The Summons and Complaint were served on the City on February 20, 2009.

The City's Answer and Affirmative Defense, asserting priority for any special assessments, including, but not limited to, utility water and sewer services, demolition or board-up liens, and resort taxes was filed on March 9, 2009.

- 19) Andra Kanan V. City Of Miami Beach, Case No. 09-13902 CA 23 (Circuit Court – 11<sup>th</sup> Judicial Circuit in and for Miami Dade County).

The City was served with this complaint on February 24, 2009 alleging that on May 17, 2008, Dwight J. Ferguson, a trainee fire officer with the City of Miami Beach, operated and/or maintained a fire truck at or near 71 street (SR 934) and Collins Avenue, Miami Beach, Florida, in such a negligent manner as to cause it to collide with the Plaintiff's motor vehicle resulting in neck and back injuries. We shall file our usual answer and propound discovery.

- 20) Bank of America, N.A. vs. Gustavo Julio Minguez, et. al, Case No. 09-13948 CA 11 (Circuit Court – 11<sup>th</sup> Judicial Circuit in and for Miami-Dade County, Florida)

This is an action to foreclose a mortgage on real property located at 1200 West Avenue, Unit 510, Miami Beach, Florida. The Summons and Complaint were served on the City on February 24, 2009.

The City's Answer and Affirmative Defense, asserting priority for any special assessments, including, but not limited to, utility water and sewer services, demolition or board-up liens, and resort taxes will be timely filed.

- 21) Aurora Loan Services, LLC. vs. Jose Rodriguez, et. al., Case No. 09-13944 CA 10 (Circuit Court – 11<sup>th</sup> Judicial Circuit in and for Miami-Dade County, Florida)

This is an action to foreclose a mortgage on real property located at 15051 Royal Oak Lane, Unit 1009, Miami, Florida. The Summons and Complaint were served on the City on February 24, 2009.

The City's Answer and Affirmative Defense, asserting priority for any special assessments, including, but not limited to, utility water and sewer services, demolition or board-up liens, and resort taxes will be timely filed.

- 22) IndyMac Bank, F.S.B. vs. Antonio B. Rodriguez, et. al., Case No. 09-11475 CA 05 (Circuit Court – 11<sup>th</sup> Judicial Circuit in and for Miami-Dade County, Florida)

This is an action to foreclose a mortgage on real property located at 17650 NW 73 Avenue, 207-18, Hialeah, Florida. The Summons and Complaint were served on the City on February 24, 2009.

The City's Answer and Affirmative Defense, asserting priority for any special assessments, including, but not limited to, utility water and sewer services, demolition or board-up liens, and resort taxes will be timely filed.

- 23) Countrywide Home Loan Servicing L.P. vs. Beverly J. Tarnow, et. al., Case No. 09-12605 CA 15 (Circuit Court – 11<sup>th</sup> Judicial Circuit in and for Miami-Dade County, Florida)

This is an action to foreclose a mortgage on real property located at 335 Ocean Drive, #122, Miami Beach, Florida. The Summons and Complaint were served on the City on February 24, 2009.

The City's Answer and Affirmative Defense, asserting priority for any special assessments, including, but not limited to, utility water and sewer services, demolition or board-up liens, and resort taxes will be timely filed.

- 24) Wachovia Mortgage Corporation vs. Francisco Alencar, et. al., Case No. 09-12621 CA 24 (Circuit Court – 11<sup>th</sup> Judicial Circuit in and for Miami-Dade County, Florida)

This is an action to foreclose a mortgage on real property located at 1250 West Avenue, Apt. 6-L, Miami Beach, Florida. The Summons and Complaint were served on the City on February 24, 2009.

The City's Answer and Affirmative Defense, asserting priority for any special assessments, including, but not limited to, utility water and sewer services, demolition or board-up liens, and resort taxes will be timely filed.

- 25) JPMorgan Chase Bank, N.A. vs. Juan Carlos Bedevia, et. al, Case No. 09-12498 CA 22  
(Circuit Court – 11<sup>th</sup> Judicial Circuit in and for Miami-Dade County, Florida)

This is an action to foreclose a mortgage on real property located at 1891 SW 3<sup>rd</sup> Street, Miami, Florida. The Summons and Complaint were served on the City on February 25, 2009.

The City's Answer and Affirmative Defense, asserting priority for any special assessments, including, but not limited to, utility water and sewer services, demolition or board-up liens, and resort taxes will be timely filed.

- 26) EMC Mortgage Corporation vs. David Bradwein, et. al, Case No. 09-13213 CA 02  
(Circuit Court – 11<sup>th</sup> Judicial Circuit in and for Miami-Dade County, Florida)

This is an action to foreclose a mortgage on real property located at 1200 West Avenue, Unit 329, Miami Beach, Florida. The Summons and Complaint were served on the City on February 26, 2009.

The City's Answer and Affirmative Defense, asserting priority for any special assessments, including, but not limited to, utility water and sewer services, demolition or board-up liens, and resort taxes will be timely filed.

- 27) Aurora Loan Services LLC. vs. Ricardo K. Alvarez, et. al, Case No. 09-13213 CA 02  
(Circuit Court – 11<sup>th</sup> Judicial Circuit in and for Miami-Dade County, Florida)

This is an action to foreclose a mortgage on real property located at 1121 Crandon Blvd., Unit D505, Key Biscayne, Florida. The Summons and Complaint were served on the City on February 26, 2009.

The City's Answer and Affirmative Defense, asserting priority for any special assessments, including, but not limited to, utility water and sewer services, demolition or board-up liens, and resort taxes will be timely filed.

- 28) South Beach Heights II, LLC v. City of Miami Beach, Case No. 09-15306 CA 04, 11<sup>th</sup>  
Judicial Circuit, Miami-Dade County, Florida

This Petition for Declaratory Judgment and Other Relief challenges the adoption of an ordinance extending the Flamingo Park Historic District to the 600 and 700 blocks on the east side of Alton Road. The grounds alleged include that the ordinance was enacted without consideration of its long-term economic impact as required by the City Charter and violates the intent, purpose and criteria of the City's Historic Preservation Ordinance. Contrary to the allegations, the long-term economic impact was considered, and the Ordinance complies with the City's Historic Preservation Ordinance. The City Attorney's Office will defend against the challenge.

- 29) Regions Bank vs. Indian Creek Holdings, LLC et. al, Case No. 09-15625 CA 08 (Circuit Court – 11<sup>th</sup> Judicial Circuit in and for Miami-Dade County, Florida)

This is an action to foreclose a mortgage on real property located at 6701 Collins Avenue, Miami Beach. The Summons and Complaint were served on the City on February 27, 2009.

The City's Answer and Affirmative Defense, asserting priority for any special assessments, including, but not limited to, utility water and sewer services, demolition or board-up liens, and resort taxes will be timely filed.

- 30) U.S. Bank National Association. vs. Pedro Fernandez, et. al, Case No. 09-15938 CA 25 (Circuit Court – 11<sup>th</sup> Judicial Circuit in and for Miami-Dade County, Florida)

This is an action to foreclose a mortgage on real property located at 18923 NW 46 Avenue, Florida. The Summons and Complaint were served on the City on March 2, 2009.

The City's Answer and Affirmative Defense, asserting priority for any special assessments, including, but not limited to, utility water and sewer services, demolition or board-up liens, and resort taxes will be timely filed.

- 31) National City Bank vs. Alejandro Lopez, et. al, Case No. 09-15896 CA 05 (Circuit Court – 11<sup>th</sup> Judicial Circuit in and for Miami-Dade County, Florida)

This is an action to foreclose a mortgage on real property located at 6039 Collins Avenue, Unit 905, Miami Beach, Florida. The Summons and Complaint were served on the City on March 2, 2009.

The City's Answer and Affirmative Defense, asserting priority for any special assessments, including, but not limited to, utility water and sewer services, demolition or board-up liens, and resort taxes will be timely filed.

- 32) Taylor, Bean & Whitaker Mortgage Corp. vs. Jose L. Rodriguez, et. al, Case No. 09-14578 CA 22 (Circuit Court – 11<sup>th</sup> Judicial Circuit in and for Miami-Dade County, Florida)

This is an action to foreclose a mortgage on real property located at 11140 SW 196 Street, Unit C-306, Miami, Florida. The Summons and Complaint were served on the City on March 2, 2009.

The City's Answer and Affirmative Defense, asserting priority for any special assessments, including, but not limited to, utility water and sewer services, demolition or board-up liens, and resort taxes will be timely filed.

- 33) Deutsche Bank National Trust vs. Steven Roth, et. al, Case No. 09-12591 CA 25 (Circuit Court – 11<sup>th</sup> Judicial Circuit in and for Miami-Dade County, Florida)

This is an action to foreclose a mortgage on real property located at 111 San Marino 3 Terrace, Miami Beach, Florida. The Summons and Complaint were served on the City on March 2, 2009.

The City's Answer and Affirmative Defense, asserting priority for any special assessments, including, but not limited to, utility water and sewer services, demolition or board-up liens, and resort taxes will be timely filed.

- 34) Metropolitan Mortgage Company vs. The Holdings One of Michigan Avenue, LLC, et. al, Case No. 09-16408 CA 06 (Circuit Court – 11<sup>th</sup> Judicial Circuit in and for Miami-Dade County, Florida)

This is an action to foreclose a mortgage encumbering the following properties: 1920 Michigan Avenue, 1801 Michigan Avenue, 1800 Michigan Avenue, 80 NW 82 Street, Miami, Florida, 77 NW 72 Street, Miami, Florida, and 1827 Michigan Avenue, Miami Beach, Florida. The Summons and Complaint were served on the City on March 3, 2009.

The City's Answer and Affirmative Defense, asserting priority for any special assessments, including, but not limited to, utility water and sewer services, demolition or board-up liens, and resort taxes will be timely filed.

- 35) JPMorgan Chase Bank vs. Sandra B. Fajeraizen, et. al, Case No. 09-16560 CA 32 (Circuit Court – 11<sup>th</sup> Judicial Circuit in and for Miami-Dade County, Florida)

This is an action to foreclose a mortgage on real property located at 1341 Meridian Avenue, Unit 204, Miami Beach, Florida. The Summons and Complaint were served on the City on March 3, 2009.

The City's Answer and Affirmative Defense, asserting priority for any special assessments, including, but not limited to, utility water and sewer services, demolition or board-up liens, and resort taxes will be timely filed.

- 36) CitiMortgage, Inc. vs. Norma Fernandez, et. al, Case No. 09-16254 CA 03 (Circuit Court – 11<sup>th</sup> Judicial Circuit in and for Miami-Dade County, Florida)

This is an action to foreclose a mortgage on real property located at 9010 SW 125 Avenue, G-308, Miami, Florida. The Summons and Complaint were served on the City on March 3, 2009.

The City's Answer and Affirmative Defense, asserting priority for any special assessments, including, but not limited to, utility water and sewer services, demolition or board-up liens, and resort taxes will be timely filed.

- 37) State Farm Insurance A/S/O of Richard Thurston v. City of Miami Beach, Case No. 08-01639 SP 05 (County Court – 11<sup>th</sup> Judicial Circuit in and for Miami Dade County).

The City was served with this complaint on March 3, 2009 alleging that on December 7, 2007, the subrogor's vehicle, while being driven by Lawrence Kenealy, on East Rivo Drive in Miami Beach, struck an improperly secured manhole cover and sustained damages to the tune of \$2,924.60 plus the cost of bringing the action. The pre-trial conference was held on March 4, 2009. The City invoked the rules of civil procedure and requested 20 days to file its response. The City filed its answer and propounded property damage discovery to the Plaintiff on March 9, 2009.

- 38) George Martin, as Trustee vs. Ran, LLC, et. al, Case No. 09-01385 CA 27 (Circuit Court – 11<sup>th</sup> Judicial Circuit in and for Miami-Dade County, Florida)

This is an action to foreclose a mortgage on real property located at 810 7<sup>th</sup> Street, Miami Beach, Florida. The Summons and Complaint were served on the City on March 5, 2009.

The City's Answer and Affirmative Defense, asserting priority for any special assessments, including, but not limited to, utility water and sewer services, demolition or board-up liens, and resort taxes will be timely filed.

- 39) HSBC Mortgage Corporation USA vs. Shirley Castro, et. al, Case No. 09-15406 CA 15 (Circuit Court – 11<sup>th</sup> Judicial Circuit in and for Miami-Dade County, Florida)

This is an action to foreclose a mortgage on real property located at 1985 Bay Drive, #15, Miami Beach, Florida. The Summons and Complaint were served on the City on March 5, 2009.

The City's Answer and Affirmative Defense, asserting priority for any special assessments, including, but not limited to, utility water and sewer services, demolition or board-up liens, and resort taxes will be timely filed.

- 40) Barret Robbins v. the City of Miami Beach, Officer Colin Pfrogner, Officer, Michael Mueley and Officer, William Schoenfeld, Case No. 09-02494 CA 23 (Circuit Court - 11<sup>th</sup> Judicial Circuit in and for Miami-Dade County, Florida)

This a lawsuit brought in State Court against the City and several Police Officers by a former football player who alleges that the City used excessive force in regard to several incidents on January 15, 2005. The Plaintiff, who the Complaint states suffers from bipolar disorder, alleges that he was shot and excessive force used against him. The suit will be removed to Federal Court where the case will be vigorously defended. The case is being brought pursuant to state law and federal law for alleged violation of constitutional rights.



# 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: March 18, 2009

SUBJECT: **PARKING STATUS REPORT – JANUARY 2009**

During the month of January the Parking Department received revenue from different sources outlined in the categories listed below:

<b>REVENUE SOURCE</b>	<b>JANUARY 2008</b>	<b>JANUARY 2009</b>	<b>%INC/(DEC)</b>
<b>I. Meters (Single &amp; Multi Space)</b>	<b>\$1,022,436.02</b>	<b>\$1,236,078.10</b>	<b>20.90%</b>
<b>II. Garages &amp; Attended Lots</b>	<b>\$958,656.65</b>	<b>\$1,007,956.38</b>	<b>5.14%</b>
a. 17 <sup>th</sup> Street Garage	\$326,520.67	\$343,583.74	5.23%
b. 7 <sup>th</sup> Street Garage	\$163,745.57	\$184,882.97	12.91%
c. 17 <sup>th</sup> Street Lots (E & W)	\$126,937.08	\$70,029.25	(44.83%)
d. 12 <sup>th</sup> Street Garage	\$31,760.50	\$39,211.34	23.46%
e. 13 <sup>th</sup> Street Garage	\$74,263.75	\$104,385.08	40.56%
f. 42 <sup>nd</sup> Street Garage	\$38,000.58	\$38,005.47	0.01%
g. 16 <sup>th</sup> Street Garage	\$197,428.50	\$227,859.53	15.41%
<b>III. Enforcement</b>	<b>\$307,859.81</b>	<b>\$237,438.19</b>	<b>(22.88%)</b>
a. M-D City Pkg Violations	\$286,959.81	\$218,460.19	(23.87%)
b. Towing	\$20,900.00	\$18,975.00*	(9.21%)
<b>IV. Permit Sales</b>	<b>\$241,870.21</b>	<b>\$246,859.60</b>	<b>2.06%</b>
a. Municipal Monthly Permits	\$102,428.77	\$57,224.83	(44.13%)
b. Valet & Space Rental	\$76,378.98	\$125,477.00	64.28%
c. Residential Permits	\$34,962.46	\$31,947.77	(8.62%)
d. Smart Card Sales (0 cards)	\$7,700.00	\$0.00	(100.00%)
e. Hotel Hang Tags (2,580 tags)	\$20,400.00	\$15,480.00	(24.12%)
f. In Vehicle Parking Meter (660 iParks)		\$16,730.00	100.00%

Meters: the increase of meter revenue is primarily due to: 1) the increase in the hourly parking meter rate in the South Beach Parking Zone (metered parking south of 23<sup>rd</sup> Street) from \$1.00/hour to \$1.25/hour; and 2) the upgrade to wireless communication of all multi-space meters.

\* January 2009 Towing is an estimated amount.

Agenda Item B  
Date 3-18-09

Garages & Attended Lots: The overall revenue in the garages and lots increased by 5.14%; however, this number is negatively impacted by the closure of 75% of the 17<sup>th</sup> Street lots for the construction of the New World Symphony Garage. If this revenue is not taken into consideration, the remaining garages would reflect an overall increase in revenue of 12.77%.

Enforcement: the decrease in revenue represents the significant decrease in citation productivity after the Finance and Citywide Committee discussion on outsourcing parking enforcement. No other factors are identifiable for this decrease at this time.

Permit Sales: the decrease in sales is a continuation of the revenue decrease trend as a result of the reduction in construction and valet space rentals, in addition to the discontinuation of the current smart card. In-Vehicle Parking Meter (IVPM or iPark) sales began on November 24, 2008.

Attached are detailed reports for each category listed above that comprises the total monthly revenue.

*Weather: 5 sunny, 15 partially sunny, 5 partially cloudy, 4 cloudy, and 2 rainy days.*

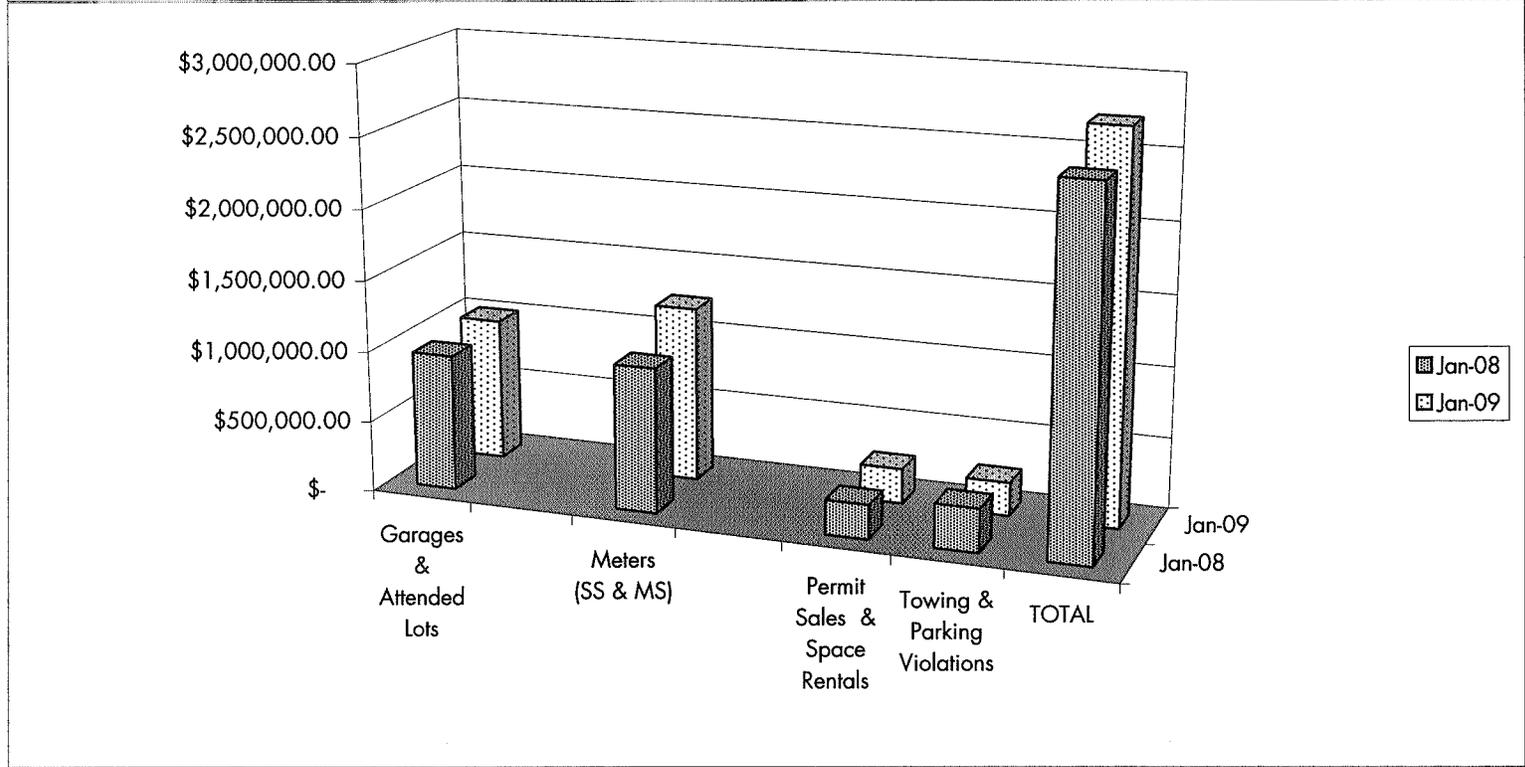
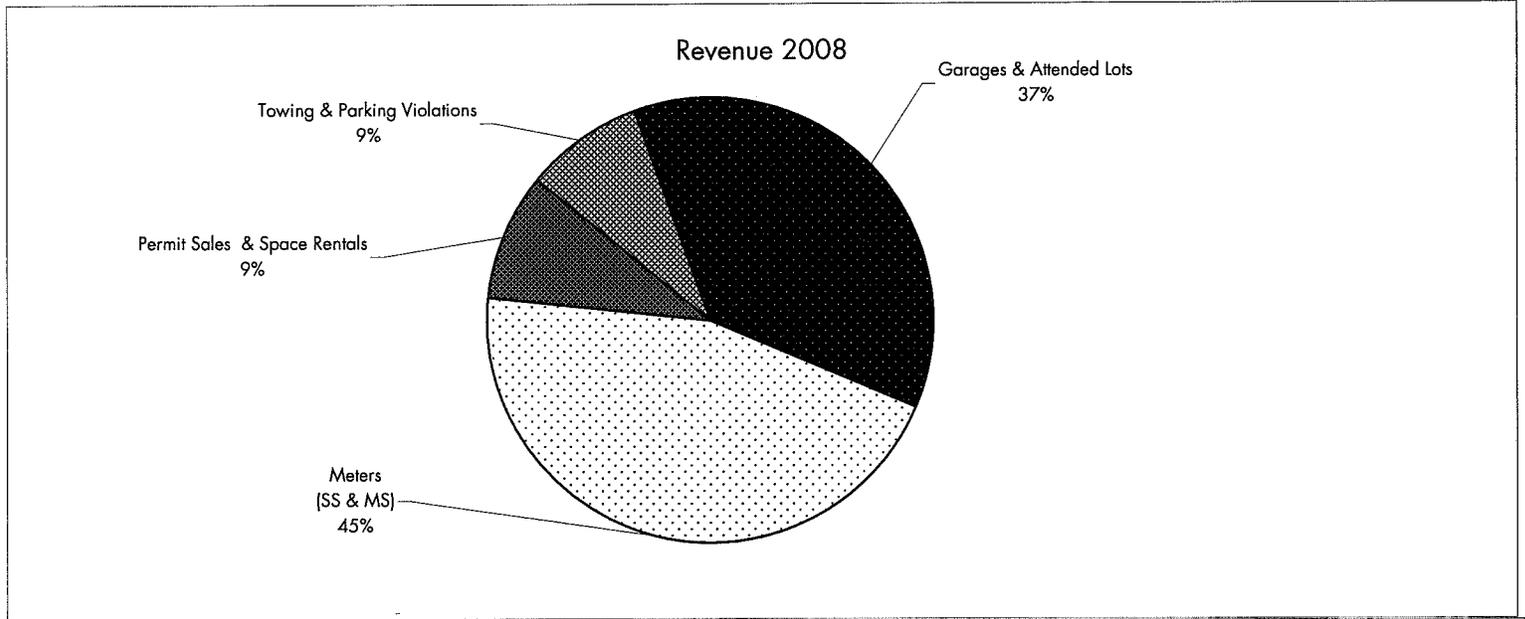
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# PARKING DEPARTMENT REVENUE

January-09

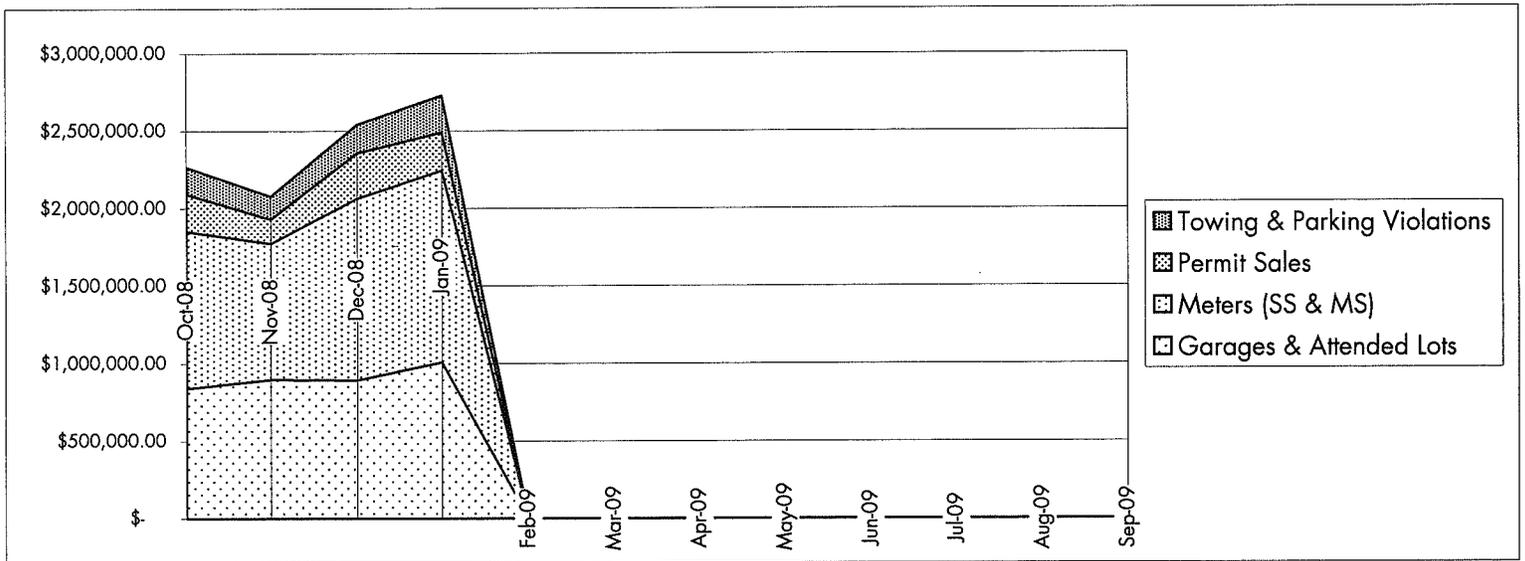
	Garages & Attended Lots	Meters (SS & MS)	Permit Sales & Space Rentals	Towing & Parking Violations	TOTAL
Jan-08	\$ 958,656.65	\$ 1,022,436.02	\$ 241,870.21	\$ 307,859.81	\$ 2,530,822.69
Jan-09	\$ 1,007,957.38	\$ 1,236,078.10	\$ 246,859.60	\$ 237,435.19	\$ 2,728,330.27
Diff	\$ 49,300.73	\$ 213,642.08	\$ 4,989.39	\$ (70,424.62)	\$ 197,507.58
%	5.14%	20.90%	2.06%	-22.88%	7.80%



# PARKING DEPARTMENT REVENUE YTD

January-09

	Garages & Attended Lots	Meters (SS & MS)	Permit Sales	Towing & Parking Violations	TOTAL
Oct-08	\$ 839,507.39	\$ 1,011,911.34	\$ 240,276.94	\$ 174,467.02	\$ 2,266,162.69
Nov-08	\$ 898,793.27	\$ 875,193.68	\$ 155,507.61	\$ 146,992.60	\$ 2,076,487.16
Dec-08	\$ 893,069.67	\$ 1,170,449.78	\$ 293,409.81	\$ 185,371.96	\$ 2,542,301.22
Jan-09	\$ 1,007,957.38	\$ 1,236,078.10	\$ 246,859.60	\$ 237,435.19	\$ 2,728,330.27
Feb-09					\$ -
Mar-09					\$ -
Apr-09					\$ -
May-09					\$ -
Jun-09					\$ -
Jul-09					\$ -
Aug-09					\$ -
Sep-09					\$ -
YTD	\$ 3,639,327.71	\$ 4,293,632.90	\$ 936,053.96	\$ 744,266.77	\$ 9,613,281.34



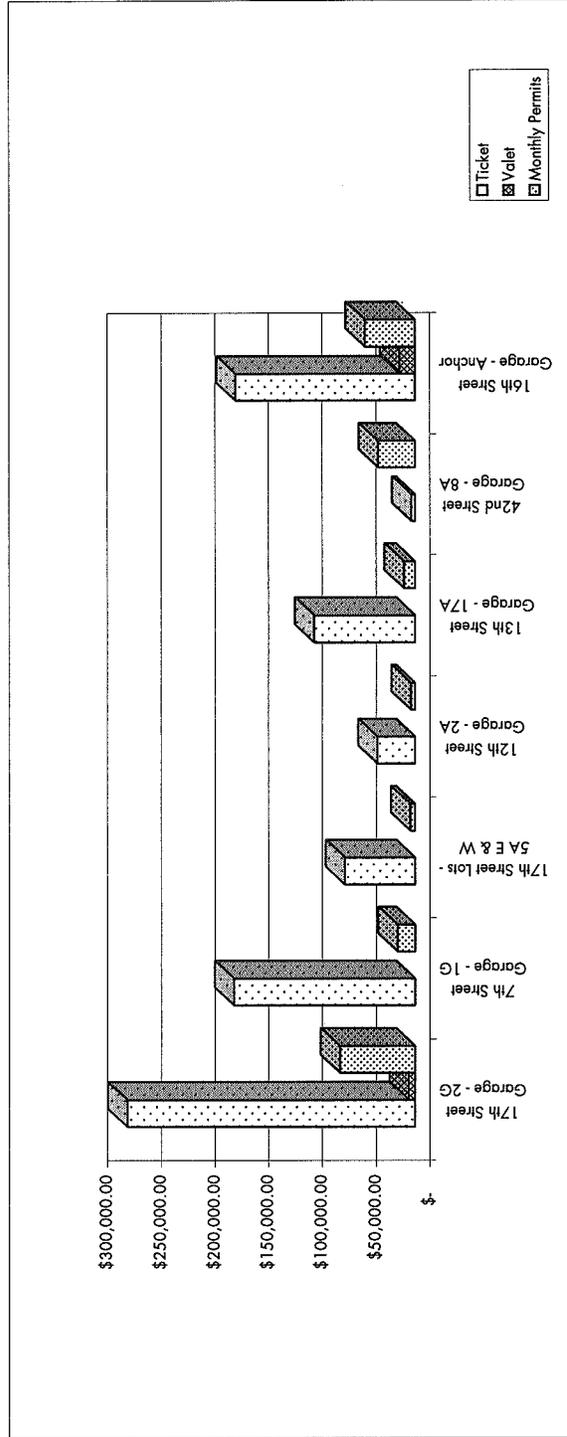
## IPARK SALES

	IPARK DEVICE SALES		\$25 - RELOAD SALES		\$50 - RELOAD SALES		TOTAL RELOADS	GRAND TOTAL
	QTY	AMOUNT	QTY	AMOUNT	QTY	AMOUNT		
RESIDENT	374	\$ 7,480.00	101	\$ 2,525.00	71	\$ 3,550.00	\$ 6,075.00	\$ 13,555.00
NON-RESIDENT	50	\$ 1,000.00	41	\$ 1,025.00	23	\$ 1,150.00	\$ 2,175.00	\$ 3,175.00
	<b>424</b>	<b>\$ 8,480.00</b>	<b>142</b>	<b>\$ 3,550.00</b>	<b>94</b>	<b>\$ 4,700.00</b>	<b>\$ 8,250.00</b>	<b>\$ 16,730.00</b>

# PARKING GARAGE REVENUE CATEGORIES

January-09

	17th Street Garage - 2G	7th Street Garage - 1G	17th Street Lots - 5A E & W	12th Street Garage - 2A	13th Street Garage - 17A	42nd Street Garage - 8A	16th Street Garage - Anchor	TOTAL
Ticket	\$ 267,703.74	\$ 168,457.97	\$ 65,339.25	\$ 35,081.34	\$ 93,885.08	\$ 3,635.47	\$ 166,956.05	\$ 801,058.90
Valet	\$ 5,950.00	\$ 16,425.00	\$ 4,690.00	\$ 4,130.00	\$ 10,500.00	\$ 34,370.00	\$ 14,421.48	\$ 20,371.48
Monthly Permits	\$ 69,930.00	\$ 184,882.97	\$ 70,029.25	\$ 39,211.34	\$ 104,385.08	\$ 38,005.47	\$ 227,859.53	\$ 1,007,957.38



City of Miami Beach

Parking Department

Daily Vehicle Entry Report - January 2009

Date	Day	17th Street Garage - 2G			7th St Garage - 1G			16th Street Garage - ANCHOR		
		Total Vehicle Entries	Peak Period	Peak Vehicle Count	Total Vehicle Entries	Peak Period	Peak Vehicle Count	Total Vehicle Entries	Peak Period	Peak Vehicle Count
1	TH	3630	17:00:17:59	658	1589	16:00:16:59	302	1424	16:00:16:59	303
2	F	4396	19:00:19:59	651	1559	16:00:16:59	293	1466	17:00:17:59	221
3	SA	4576	20:00:20:59	713	1668	16:00:16:59	286	1379	16:00:16:59	238
4	SU	3810	17:00:17:59	617	1217	16:00:16:59	229	922	00:00:00:59	142
5	MO	2437	17:00:17:59	444	752	17:00:17:59	141	853	17:00:17:59	153
6	TU	2781	17:00:17:59	461	757	13:00:13:59	149	837	15:00:15:59	137
7	W	2627	17:00:17:59	441	748	16:00:16:59	147	968	17:00:17:59	170
8	TH	2889	17:00:17:59	465	793	13:00:13:59	155	961	17:00:17:59	162
9	F	4800	19:00:19:59	673	1214	16:00:16:59	202	1319	17:00:17:59	182
10	SA	4853	17:00:17:59	758	1631	16:00:16:59	280	1359	16:00:16:59	187
11	SU	3678	16:00:16:59	656	1330	15:00:15:59	296	1078	13:00:13:59	290
12	MO	2289	17:00:17:59	402	557	15:00:15:59	116	816	15:00:15:59	144
13	TU	2464	17:00:17:59	390	492	14:00:14:59	88	755	17:00:17:59	146
14	W	2508	17:00:17:59	422	522	15:00:15:59	109	783	17:00:17:59	132
15	TH	2839	17:00:17:59	446	668	23:00:23:59	668	795	17:00:17:59	128
16	F	3699	20:00:20:59	466	1299	23:00:23:59	202	993	17:00:17:59	175
17	SA	4345	18:00:18:59	700	2000	14:00:14:59	301	1487	16:00:16:59	238
18	SU	3858	16:00:16:59	703	1721	16:00:16:59	303	1419	14:00:14:59	272
19	MO	2433	15:00:15:59	477	842	13:00:13:59	157	851	17:00:17:59	129
20	TU	2410	17:00:17:59	461	452	15:00:15:59	82	709	17:00:17:59	119
21	W	3142	15:00:15:59	512	483	18:00:18:59	97	742	17:00:17:59	135
22	TH	3810	19:00:19:59	743	560	16:00:16:59	89	890	17:00:17:59	145
23	F	5036	19:00:19:59	827	906	23:00:23:59	165	1273	17:00:17:59	188
24	SA	5545	16:00:16:59	763	1786	16:00:16:59	280	1632	23:00:23:59	230
25	SU	3984	15:00:15:59	694	1377	16:00:16:59	253	942	00:00:00:59	202
26	MO	3054	17:00:17:59	575	593	14:00:14:59	110	741	15:00:15:59	120
27	TU	2590	17:00:17:59	466	544	14:00:14:59	108	903	17:00:17:59	154
28	W	2632	17:00:17:59	450	605	13:00:13:59	124	719	17:00:17:59	107
29	TH	2887	17:00:17:59	514	859	17:00:17:59	161	810	17:00:17:59	150
30	F	3761	19:00:19:59	626	869	23:00:23:59	174	991	23:00:23:59	148
31	SA	4117	14:00:14:59	628	1335	00:00:00:59	213	967	23:00:23:59	138
		107880			31728			31784		

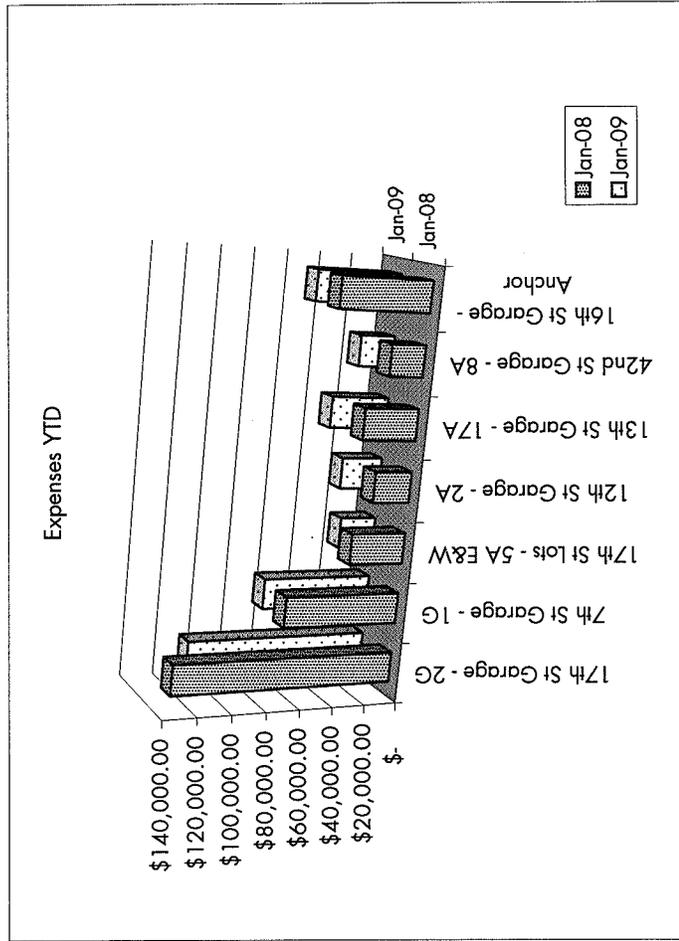
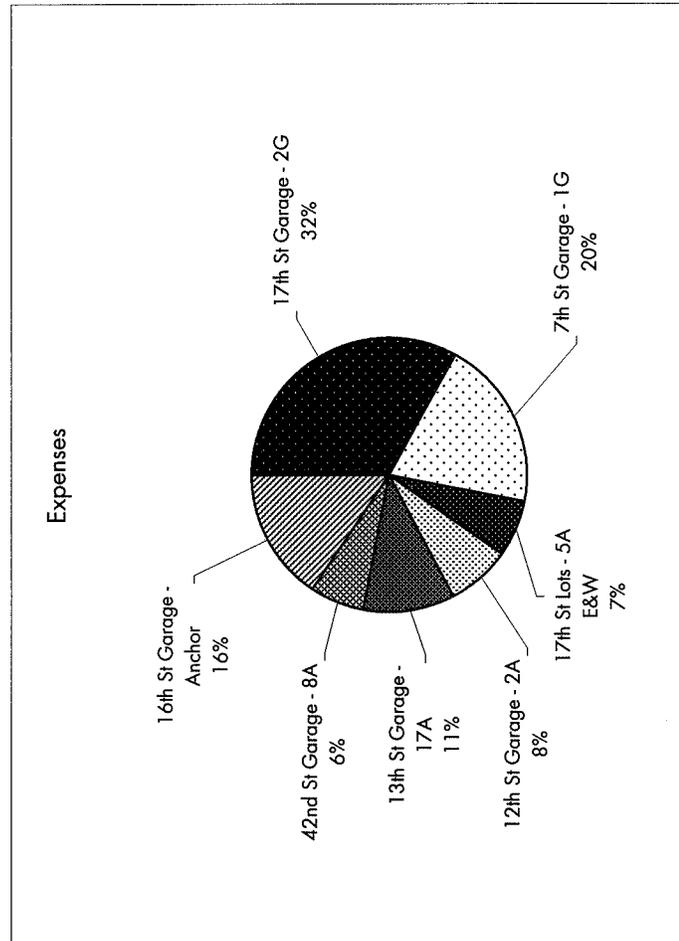
City of Miami Beach  
 Parking Department  
 Daily Vehicle Entry Report - January 2009

Date	Day	12th St Garage - 2A			13th St Garage - 17A			42nd St Garage - 8A		
		Total Vehicle Entries	Peak Period	Peak Vehicle Count	Total Vehicle Entries	Peak Period	Peak Vehicle Count	Total Vehicle Entries	Peak Period	Peak Vehicle Count
1	TH	227	16:00-16:59	41	558	00:00-00:59	22	157	06:00-06:59	49
2	F	263	12:00-12:59	38	678	16:00-16:59	106	329	16:00-16:59	68
3	SA	327	23:00-23:59	54	697	15:00-15:59	113	140	06:00-06:59	36
4	SU	163	00:00-00:59	42	492	00:00-00:59	93		N/A	
5	MO	121	16:00-16:59	21	369	15:00-15:59	77	367	08:00-08:59	85
6	TU	133	12:00-12:59	28	382	12:00-12:59	78	135	16:00-16:59	107
7	W	139	15:00-15:59	27	481	14:00-14:59	77	389	09:00-09:59	79
8	TH	184	14:00-14:59	32	475	11:00-11:59	86	545	16:00-16:59	98
9	F	260	15:00-15:59	47	620	12:00-12:59	86	474	08:00-08:59	86
10	SA	270	15:00-15:59	45	694	17:00-17:59	114	178	06:00-06:59	40
11	SU	203	00:00-00:59	39	543	16:00-16:59	101	146	06:00-06:59	36
12	MO	87	17:00-17:59	16	318	15:00-15:59	57	447	17:00-17:59	93
13	TU	96	17:00-17:59	21	257	17:00-17:59	41	465	14:00-14:59	94
14	W	125	17:00-17:59	34	309	18:00-18:59	49	443	16:00-16:59	89
15	TH	152	14:00-14:59	22	355	17:00-17:59	51	436	16:00-16:59	107
16	F	238	22:00-22:59	32	643	15:00-15:59	98	487	07:00-07:59	84
17	SA	290	16:00-16:59	41	657	23:00-23:59	91	206	14:00-14:59	52
18	SU	250	14:00-14:59	43	636	18:00-18:59	107	163	14:00-14:59	37
19	MO	100	14:00-14:59	22	392	14:00-14:59	74	345	17:00-17:59	61
20	TU	83	17:00-17:59	16	231	08:00-08:59	37	463	16:00-16:59	88
21	W	96	17:00-17:59	27	259	14:00-14:59	50	441	16:00-16:59	95
22	TH	141	23:00-23:59	41	335	18:00-18:59	52	452	16:00-16:59	93
23	F	199	23:00-23:59	33	459	15:00-15:59	65	457	16:00-16:59	90
24	SA	308	12:00-12:59	50	719	11:00-11:59	119	187	14:00-14:59	39
25	SU	185	00:00-00:59	36	519	16:00-16:59	103	132	06:00-06:59	28
26	MO	102	14:00-14:59	20	330	15:00-15:59	63	458	17:00-17:59	91
27	TU	89	14:00-14:59	15	278	14:00-14:59	52	448	16:00-16:59	87
28	W	112	17:00-17:59	25	298	16:00-16:59	45	461	16:00-16:59	97
29	TH	121	16:00-16:59	25	384	15:00-15:59	68	494	16:00-16:59	99
30	F	163	23:00-23:59	28	425	15:00-15:59	65	501	16:00-16:59	97
31	SA	207	23:00-23:59	30	543	23:00-23:59	75	196	14:00-14:59	40
		5434			14336			10542		

# PARKING GARAGE EXPENSES

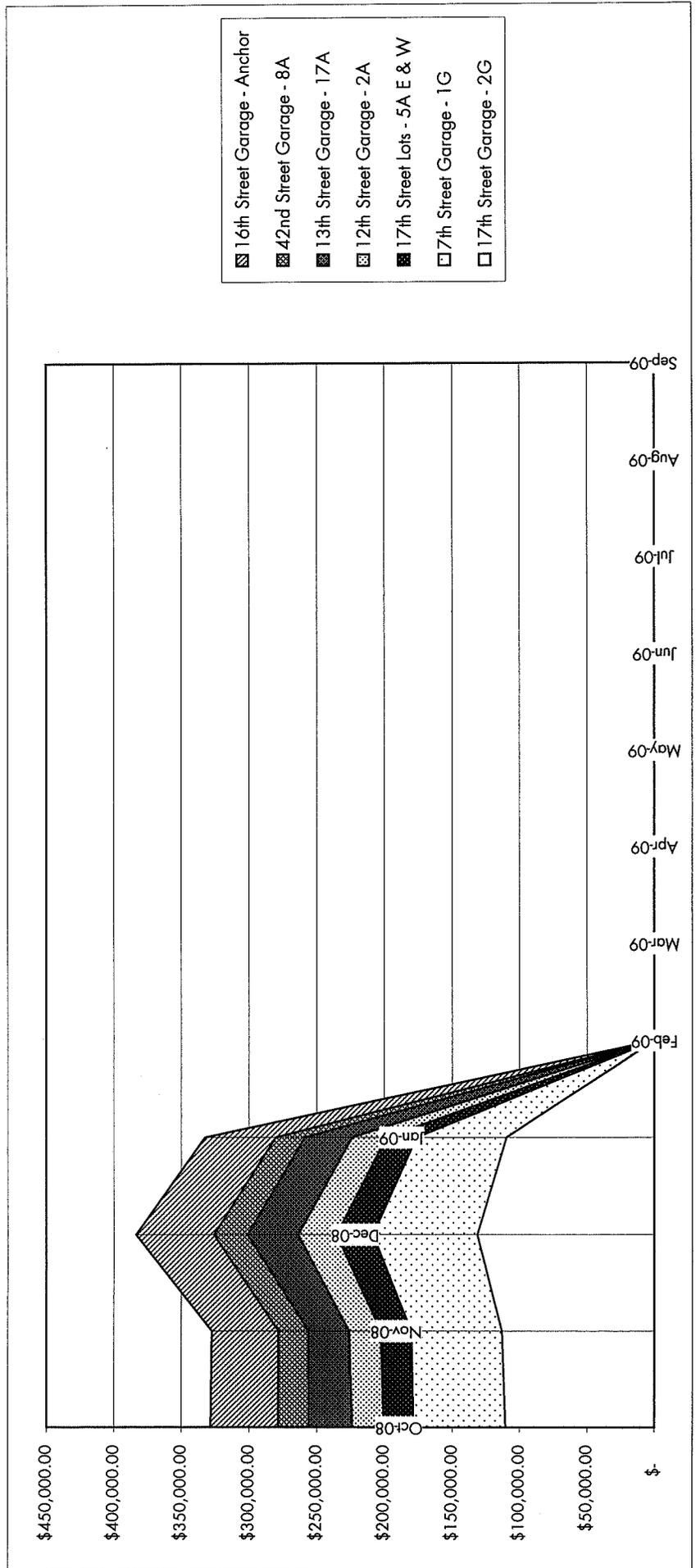
January-09

	17th St Garage - 2G	7th St Garage - 1G	17th St Lots - 5A E&W	12th St Garage - 2A	13th St Garage - 17A	42nd St Garage - 8A	16th St Garage - Anchor	TOTAL
Jan-08	\$ 132,190.13	\$ 69,260.95	\$ 33,007.55	\$ 22,597.42	\$ 32,990.30	\$ 20,803.17	\$ 54,937.03	\$ 365,786.55
Jan-09	\$ 109,662.72	\$ 66,596.37	\$ 22,269.53	\$ 25,116.60	\$ 35,516.68	\$ 21,293.81	\$ 51,928.56	\$ 332,384.27
DIFF	\$ (22,527.41)	\$ (2,664.58)	\$ (10,738.02)	\$ 2,519.18	\$ 2,526.38	\$ 490.64	\$ (3,008.47)	\$ (33,402.28)
%	-17.04%	-3.85%	-32.53%	11.15%	7.66%	2.36%	-5.48%	-9.13%



## PARKING GARAGE EXPENSES YTD

	17th Street Garage - 2G	7th Street Garage - 1G	17th Street Lots - 5A E & W	12th Street Garage - 2A	13th Street Garage - 17A	42nd Street Garage - 8A	16th Street Garage - Anchor	TOTAL
Oct-08	\$ 110,380.09	\$ 68,081.19	\$ 21,943.35	\$ 23,157.77	\$ 32,370.85	\$ 22,667.71	\$ 49,628.13	\$ 328,229.09
Nov-08	\$ 113,105.11	\$ 66,863.63	\$ 22,512.43	\$ 23,402.60	\$ 30,237.67	\$ 22,456.42	\$ 48,792.47	\$ 327,370.33
Dec-08	\$ 131,604.36	\$ 76,712.92	\$ 27,113.65	\$ 28,483.54	\$ 37,253.72	\$ 24,629.36	\$ 57,676.56	\$ 383,474.11
Jan-09	\$ 109,662.72	\$ 66,596.37	\$ 22,269.53	\$ 25,116.60	\$ 35,516.68	\$ 21,293.81	\$ 51,928.56	\$ 332,384.27
Feb-09								
Mar-09								
Apr-09								
May-09								
Jun-09								
Jul-09								
Aug-09								
Sep-09								
	\$ 464,752.28	\$ 278,254.11	\$ 93,838.96	\$ 100,160.51	\$ 135,378.92	\$ 91,047.30	\$ 208,025.72	\$ 1,371,457.80

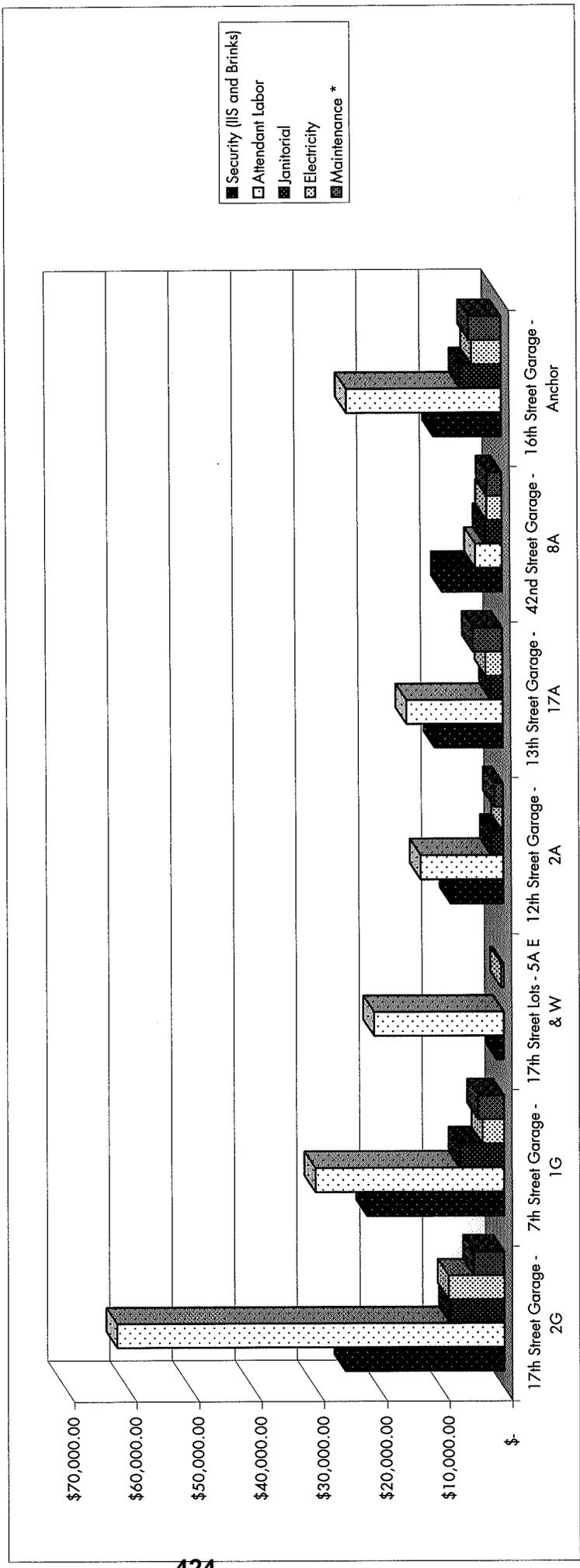


# PARKING GARAGE EXPENSE CATEGORIES

January-09

	17th Street Garage - 2G	7th Street Garage - 1G	17th Street Lots - 5A E & W	12th Street Garage - 2A	13th Street Garage - 17A	42nd Street Garage - 8A	16th Street Garage - Anchor	TOTAL
Security (IIS and Brinks)	\$ 25,350.18	\$ 21,912.07	\$ 1,144.80	\$ 8,429.31	\$ 10,856.19	\$ 9,546.23	\$ 10,841.69	\$ 88,080.47
Attendant Labor	\$ 61,844.06	\$ 30,086.82	\$ 20,733.25	\$ 13,202.89	\$ 15,409.68	\$ 4,233.40	\$ 24,724.96	\$ 170,235.06
Janitorial	\$ 8,706.67	\$ 7,086.13		\$ 1,951.00	\$ 1,951.00	\$ 2,799.80	\$ 6,528.20	\$ 29,022.80
Electricity	\$ 8,904.42	\$ 3,415.37	\$ 391.48	\$ 108.54	\$ 2,668.03	\$ 2,418.84	\$ 4,695.96	\$ 22,602.64
Maintenance *	\$ 4,857.39	\$ 4,095.98		\$ 1,424.86	\$ 4,631.78	\$ 2,295.54	\$ 5,137.75	\$ 22,443.30
	\$ 109,662.72	\$ 66,596.37	\$ 22,269.53	\$ 25,116.60	\$ 35,516.68	\$ 21,293.81	\$ 51,928.56	\$ 332,384.27

\* Includes Landscape, Revenue Control, Elevator & Surveillance



**CITY OF MIAMI BEACH  
PARKING DEPARTMENT  
FINANCIAL REPORT SUMMARY  
JANUARY 2009**

LOCATION	REVENUE			EXPENSES			PROFIT/(LOSS)					
	2008 January	2009 January	Increase/ (Decrease)	Percent of Increase/ (Decrease)	2008 January	2009 January	Increase/ (Decrease)	Percent of Increase/ (Decrease)	2008 January	2009 January	Increase/ (Decrease)	Percent of Increase/ (Decrease)
17 St. Garage	326,520.87	343,583.74	17,063.07	5.23%	132,190.13	109,662.72	(22,527.41)	-17.04%	194,330.54	233,921.02	39,590.48	20.37%
7th St. Garage	163,745.57	184,882.97	21,137.40	12.91%	69,260.95	66,586.37	(2,664.58)	-3.85%	94,484.62	118,286.80	23,801.98	25.19%
17th St. Lots	126,937.08	70,029.25	(56,907.83)	-44.83%	33,007.55	22,269.53	(10,738.02)	-32.53%	93,929.53	47,759.72	(46,169.81)	-49.15%
12th St. Garage	31,760.50	39,211.34	7,450.84	23.46%	22,597.42	25,116.60	2,519.18	11.15%	9,163.08	14,094.74	4,931.66	53.82%
13th St. Garage	74,263.75	104,365.08	30,121.33	40.56%	32,990.30	35,516.68	2,526.38	7.66%	41,273.45	68,868.40	27,594.95	66.86%
42nd St. Garage	38,000.56	38,004.47	3.89	0.01%	20,803.17	21,293.81	490.64	2.36%	17,197.41	16,710.66	(486.75)	-2.83%
16th St. - Anchor	197,428.50	227,859.53	30,431.03	15.41%	54,937.03	51,928.56	(3,008.47)	-5.48%	142,491.47	175,930.97	33,439.50	23.47%
<b>Totals</b>	<b>958,656.65</b>	<b>1,007,956.38</b>	<b>49,299.73</b>	<b>5.14%</b>	<b>365,786.55</b>	<b>332,384.27</b>	<b>(33,402.28)</b>	<b>-9.13%</b>	<b>592,870.10</b>	<b>675,572.11</b>	<b>82,702.01</b>	<b>13.95%</b>

Revenue Per Space	Expenses Per Space	Profit/(Loss) Per Space
235.33	75.11	160.22
286.20	103.09	183.11
138.40	44.01	94.39
292.62	187.44	105.18
364.98	124.18	240.80
61.30	34.34	26.95
283.76	64.67	219.09

The 17th Street Garage has 1,460 spaces.  
The 7th Street Garage has 646 spaces.  
The 17th Street Lots have 506 spaces.  
The 12th Street Garage has 134 spaces.  
The 13th Street Garage has 286 spaces.  
The 42nd Street Garage has 620 spaces.  
The 16th Street - Anchor Garage has 803 spaces.

CITY OF MIAMI BEACH  
PARKING DEPARTMENT  
FINANCIAL REPORT SUMMARY-YEAR TO DATE  
JANUARY 2009

LOCATION	REVENUE			EXPENSES			PROFIT/(LOSS)					
	2008 January YTD	2009 January YTD	Increase/ (Decrease)	Percent of Increase/ (Decrease)	2008 January YTD	2009 January YTD	Increase/ (Decrease)	Percent of Increase/ (Decrease)	2008 January YTD	2009 January YTD	Increase/ (Decrease)	Percent of Increase/ (Decrease)
17 St. Garage	1,184,030.84	1,267,646.42	83,615.58	7.06%	502,971.00	464,752.28	(38,218.72)	-7.60%	681,059.84	802,894.14	121,834.30	17.89%
7th St. Garage	618,505.65	634,259.89	15,753.04	2.55%	288,086.17	278,254.11	(9,832.06)	-3.41%	330,419.68	356,004.78	25,585.10	7.74%
17th St. Lots	850,698.14	254,353.92	(596,344.22)	-70.10%	167,550.66	93,838.96	(73,711.70)	-43.99%	683,147.48	160,514.96	(522,632.52)	-76.50%
12th St. Garage	119,951.81	137,220.18	17,268.37	14.40%	90,940.84	100,160.51	9,219.67	10.14%	29,010.97	37,059.67	8,048.70	27.74%
13th St. Garage	289,891.97	370,250.69	80,358.72	27.72%	127,782.21	135,378.92	7,596.71	5.95%	162,109.76	234,871.77	72,762.01	44.88%
42nd St. Garage	134,238.07	161,966.31	27,728.24	20.66%	86,018.49	91,047.30	5,028.81	5.85%	48,219.58	70,919.01	22,699.43	47.08%
16th St. - Anchor	772,450.00	813,631.30	41,181.30	5.33%	216,006.89	208,025.73	(7,981.16)	-3.69%	556,443.11	605,605.57	49,162.46	8.84%
<b>Totals</b>	<b>3,969,766.68</b>	<b>3,639,327.71</b>	<b>(330,438.97)</b>	<b>-8.32%</b>	<b>1,479,356.26</b>	<b>1,371,457.81</b>	<b>(107,898.45)</b>	<b>-7.29%</b>	<b>2,490,410.42</b>	<b>2,267,869.90</b>	<b>(222,540.52)</b>	<b>-8.94%</b>

	Revenue Per Space	Expenses Per Space	Profit/(Loss) Per Space
17 St. Garage	868.25	318.32	549.93
7th St. Garage	981.82	430.73	551.09
17th St. Lots	502.68	185.45	317.22
12th St. Garage	1,024.03	747.47	276.56
13th St. Garage	1,294.58	473.35	821.23
42nd St. Garage	261.24	146.85	114.39
16th St. - Anchor	1,013.24	259.06	754.18

The 17th Street Garage has 1,460 spaces.

The 7th Street Garage has 646 spaces.

The 17th Street Lots have 506 spaces.

The 12th Street Garage has 134 spaces.

The 13th Street Garage has 286 spaces.

The 42nd Street Garage has 620 spaces.

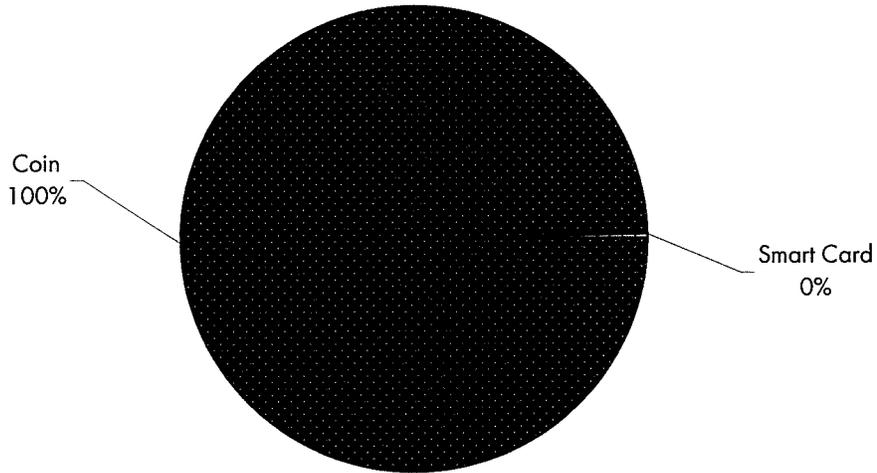
The 16th Street - Anchor Garage has 803 spaces.

# PARKING DEPARTMENT METER REVENUE

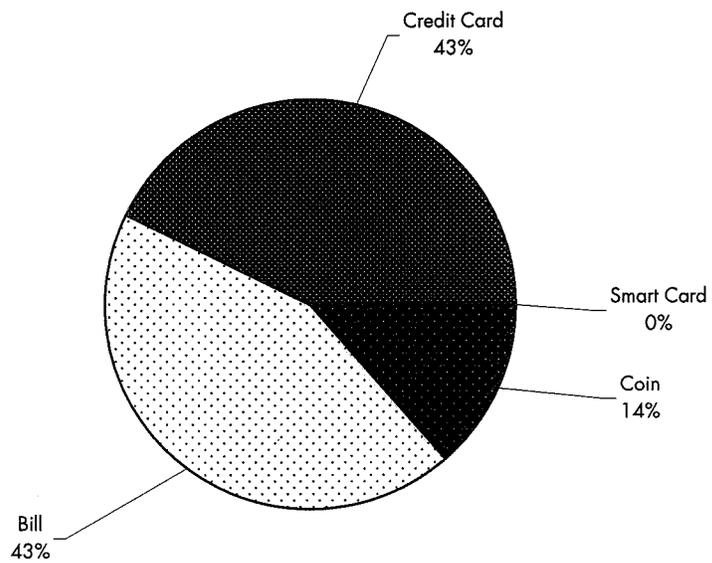
% of USAGE

Jan-09

## SINGLE SPACE METERS



## MULTI SPACE METERS



**CITY OF MIAMI BEACH  
PARKING DEPARTMENT  
ELECTRONIC METER REVENUE COMPARISON  
January 2009**

LOCATION	Accounting Code	# of Spaces	2008 January	2009 January	Increase/ (Decrease)	% of Inc/(Dec)
1X - (Washington - 4th & Lincoln) - On Street	480-8000-344501	291	\$47,975.32	\$62,586.99	14,611.67	30.46%
1A - (1st Street & Ocean Dr.) - Off Street	480-8000-344502	62	\$2,858.56	\$5,311.09	2,452.53	
1A - (1st Street & Ocean Dr.) - Attended	480-8000-344502	0	\$20,700.93	\$23,186.89		
Total		62	23,559.49	28,497.98	4,938.49	20.96%
1B - (78 Washington Avenue) - Off Street	480-8000-344617	12	\$331.31	\$677.43	346.12	104.47%
2X - (Washington - 5th & Lincoln) - On Street	480-8000-344503	370	\$62,958.12	\$71,119.94	8,161.82	12.96%
2B - (6/7 & Meridian) - Off Street	480-8000-344505	25	\$409.07	\$1,006.43	597.36	146.03%
3X - (Collins & Euclid Ave.) On Street	480-8000-344507	68	\$9,526.95	\$13,297.71	3,770.76	39.58%
4X - (Alton 7th St.- Dade Blvd.) - On Street	480-8000-344509	491	\$103,495.10	\$135,326.41	31,831.31	30.76%
4B - (Alton & 20th St.-Purdy-Dade Blvd.) - On Street	480-8000-344511	213	\$17,211.04	\$12,640.78	(4,570.26)	-26.55%
4C - (West Ave & 17th St.) - Off Street	480-8000-344512	66	\$13,317.79	\$13,421.59	103.80	0.78%
4D - (West Ave & Lincoln Rd.) - Off Street	480-8000-344513	30	\$4,825.94	\$4,031.70	(794.24)	-16.46%
5C - (Convention Ctr. Dr. & 17th Street) - Off Street	480-8000-344517	85	\$8,406.35	\$9,709.15	1,302.80	
5C - (Convention Ctr. Dr. & 17th Street) - Attended	480-8000-344517	0	303.74	0.00		
Total		85	8,710.09	9,709.15	999.06	11.47%
5F - (Meridian Ave & 18th Street) - Off Street	480-8000-344519	97	\$0.00	\$0.00		
5F - (Meridian Ave & 18th Street) - Attended	480-8000-344519	0	0.00	0.00		
Total		97	0.00	0.00	0.00	#DIV/0!
5H - (19th Street & Meridian Ave) - Off Street	480-8000-344521	27	\$943.34	\$1,413.74	470.40	49.87%
5M - (17th & Meridian Ave) - Off Street (TEMP PLOT)	480-8000-344506	27	\$81.32	\$1,037.38		
5M - (17th & Meridian Ave) - Attended	480-8000-344506	0	0.00	0.00		
Total			81.32	1,037.38	956.06	1175.68%
6X - (Collins - 20th to 24th St) - On Street	480-8000-344522	236	\$25,388.59	\$31,685.27	6,296.68	24.80%
6A - (22nd Street & Park) - Off Street	480-8000-344523	14	\$992.88	\$1,635.69	642.81	64.74%
6A - (22nd Street & Park) - Attended	480-8000-344523	0		\$16,357.94		
Total			\$992.88	\$17,993.63	17,000.75	1712.27%
6B - (Collins Ave & 21st Street) - Off Street	480-8000-344524	190	\$22,772.54	\$10,773.52	(11,999.02)	-52.69%
6B - (Collins Ave & 21st Street) - Attended	480-8000-344524	0	0.00	38,932.73		
Total		190	22,772.54	49,706.25	26,933.71	118.27%
7X - (Ocean - Biscayne - 15th St) - On Street	480-8000-344525	442	\$82,727.71	\$111,870.58	29,142.87	35.23%
7A - (Collins Ave, 4th to 15th St) - On Street	480-8000-344526	591	\$114,148.25	\$137,422.73	23,274.48	20.39%
7C - (Collins Ave & 6th St) - Off Street	480-8000-344528	14	\$741.90	\$880.62		
7C - (Collins Ave & 6th St) - Attended	480-8000-344528	0	0.00	0.00		
Total		14	741.90	880.62	138.72	18.70%
8X - (Pinetree-Alton - 40th to 42nd St) - On Street	480-8000-344530	386	\$15,668.76	\$16,868.13	1,199.37	7.65%
8A - (42nd Street Garage) - Off Street Meters	480-8000-344531	11	\$543.43	\$440.31	(103.12)	-18.98%
8B - (42nd Street & Royal Palm) - Off Street	480-8000-344532	173	\$3,749.31	\$3,437.79		
8B - (42nd Street & Royal Palm) - Attended	480-8000-344532	0	0.00	0.00		
Total		173	3,749.31	3,437.79	(311.52)	-8.31%
8C - (40/41 Street & Chase) - Off Street	480-8000-344533	88	\$2,346.85	\$0.00	(2,346.85)	-100.00%
8D - (47th Street & Pinetree) - Off Street	480-8000-344534	16	\$74.03	\$73.20	(0.83)	-1.12%
8E - (41st Street & Alton) - Off Street	480-8000-344535	40	\$1,339.86	\$2,240.53	900.67	67.22%
8F - (41st Street & Jefferson) - Off Street	480-8000-344536	30	\$673.80	\$422.30	(251.50)	-37.33%
9X - (Collins - 64th to 79th St) - On Street	480-8000-344537	527	\$35,031.74	\$31,384.55	(3,647.19)	-10.41%
9A - (Harding & 71st St) - Off Street	480-8000-344538	48	\$2,995.51	\$1,168.00	(1,827.51)	-61.01%
9B - (72nd St. & Collins) - Off Street	480-8000-344539	0	\$4,927.06	\$7,327.55		
9B - (72nd St. & Collins) - Attended	480-8000-344539	0	3,608.42	514.02		
Total		0	8,535.48	7,841.57	(693.91)	-8.13%
9C (Carlyle & 71st St) - Off Street	480-8000-344540	14	\$76.58	\$28.23	(48.35)	-63.14%

**CITY OF MIAMI BEACH  
PARKING DEPARTMENT  
ELECTRONIC METER REVENUE COMPARISON  
January 2009**

LOCATION	Accounting Code	# of Spaces	2008 January	2009 January	Increase/ (Decrease)	% of Inc/(Dec)
9D - (Collins & 76th St) - Off Street	480-8000-344541	33	\$1,762.62	\$1,159.90	(602.72)	-34.19%
9E - (71st St. & Harding) - Off Street	480-8000-344542	31	\$645.38	\$963.16	317.78	49.24%
9F - (75th & Collins) - Off Street	480-8000-344543	106	\$3,717.30	\$3,147.42	(569.88)	-15.33%
10A - (Lincoln Lane & Lenox) - Off Street	480-8000-344544	70	\$19,853.60	\$25,438.30	5,584.70	28.13%
10B - (Lincoln Lane & Michigan) - Lease	480-8000-344545	0	\$14,583.33	\$14,583.33		
10B - (Lincoln Lane & Michigan) - Attended	480-8000-344545	0	0.00	0.00		
Total		0	14,583.33	14,583.33	0.00	0.00%
10C - (Lincoln Lane & Meridian) - Off Street	480-8000-344546	141	\$41,419.12	\$49,912.50	8,493.38	20.51%
10D - (Lincoln Lane & Jefferson - W) - Off Street	480-8000-344547	62	\$17,707.51	\$21,092.54	3,385.03	19.12%
10E - (Lincoln Lane & Jefferson - E) - Off Street	480-8000-344548	19	\$5,636.47	\$6,684.41	1,047.94	18.59%
10F - (Lincoln Lane & Euclid) - Off Street	480-8000-344549	36	\$10,874.16	\$14,119.39	3,245.23	29.84%
10G - (Lincoln Lane & Michigan) - Off Street	480-8000-344550	21	\$4,521.79	\$6,047.94	1,526.15	33.75%
11X - (Collins & 11th Street) - Off Street	480-8000-344551	0	\$0.00	\$0.00		
11X - (Collins & 11th Street) - Attended	480-8000-344551	0	0.00	0.00		
Total		0	0.00	0.00	0.00	#DIV/0!
12X - (Washington & 9th Street) - Off Street	480-8000-344552	23	\$3,676.43	\$4,857.99	1,181.56	32.14%
12X - (Washington & 9th Street) - Attended	480-8000-344552	0	1,523.37	434.58		
Total		23	5,199.80	5,292.57	92.77	1.78%
13X - (Washington & 10th Street) - Off Street	480-8000-344553	33	\$6,267.09	\$7,404.80		
13X - (Washington & 10th Street) - Attended	480-8000-344553	0	1,999.99	1,682.25		
Total		33	8,267.08	9,087.05	819.97	9.92%
15X - (16th to 18th East of Collins) - On Street	480-8000-344556	43	\$23,410.01	\$27,598.72	4,188.71	17.89%
15A - (Washington, 17th to 20th) - On Street	480-8000-344557	91	\$12,774.74	\$14,173.91	1,399.17	10.95%
15B - (Convention Center Drive) - On Street	480-8000-344558	46	\$5,093.81	\$3,632.52	(1,461.29)	-28.69%
16X - (25th to 32nd, E of Collins) - On Street	480-8000-344559	78	\$4,714.69	\$5,692.82	978.13	20.75%
16A - (35th to 43rd, E of Collins) - On Street	480-8000-344560	117	\$4,781.97	\$5,785.47	1,003.50	20.99%
16B - (Indian Crk Dr, 27th to 32nd) - On Street	480-8000-344561	219	\$5,879.94	\$5,465.80	(414.14)	-7.04%
16C - (Indian Crk - 33rd to 43rd) - On Street	480-8000-344562	230	\$12,850.48	\$10,953.20	(1,897.28)	-14.76%
16D - (Collins Ave & 34th St) - Off Street	480-8000-344563	64	\$3,212.40	\$3,699.77		
16D - (Collins Ave & 34th St) - Attended	480-8000-344563	0	0.00	0.00		
Total		64	3,212.40	3,699.77	487.37	15.17%
16E - (Collins Ave & 35th St) - Off Street	480-8000-344564	72	\$8,224.07	\$3,611.66		
16E - (Collins Ave & 35th St) - Attended	480-8000-344564	0	0.00	0.00		
Total		72	8,224.07	3,611.66	(4,612.41)	-56.08%
17X - (Collins & 13th Street) - Off Street	480-8000-344565	54	\$4,076.53	\$7,180.79		
17X - (Collins & 13th Street) - Attended	480-8000-344565	0	15,532.70	19,850.47		
Total		54	19,609.23	27,031.26	7,422.03	37.85%
18X - (Indian Crk & 65th St) - Off Street	480-8000-344567	53	\$3,412.34	\$32.44	(3,379.90)	-99.05%
18A - (Collins & 64th St) - Off Street	480-8000-344568	67	\$5,477.29	\$5,515.56		
18A - (Collins & 64th St) - Attended	480-8000-344568	0	0.00	0.00		
Total		67	5,477.29	5,515.56	38.27	0.70%
19X - (Collins & 46th Street) - Off Street	480-8000-344569	449	\$12,233.13	\$15,283.59		
19X - (Collins & 46th Street) - Attended	480-8000-344569	0	44,359.81	49,685.99		
Total		449	56,592.94	64,969.58	8,376.64	14.80%
19A - (Collins & 46th Street) - On Street	480-8000-344570	19	\$588.03	\$845.26	257.23	43.74%

**CITY OF MIAMI BEACH  
PARKING DEPARTMENT  
ELECTRONIC METER REVENUE COMPARISON  
January 2009**

LOCATION	Accounting Code	# of Spaces	2008 January	2009 January	Increase/ (Decrease)	% of Inc/(Dec)
19B - (Collins & 53rd Street) - Off Street	480-8000-344571	158	\$2,624.70	\$6,384.17		
19B - (Collins & 53rd Street) - Attended	480-8000-344571	0	0.00	0.00		
<b>Total</b>		158	2,624.70	6,384.17	3,759.47	143.23%
20X - (Collins Ave & 27th St) - Off Street	480-8000-344572	121	\$6,209.64	\$5,007.76		
20X - (Collins Ave & 27th St) - Attended	480-8000-344572	0	0.00	0.00		
<b>Total</b>		121	6,209.64	5,007.76	(1,201.88)	-19.36%
22X - (Carlyle & 72nd St) - Off Street	480-8000-344574	45	\$1,103.95	\$560.72	(543.23)	-49.21%
23X - (83rd & Abbott) - Off Street	480-8000-344575	25	\$181.55	\$102.60	(78.95)	-43.49%
24X - (Normandy Isle & Bay Dr) - On Street	480-8000-344576	102	\$7,720.65	\$7,275.15	(445.50)	-5.77%
24A - (Normandy Isle & Bay Dr) - Off Street	480-8000-344577	26	\$962.90	\$921.96	(40.94)	-4.25%
24B - (Normandy Isle & Vendome) - Off Street	480-8000-344578	22	\$47.01	\$268.30	221.29	470.73%
24C - (Normandy Isle & Bay Rd S/S) - Off Street	480-8000-344579	33	\$1,108.54	\$890.96	(217.58)	-19.63%
25X - (Bonita Drive & 71st St) - Off Street	480-8000-344580	15	\$708.76	\$356.15	(352.61)	-49.75%
26X - (Collins, 79th to 87th Terr) - On Street	480-8000-344581	283	\$4,391.17	\$3,920.75	(470.42)	-10.71%
26Z - (Collins & 87th Street) - Off Street	480-8000-344616	15	\$54.37	\$209.80	155.43	285.87%
10X - (Lincoln Lane & Lenox) - Off Street	480-8000-344582	99	\$31,851.25	\$37,439.50		
10X - (Lincoln Lane & Lenox) - Attended	480-8000-344582	0	0.00	0.00		
<b>Total</b>		99	31,851.25	37,439.50	5,588.25	17.54%
26A - (Collins & 80th Street) - Off Street	480-8000-344584	62	\$456.07	\$274.28		
26A - (Collins & 80th Street) - Attended	480-8000-344584	0	0.00	0.00		
		62	456.07	274.28	(181.79)	-39.86%
26B - (Collins & 84th Street) - Off Street	480-8000-344585	62	\$355.37	\$924.52	569.15	160.16%
4E (Purdy & 18th Street) - Off Street	480-8000-344586	39	\$7,871.61	\$8,012.46		
4E (Purdy & 18th Street) - Attended	480-8000-344586	0	0.00	4,144.85		
<b>Total</b>		39	7,871.61	12,157.31	4,285.70	54.45%
8G - (40th Street & Royal Palm) - Off Street	480-8000-344592	43	\$3,192.06	\$2,580.11	(611.95)	-19.17%
8H - (40th Street & Prairie) - Off Street	480-8000-344594	71	\$3,485.77	\$2,911.30	(574.47)	-16.48%
26C - (Collins & 79th Street) - Off Street	480-8000-344600	34	\$125.68	\$245.53	119.85	95.36%
26D - (Collins & 83rd Street) - Off Street	480-8000-344601	95	\$35.31	\$195.07	159.76	452.45%
26D - (Collins & 83rd Street) - Attended	480-8000-344601	0	\$0.00	\$0.00		
		95	35.31	195.07	159.76	452.45%
SISP00 - (South Point Lot) - Off Street	480-8000-344602	215	\$0.00	\$0.00		
SISP00 - (South Point Lot) - Attended	480-8000-344602	0	0.00	0.00		
<b>Total</b>		215	0.00	0.00	0.00	#DIV/0!
4th & Alton Lot - Off Street	480-8000-344604	21	\$896.25	\$1,106.28	210.03	23.43%
4A - 1833 Bay Road - Off Street	480-8000-344608	0	\$0.00	\$0.00	0.00	#DIV/0!
7D - 10-11th & Collins (Lease)	480-8000-344529	0	\$3,500.00	\$3,500.00	0.00	0.00%
10H - (Lincoln Rd. So. & Lenox) - Off Street	480-8000-344611	0	\$4,941.66	\$308.21	(4,633.45)	-93.76%
14A - 16th Street & Washington (Lease)	480-8000-344555	0	\$14,583.33	\$14,583.33	0.00	0.00%
P4 - (137 Washington Avenue) - Off Street	480-8000-344516	0	\$3,702.53	\$6,967.18	3,264.65	88.17%
P50 - (24th Street & Flamingo Drive) - Off Street	480-8000-344619	23	\$0.00	\$0.00	0.00	#DIV/0!
P51 - (23rd Street & Liberty Avenue East) - Off Street	480-8000-344620	20	\$5,620.56	\$8,486.11		
P51 - (23rd Street & Liberty Avenue East) - Attended	480-8000-344620	0	0.00	1,074.78		
<b>Total</b>			5,620.56	9,560.89	3,940.33	70.11%
P52 - (23rd Street & Liberty Avenue West) - Off Street	480-8000-344621	35	\$4,099.34	\$10,614.48		
P52 - (23rd Street & Liberty Avenue West) - Attended	480-8000-344621	0	0.00	2,028.03		
<b>Total</b>			4,099.34	12,642.51	8,543.17	208.40%
P85 - (71st Street & Byron) - Off Street	480-8000-344618	0	\$643.79	\$16.36		
P85 - (71st Street & Byron) - Attended	480-8000-344618	0	0.00	0.00		
<b>Total</b>		0	643.79	16.36	(627.43)	-97.46%
<b>TOTAL</b>			<b>\$1,022,436.02</b>	<b>\$1,236,078.10</b>	<b>\$213,642.08</b>	<b>20.90%</b>

NOTE: SISP00-(SOUTH POINT LOT) IT IS CLOSED.  
NOTE: ZONES WITH MULTI-SPACE PAYSTATIONS ARE ITALICIZED.

City of Miami Beach Parking Department  
 Profit & Loss Statement  
 Garages & Lots - FY07/08

17th Street Garage - 2G

LOCATION	ACCOUNTING CODE	2007 October	2007 November	2007 December	2008 January	2008 February	2008 March	2008 April	2008 May	2008 June	2008 July	2008 August	2008 September	FY 2007/2008 TOTAL
<b>17th Street Garage - 2G</b>														
Revenue-Ticket	480-8000-344583	172,964.95	248,676.03	227,109.19	244,550.67	268,996.76	315,338.12	282,459.79	288,067.39	212,902.00	242,251.62	236,683.98	199,089.91	2,939,090.41
Revenue - Space Rental	480-8000-344583	7,800.00	7,800.00	5,950.00	5,950.00	7,800.00	5,950.00	5,950.00	5,950.00	5,950.00	5,950.00	5,950.00	5,950.00	76,950.00
Revenue-Monthly Permits	480-8000-344514	58,680.00	60,000.00	68,530.00	76,020.00	73,780.00	73,920.00	75,880.00	76,650.00	76,230.00	73,360.00	73,430.00	72,170.00	858,650.00
<b>17th St. - 2G REVENUE</b>		239,444.95	316,476.03	301,589.19	326,520.67	350,576.76	395,208.12	364,289.79	370,667.39	295,082.00	321,561.62	316,063.98	277,209.91	3,874,690.41
(Sales Tax Excluded)														
<b>Expenses</b>														
Security Personnel		17,087.26	17,358.83	21,826.73	17,688.75	19,461.23	21,987.01	17,509.88	20,083.65	19,516.36	30,612.08	24,623.48	30,300.49	258,055.75
Attendant/Cashier Labor		65,919.00	79,302.99	91,415.50	83,562.98	98,445.18	95,749.06	68,929.83	71,115.35	67,267.26	84,984.07	61,368.63	80,559.37	948,619.22
FP&L		8,440.30	7,665.98	8,901.56	9,101.02	7,804.31	8,204.25	8,288.84	8,204.78	9,293.17	8,691.11	8,744.84	9,215.73	102,655.89
Revenue Control Equipment Maintenance		1,891.66	3,577.66	8,500.66	1,891.66	4,443.66	1,891.66	8,817.66	1,891.66	5,519.22	4,553.47	2,522.22	2,522.22	48,023.41
Armed Guard Revenue Pickup		455.00	455.00	455.00	455.00	455.00	455.00	455.00	455.00	455.00	455.00	455.00	455.00	5,460.00
Elevator Maintenance		425.00	425.00	3,300.00	425.00	425.00	2,489.40	972.78	885.28	425.00	425.00	498.78	797.78	19,937.66
Landscape and Lot Maintenance		108.33	601.08	108.33	108.33	108.33	108.33	108.33	108.33	362.50	362.50	362.50	362.50	2,809.39
Garage Cleaning/Maintenance		10,820.00	10,820.00	10,820.00	10,820.00	10,820.00	10,820.00	10,820.00	10,820.00	10,820.00	10,820.00	10,820.00	10,820.00	129,840.00
<b>17th St. - 2G EXPENSES</b>		105,146.55	120,306.54	145,327.78	132,190.13	142,268.96	141,704.71	115,902.32	113,564.05	113,658.51	140,903.23	109,395.45	135,033.09	1,515,401.32
<b>17th St. PROFIT/(LOSS)</b>		134,298.40	196,169.49	156,261.41	194,330.54	208,307.80	253,503.41	248,387.47	257,103.34	181,423.49	180,658.39	206,668.53	142,176.82	2,359,289.09

7th Street Garage - 1G

LOCATION	ACCOUNTING CODE	2007 October	2007 November	2007 December	2008 January	2008 February	2008 March	2008 April	2008 May	2008 June	2008 July	2008 August	2008 September	FY 2007/2008 TOTAL
<b>7th Street Garage - 1G</b>														
Revenue-Ticket	142-8000-344404	120,475.70	129,544.85	155,689.73	147,320.57	167,184.11	230,020.55	179,418.67	186,345.77	138,309.34	146,124.28	146,497.21	109,613.08	1,856,543.86
Revenue-Monthly Permits	142-8000-344404	16,350.00	16,350.00	16,350.00	16,425.00	16,425.00	16,425.00	16,350.00	16,500.00	16,500.00	16,500.00	16,500.00	16,425.00	197,100.00
<b>7th Street Garage - 1G RI</b>		136,825.70	145,894.85	172,039.73	163,745.57	183,609.11	246,445.55	195,768.67	202,845.77	154,809.34	162,624.28	162,997.21	126,038.08	2,053,643.86
(Sales Tax Excluded)														
<b>Expenses</b>														
Security		20,705.79	20,789.25	25,936.89	20,805.16	21,075.67	26,211.16	21,174.83	21,214.59	21,465.02	26,640.47	21,337.81	26,592.76	273,949.40
Attendant/Cashier Labor		30,407.91	29,548.99	36,762.56	31,133.52	30,740.60	39,380.12	31,377.21	31,559.94	29,872.67	48,833.25	40,485.20	35,446.40	415,568.37
Landscape Maintenance		918.67	918.67	2,244.67	918.68	918.67	2,208.67	918.67	918.67	3,709.25	3,709.25	3,709.25	3,709.25	24,802.37
FP&L		3,400.85	3,465.97	3,453.00	3,633.57	3,244.31	3,190.63	3,376.86	3,094.72	3,428.87	3,692.34	3,907.14	3,991.78	41,880.04
Revenue Control Equipment Maintenance		775.00	775.00	775.00	775.00	775.00	775.00	775.00	775.00	775.00	775.00	775.00	775.00	9,300.00
Garage Cleaning/Maintenance		9,242.00	9,242.00	9,242.00	9,242.00	9,242.00	9,242.00	9,242.00	9,242.00	9,242.00	9,242.00	9,242.00	9,242.00	110,904.00
Armed Guard Revenue Pickup		455.00	455.00	455.00	455.00	455.00	455.00	455.00	455.00	455.00	455.00	455.00	455.00	5,460.00
Elevator Maintenance		1,135.89	1,283.89	2,215.89	1,686.61	3,193.89	1,135.89	1,135.89	2,431.89	2,490.56	3,125.60	1,209.26	1,573.26	22,618.52
Surveillance System Maintenance		611.41	611.41	2,997.51	611.41	611.41	611.41	611.41	611.41	611.41	611.41	611.41	611.41	7,888.79
<b>7th St. Garage - 1G EXPE</b>		67,652.52	67,090.18	84,082.52	69,260.95	70,256.55	83,209.88	69,066.87	70,303.22	72,049.78	96,492.91	81,120.65	81,785.45	912,371.49
<b>7th St. - 1G Estimated De</b>		59,500.00	59,500.00	59,500.00	59,500.00	59,500.00	59,500.00	59,500.00	59,500.00	59,500.00	59,500.00	59,500.00	59,500.00	714,000.00
<b>7th St. - 1G PROFIT/(LOS)</b>		9,673.18	19,304.67	28,457.21	34,984.62	53,852.56	103,735.67	67,201.80	73,042.55	23,259.56	6,631.37	22,376.55	(15,247.37)	427,272.37

City of Miami Beach Parking Department  
 Profit & Loss Statement  
 Garages & Lots - FY07/08

17th Street Lots - 5A E & W

LOCATION	ACCOUNTING CODE	2007 October	2007 November	2007 December	2008 January	2008 February	2008 March	2008 April	2008 May	2008 June	2008 July	2008 August	2008 September	FY 2007/2008 TOTAL
<b>17th Street Lots - 5A East and West</b>														
Revenue-Ticket	480-8000-344515	197,948.14	224,573.98	252,588.94	122,387.08	99,239.67	98,055.35	73,172.89	86,176.52	58,671.85	66,031.49	59,224.42	36,016.62	1,374,086.95
Revenue-Valet	480-8000-344515	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00
Revenue-Monthly Permits	480-8000-344596	17,520.00	16,080.00	15,050.00	4,550.00	4,690.00	4,690.00	4,690.00	4,690.00	4,690.00	5,040.00	5,320.00	5,040.00	92,050.00
<b>17th Lots - 5A REVENUE</b>		215,468.14	240,653.98	267,638.94	126,937.08	103,929.67	102,745.35	77,862.89	90,866.52	63,361.85	71,071.49	64,544.42	41,056.62	1,466,136.95
(Sales Tax Excluded)														
<b>Expenses</b>														
Security Personnel		1,144.80	1,144.80	1,431.00	1,144.80	1,144.80	1,431.00	1,144.80	1,900.05	1,144.80	1,144.80	1,144.80	1,144.80	15,065.25
Attendant/Cashier Labor		36,458.49	39,719.54	46,287.05	26,076.94	25,209.61	31,250.67	24,633.91	24,830.85	23,535.52	27,834.35	18,527.31	25,872.32	350,236.56
Revenue Control Equipment Maintenance		1,891.66	1,891.66	1,891.66	4,691.66	4,691.66	1,891.66	1,891.66	1,891.66	0.00	0.00	0.00	0.00	20,733.28
Landscape and Lot Maintenance		502.67	502.67	502.67	702.67	502.67	502.67	502.67	502.67	0.00	0.00	0.00	0.00	4,221.36
FP&L		391.48	391.48	391.48	391.48	391.48	391.48	391.48	391.48	391.48	391.48	391.48	391.48	4,697.76
<b>17th Lots - 5A EXPENSES</b>		40,389.10	43,650.15	50,503.86	33,007.55	31,940.22	35,467.48	28,564.52	29,516.71	25,071.80	29,370.63	20,063.59	27,408.60	394,954.21
<b>17th Lots PROFIT/(LOSS)</b>		175,079.04	197,003.83	217,135.08	93,929.53	71,989.45	67,277.87	49,298.37	61,349.81	38,290.05	41,700.86	44,480.83	13,648.02	1,071,182.74

12th Street Garage - 2A

LOCATION	ACCOUNTING CODE	2007 October	2007 November	2007 December	2008 January	2008 February	2008 March	2008 April	2008 May	2008 June	2008 July	2008 August	2008 September	FY 2007/2008 TOTAL
<b>12th Street Garage - 2A</b>														
Revenue-Ticket	480-8000-344504	24,796.25	25,780.39	25,704.67	27,350.50	34,304.70	52,913.08	35,982.25	35,030.86	25,411.15	28,635.88	28,149.53	18,293.46	362,352.72
Revenue-Monthly Permits	480-8000-344593	3,720.00	3,780.00	4,410.00	4,410.00	4,410.00	3,920.00	3,920.00	3,360.00	3,360.00	3,710.00	3,710.00	4,270.00	46,980.00
<b>12th St. - 2A REVENUE</b>		28,516.25	29,560.39	30,114.67	31,760.50	38,714.70	56,833.08	39,902.25	38,390.86	28,771.15	32,345.88	31,859.53	22,563.46	409,332.72
(Sales Tax Excluded)														
<b>Expenses</b>														
Security Personnel		7,254.39	7,266.30	9,074.93	6,972.16	9,154.05	9,039.16	7,262.34	12,411.90	9,634.51	9,550.44	7,669.05	9,576.98	104,866.21
Attendant/Cashier Labor		12,739.25	11,656.30	14,694.20	13,200.91	12,664.71	15,341.82	11,266.80	12,333.44	11,736.19	14,749.80	10,924.93	15,028.69	156,337.04
FP&L		108.54	108.54	108.54	108.54	108.54	108.54	108.54	108.54	108.54	108.54	108.54	108.54	1,302.48
Elevator Maintenance		143.33	143.33	143.33	143.33	143.33	143.33	143.33	143.33	152.58	152.58	152.58	152.58	1,756.96
Garage Cleaning/Maintenance		1,717.48	1,592.48	1,592.48	1,717.48	1,717.48	1,592.48	1,982.28	1,786.18	2,632.18	1,786.18	1,786.18	1,786.18	21,689.06
Landscape Maintenance		0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	225.00	225.00	225.00	225.00	900.00
Armed Guard Revenue Pickup		0.00	0.00	0.00	0.00	0.00	0.00	455.00	455.00	455.00	455.00	455.00	455.00	2,730.00
<b>12th St. - 2A EXPENSES</b>		21,962.99	20,766.95	25,613.48	22,142.42	23,788.11	26,225.33	21,218.29	27,238.39	24,944.00	27,027.54	21,321.28	27,332.97	289,581.75
<b>12th St. - 2A PROFIT/(LOI)</b>		6,553.26	8,793.44	4,501.19	9,618.08	14,926.59	30,607.75	18,683.96	11,152.47	3,827.15	5,318.34	10,538.25	-4,769.51	119,750.97

City of Miami Beach Parking Department  
 Profit & Loss Statement  
 Garages & Lots - FY07/08

13th Street Garage - 17A

LOCATION	ACCOUNTING CODE	2007 October	2007 November	2007 December	2008 January	2008 February	2008 March	2008 April	2008 May	2008 June	2008 July	2008 August	2008 September	FY 2007/2008 TOTAL
<b>13th Street Garage - 17A</b>														
Revenue-Ticket	480-8000-344566	59,413.08	61,568.24	68,486.90	64,603.75	75,440.22	105,373.81	88,571.97	92,432.72	75,740.15	83,343.94	89,434.56	61,384.13	925,793.47
Revenue-Monthly Permits	480-8000-344527	8,340.00	8,160.00	9,660.00	9,660.00	9,660.00	9,660.00	9,030.00	9,450.00	8,680.00	10,360.00	10,430.00	10,430.00	113,520.00
<b>13th St. - 17A REVENUE</b>														
		67,753.08	69,728.24	78,146.90	74,263.75	85,100.22	115,033.81	97,601.97	101,882.72	84,420.15	93,703.94	99,864.56	71,814.13	1,039,313.47
(Sales Tax Excluded)														
<b>Expenses</b>														
Security Personnel		8,907.98	9,198.15	11,463.91	9,420.77	11,272.74	11,527.67	9,030.00	11,068.36	11,463.01	12,738.19	10,179.61	12,678.13	128,948.52
Attendant/Cashier Labor		14,076.87	13,664.00	17,642.58	14,966.89	14,665.93	22,952.43	14,442.30	14,107.28	13,849.27	17,688.60	12,641.63	17,399.15	188,096.93
Landscape Maintenance		216.67	216.67	216.67	216.67	216.67	216.67	216.67	216.67	216.67	487.50	237.50	237.50	2,933.36
PP&L		2,234.51	2,213.27	2,413.21	2,426.83	2,121.45	1,838.44	2,131.87	2,200.32	2,274.46	2,384.33	2,446.70	2,531.01	27,216.40
Revenue Control Equipment Maintenance		1,891.66	1,891.66	1,891.66	3,741.66	1,891.66	1,891.66	1,891.66	1,891.66	2,939.72	2,522.22	2,522.22	21,302.47	46,269.91
Elevator Maintenance		170.00	170.00	170.00	170.00	170.00	170.00	170.00	170.00	170.00	542.78	170.00	170.00	2,412.78
Armed Guard Revenue Pickup		455.00	455.00	455.00	455.00	455.00	455.00	455.00	455.00	455.00	455.00	455.00	455.00	5,460.00
Garage Cleaning/Maintenance		1,592.48	1,592.48	1,592.48	1,592.48	1,592.48	1,592.48	1,857.28	1,656.18	2,502.18	1,656.18	1,656.18	1,656.18	20,539.06
<b>13th St. - 17A EXPENSES</b>		29,545.17	29,401.23	35,845.51	32,990.30	32,385.93	40,644.35	30,194.78	31,765.47	33,891.14	38,474.80	30,308.84	56,429.44	421,876.96
<b>13th St. - 17A PROFIT/(LOSS)</b>		38,207.91	40,327.01	42,301.39	41,273.45	52,714.29	74,389.46	67,407.19	70,117.25	50,529.01	55,229.14	69,555.72	15,384.69	617,436.51

42nd Street Garage - 8A

LOCATION	ACCOUNTING CODE	2007 October	2007 November	2007 December	2008 January	2008 February	2008 March	2008 April	2008 May	2008 June	2008 July	2008 August	2008 September	FY 2007/2008 TOTAL
<b>42nd Street Garage - 8A</b>														
Revenue-Ticket	480-8000-344531	5,527.10	4,512.14	4,568.25	5,520.58	17,351.40	5,258.88	4,257.00	3,949.53	3,727.10	5,291.58	4,719.64	4,401.88	69,085.08
Revenue-Monthly Permits	480-8000-344595	26,880.00	25,140.00	29,610.00	32,480.00	34,090.00	32,200.00	31,010.00	31,150.00	30,660.00	30,870.00	31,010.00	31,710.00	366,810.00
<b>42nd St. - 8A REVENUE</b>														
		32,407.10	29,652.14	34,178.25	38,000.58	51,441.40	37,458.88	35,267.00	35,099.53	34,387.10	36,161.58	35,729.64	36,111.88	435,895.08
(Sales Tax Excluded)														
<b>Expenses</b>														
Security Personnel		7,055.63	7,266.30	8,846.36	7,158.99	9,070.59	8,955.69	7,238.49	9,148.43	9,074.04	11,388.84	9,228.39	11,544.16	105,975.91
Attendant/Cashier Labor		4,874.52	4,707.86	6,128.19	4,741.95	7,843.92	5,851.69	4,446.52	4,590.45	4,616.96	5,810.03	4,404.99	5,447.90	63,464.98
PP&L		3,137.09	3,073.18	2,730.21	3,188.57	2,636.51	2,584.60	2,670.68	2,728.25	2,081.57	2,307.84	2,703.38	2,446.58	32,288.46
Revenue Control Equipment Maintenance		1,891.66	1,891.66	1,891.66	1,891.66	1,891.66	1,891.66	1,891.66	1,891.66	2,522.22	2,522.22	2,522.22	2,522.22	25,932.16
Elevator Maintenance		430.00	430.00	430.00	430.00	430.00	430.00	430.00	430.00	430.00	430.00	430.00	430.00	6,784.78
Landscape Maintenance		0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	462.50	462.50	462.50	462.50	1,850.00
Garage Cleaning/Maintenance		3,392.00	3,392.00	3,392.00	3,392.00	3,392.00	3,654.50	3,392.00	3,392.00	3,392.00	3,392.00	3,392.00	3,392.00	40,966.50
<b>42nd St. - 8A EXPENSES</b>		20,780.90	20,761.00	23,673.42	20,803.17	25,974.68	23,809.14	20,669.35	22,180.79	22,579.29	26,313.43	23,472.26	26,245.36	277,262.79
<b>42nd St. PROFIT/(LOSS)</b>		11,626.20	8,891.14	10,504.83	17,197.41	25,466.72	13,649.74	14,597.65	12,918.74	11,807.81	9,848.15	12,257.38	9,866.52	158,632.29

City of Miami Beach Parking Department  
 Profit & Loss Statement  
 Garages & Lots - FY07/08

16th Street Garage - Anchor

LOCATION	ACCOUNTING CODE	2007 October	2007 November	2007 December	2008 January	2008 February	2008 March	2008 April	2008 May	2008 June	2008 July	2008 August	2008 September	FY 2007/2008 TOTAL
<b>16th Street - Anchor Garage</b>														
Revenue-Ticket	463-8000-344911	107,202.81	136,751.39	145,044.84	137,743.91	164,224.26	221,795.17	170,168.25	167,833.64	133,274.74	162,766.37	180,031.77	128,583.16	1,855,420.31
Revenue - Valet	463-8000-344587	111,143.93	15,946.74	24,931.79	18,034.59	28,934.59	18,564.96	14,208.89	19,475.24	13,032.25	24,176.18	31,811.22	23,478.52	243,738.90
Revenue-Monthly Permits	463-8000-344903	45,900.00	45,850.00	42,250.00	41,650.00	43,500.00	43,800.00	41,025.00	45,375.00	44,375.00	43,975.00	48,200.00	48,250.00	534,150.00
<b>16th St. Anchor - REVENUE</b>		164,246.74	198,548.13	212,226.63	197,428.50	236,658.85	284,160.13	225,402.14	232,683.88	190,681.99	230,917.55	260,042.99	200,311.68	2,633,309.21
(Sales Tax Excluded)														
<b>Expenses</b>														
Security Personnel		9,751.96	9,928.29	12,564.99	10,287.31	9,643.36	12,387.39	10,136.26	10,013.03	10,390.65	13,876.54	10,128.30	13,960.21	133,068.29
Attendant/Cashier Labor		23,195.62	24,287.95	30,156.63	26,066.48	25,757.04	31,811.14	25,352.50	25,319.74	24,408.20	29,447.30	21,926.35	29,432.86	317,161.81
FP&L		4,033.28	3,948.27	4,328.04	4,043.86	4,152.71	3,917.28	3,750.17	4,080.32	4,220.44	4,635.10	4,893.35	4,872.58	50,875.40
Revenue Control Equipment Maintenance		775.00	775.00	775.00	775.00	775.00	775.00	775.00	1,133.75	775.00	1,133.75	775.00	775.00	10,017.50
Armed Guard Revenue Pickup		455.00	433.00	455.00	455.00	455.00	455.00	455.00	455.00	455.00	455.00	455.00	455.00	5,438.00
Elevator Maintenance		1,353.84	2,169.84	1,833.84	1,833.84	1,353.84	1,441.30	3,553.30	1,441.30	1,945.30	1,441.30	1,441.30	2,050.30	21,859.30
Landscape and Lot Maintenance		152.00	152.00	152.00	1,072.00	152.00	152.00	190.00	152.00	190.00	152.00	152.00	190.00	2,858.00
Garage Cleaning/Maintenance		9,242.00	9,242.00	9,242.00	9,242.00	9,242.00	9,242.00	9,242.00	9,242.00	9,242.00	9,242.00	9,242.00	9,242.00	110,904.00
Sanitation (Waste Removal)		215.77	215.77	215.77	221.18	221.18	221.18	221.18	221.18	221.18	221.18	221.18	221.18	2,637.93
Fire Alarm Service		250.00	250.00	520.00	940.36	320.12	663.00	250.00	250.00	920.12	250.00	250.00	953.50	6,019.10
<b>16th St. - Anchor EXPENSES</b>		49,424.47	51,402.12	60,243.27	54,937.03	52,072.25	61,265.29	53,925.41	52,308.32	52,767.89	60,854.17	49,484.48	62,154.63	660,839.33
<b>16th St. PROFIT/(LOSS)</b>		114,822.27	147,146.01	151,983.36	142,491.47	184,586.60	222,894.84	171,476.73	180,375.56	137,914.10	170,063.38	210,558.51	138,157.05	1,972,469.88



# 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: March 18, 2009

SUBJECT: **STATUS REPORT ON THE NORMANDY SHORES GOLF COURSE CLUB HOUSE**

After the bids were rejected at the February 25, 2009 Commission meeting, the City has readvertised the Normandy Shores Golf Course Club House through a competitive Invitation To Bid (ITB).

The ITB was issued March 5, 2009 with a planned Pre-Bid Conference on March 20, 2009 and deadline for receipt of bids of April 6, 2009. The evaluation process will take place after the receipt of bids with a goal of presenting a recommendation for award at the April 22, 2009 Commission meeting.

The ITB has a requirement for all firms bidding on the project to have been in business a minimum of ten years. This requirement disqualified several firms that previously bid on the project.

In the meantime, the City has demolished the old club house, removed the debris, and leveled the site in preparation for the new construction. Soil borings and additional testing have also been completed. The golf course is open for business, and a triple-wide trailer is being used for the temporary club house and pro shop.

JMG:TH:HFHBJCC:RWS

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Agenda Item C  
Date 3-18-09

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# MIAMI BEACH

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

## COMMISSION MEMORANDUM

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

FROM: Jorge M. Gonzalez, City Manager 

DATE: March 18, 2009

SUBJECT: **INFORMATIONAL REPORT TO THE MAYOR AND CITY COMMISSION, ON FEDERAL, STATE, MIAMI-DADE COUNTY, U.S. COMMUNITIES, AND ALL EXISTING CITY CONTRACTS FOR RENEWAL OR EXTENSIONS IN THE NEXT 180 DAYS.**

The City Commission adopted Resolution No. 2000-24141, which provided that all existing City contracts for renewal or extensions, which by their terms or pursuant to change orders exceed \$10,000, and all extensions or renewals of such contracts, shall be presented as an informational report to the Mayor and City Commission, at least 180 days prior to the contract extension or renewal date. Subsequent thereto, the City Commission adopted Resolution No. 2001-24332, changing the reporting requirement from \$10,000 to \$25,000.

The Administration in addition to reporting on all existing City contracts, will now report information relative to Miami-Dade County, State of Florida, U.S. Communities and Federal GSA contracts that are approved for utilization by the City Manager. Pursuant to information contained in Miami-Dade County, State of Florida, U.S. Communities and Federal General Services Administration (GSA) bid list, the following are contracts that will expire within the next 180 days:

	DESCRIPTION	VENDOR	EXPIRATION DATE	RENEWAL TERMS
1.	SUPPLY AND DELIVERY OF ROCK SOIL AND SAND	Golf Agronomics; Austin Tupler Trucking, Inc.; Florida Superior Sand Inc.; Allied Trucking of Florida; Cemex/Rinker Materials Corporation; Golf Agronomics; Chin Diesel Trucking	08/31/2009	(2) One year Options to renew

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DATE 3-18-09

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# MIAMI BEACH

OFFICE OF THE MAYOR AND COMMISSION

## MEMORANDUM

TO: **Jorge Gonzalez, City Manager**

FROM: **Matti Herrera Bower, Mayor**

DATE: **February 27, 2009**

SUBJECT: **For Your Information-Provided by the Miami-Dade County Tourist Development Council**

Attached please find the agenda for the March 3, 2009 Miami-Dade County Tourist Development Council Subcommittee meeting as well as the summary of agenda action and official minutes for the Tourist Development Council meeting dated November 6, 2008.

MHB/lw

2009 FEB 27 11:21 AM  
COMMUNICATIONS SECTION



RECEIVED  
 09 FEB 27 AM 11:03  
 BY MAYOR/COMMISSION

Subcommittee Meeting  
 Tuesday, March 3, 2009 8AM  
 Stephen P. Clark Center  
 111 NW First Street  
 Second Floor Conference Room B  
 Miami, Florida

AGENDA

- I. Additions, Deletions, Withdrawals
- II. Conflict of Interest
- III. Items for Approval
  - A. Minutes of the November 6, 2008 Meeting
  - B. 2009 Sunset Review
  - C. TDC Nomination Committee Recommendation
- IV. Reports and Discussion Items
  - A. Updated Budget / Financial Position and Funding Recommendations for FY2008-09 Second Funding Period
- V. Citizens' Presentations
- VI. Grant Applications and Recommendations - Second Funding Period
  - A. Special Events/Promotions (Non-Profit) -- Continuing

	Request	Staff Recommendation
1. American Public Media/Classical South Florida <i>SymphonyCast Special Edition – The Cleveland Orchestra Live from Miami</i>	13,500	13,500
2. Coconut Grove Arts & Historical Association, Inc. <i>46<sup>th</sup> Annual Coconut Grove Arts Festival</i>	25,000	22,500
3. Council of International Fashion Designers, Inc. <i>Miami Fashion Week</i>	25,000	5,000
4. Deering Estate Foundation, Inc. <i>5<sup>th</sup> Annual Deering Seafood Festival on the Bay</i>	15,000	5,000
5. Dr. Martin Luther King, Jr. Parade & Festivities Committee, Inc. <i>Dr. Martin Luther King, Jr. Parade &amp; Festivities Committee, Inc.</i>	10,000	5,000
6. Historical Association of Southern Florida, Inc. <i>2009 Miami International Map Fair</i>	13,510	5,250

		Request	Staff Recommendation
7.	Kiwanis Club of Little Havana, Inc. <i>Calle Ocho Festival</i>	25,000	18,000
8.	Miami Bach Society, Inc. <i>Tropical Baroque Music Festival X</i>	25,000	6,000
9.	Miami Contemporary Dance Company <i>International Dance Project: Miami Italia</i>	15,000	6,750
10.	Miami Light Project, Inc. <i>Global Cuba Fest</i>	15,000	5,000
11.	Miami Symphony Orchestra, Inc. <i>Miami Symphony 20<sup>th</sup> Anniversary Season</i>	25,000	5,000
12.	National Foundation for Advancement in the Arts, Inc. <i>youngARTS Week 2009</i>	25,000	12,000
13.	National Gay and Lesbian Task Force Foundation, Inc. <i>Winter Party Festival 2009</i>	10,000	5,000
14.	New World Symphony, Inc. <i>Charles Ives Pioneer Modernist: An NWS In-Context Festival</i>	15,000	11,250
15.	Performing Arts Center Trust, Inc. dba The Adrienne Arsht Center for the Performing Arts of Miami-Dade County <i>Flamenco Festival Miami</i>	25,000	7,000
16.	Red Chemistry, Inc. <i>Romance in a Can 2008</i>	15,000	6,750
17.	Rotary Foundation of South Miami, Inc. <i>South Miami Rotary Art Festival</i>	15,000	3,000
18.	South Florida Bluegrass Association, Inc. <i>31<sup>st</sup> Annual Everglades Bluegrass Festival</i>	15,000	6,750
19.	South Florida Composers Alliance, Inc. <i>Subtropics Experimental Music and Sound Arts Festivals</i>	15,000	5,000
20.	St. Stephen's Episcopal Church, Inc. <i>St. Stephen's Arts and Crafts Show</i>	15,000	4,000
21.	Unconservatory, Inc., The <i>The Unconservatory 2008-2009 Second Quarter Events</i>	6,000	4,000
22.	United Haitian American Artists, Inc. <i>21<sup>st</sup> Annual Haitian Independence Day Gala</i>	15,000	5,000
23.	Women's International Film & Arts Festival, Inc. <i>4<sup>th</sup> Annual Women's International Film and Arts Festival</i>	25,000	5,000
<b>B. Special Events/Promotions (Non-Profit) -- First Time</b>			
1.	Acting for All, Inc. <i>1<sup>st</sup> Annual "Best of" Arts &amp; Mind Arts Show</i>	15,000	3,000
2.	Back Bone Cultural Group, Inc. <i>Ghana Art &amp; Culture for Black History Month</i>	5,000	2,300
3.	Gold Cast Railroad Museum, Inc. <i>Day Out with Thomas 2009</i>	25,000	5,000
4.	Miami City Ballet, Inc. <i>Miami City Ballet's Manhattan Debut at New York City Center</i>	25,000	15,000

	Request	Staff Recommendation
<b>C. Special Events/Promotions (For-Profit) – First Time</b>		
1. <b>Classical Review, Inc., The</b> <i>South Florida Classical Review.com</i>	5,000	3,500
<b>D. Special Events/Promotions (Non-Profit) -- Ongoing</b>		
1. <b>Center for the Advancement of Jewish Education, Inc.</b> <i>12<sup>th</sup> Annual Miami Jewish Film Festival</i>	10,000	6,000
2. <b>Coconut Grove Chamber of Commerce</b> <i>Great Taste of the Grove 2009</i>	15,000	5,000
3. <b>Miami Dade College Foundation, Inc.</b> <i>2009 Miami International Film Festival</i>	25,000	20,000
<b>E. Special Events/Promotions (Government) – Continuing</b>		
1. <b>City of Miami Beach – Department of Tourism and and Cultural Development</b> <i>Miami Beach Festival of the Arts</i>	15,000	5,250
2. <b>City of Miami Gardens</b> <i>4<sup>th</sup> Annual Jazz in the Gardens Music Festival</i>	12,000	12,000
<b>F. Special Events/Promotions (Government) – First Time</b>		
1. <b>Miami-Dade County Park and Recreation Department (Operations Region 4)</b> <i>Miami International Agricultural and Cattle Show</i>	25,000	15,000
<b>G. Sports (Non-Profit) - Ongoing</b>		
1. <b>Junior Orange Bowl Committee, Inc.</b> <i>International Tennis, Golf and Chess and National Basketball and Ice Hockey</i>	15,000	10,000
<b>H. Sports (For-Profit) – First Time</b>		
1. <b>Excel Events and Productions, LLC</b> <i>Miami International Triathlon</i>	15,000	5,000

**Adjournment**

**CLERK'S SUMMARY OF AGENDA ACTION  
AND OFFICIAL MINUTES  
TOURIST DEVELOPMENT COUNCIL  
November 6, 2008**

The Tourist Development Council (TDC) convened in the 10<sup>th</sup> floor Citizens Independent Transportation Trust's Conference room in the Stephen P. Clark Center, 111 Northwest First Street, Miami, Florida at 8:00 a.m. on March 18, 2008. There being present, Chairman José "Pepe" Diaz and members, Mr. Stuart Blumberg, Mayor Mattie Herrera Bower, Mr. Juan Carlos Palacios, Mr. William Perry III, Commissioner Michelle Spence Jones, and Ms. Olga Ramudo (Ms. Carmen Corvois-Roig was absent).

The following staff members were present: Mr. Michael Spring, Director, Department of Cultural Affairs; Mrs. Nikenna D. Benjamin, Grants Program Administrator; Mrs. Liliana Hernandez, Grants Program Assistant; Assistant County Attorney Stephen Stieglitz, and Deputy Clerk Karen Leonard.

Also present was Mr. Bill Talbert, President/CEO of the Greater Miami Convention Visitor's Bureau.

Chairman Diaz called the meeting to order at 8:19 a.m. He asked Council members and other participants at today's (11/6) meeting to state their names for the record. He welcomed Commissioner Michelle Spence Jones and Mr. Juan Carlos Palacios as new members of the Tourist Development Council.

**I. Additions, Deletions, Withdrawals-None Presented**

There were no additions, deletions, or withdrawals from today's agenda.

**II. Conflict of Interest**

Mr. Michael Spring, Director, Department of Cultural Affairs, indicated that a conflict of interest existed for a TDC member on any item before the TDC if any of the following instances applied:

- the TDC Board Member was a paid staff member of an applicant organization;
- the TDC Board Member served on the Board of Directors of an applicant's Organization; and
- the TDC Board Member made a contribution of at least \$1,000 to an applicant's organization within the last three years.

Mr. Spring noted that the conflict of interest policy also applied if any member of a TDC Board members' immediate family fell into those categories.

**III. Items for Approval**

**A. Minutes of the June 10, 2008 Meeting**

November 11, 2008

Tourist Development Council

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It was moved by Mr. Blumberg that the minutes of the June 10, 2008 TDC meeting be approved. This motion was seconded by Mayor Bower, and upon being put to a vote, passed by a unanimous vote of those members present.

**B. FY 2008-2009 Renewal of Targeted/Set-Aside Grants**

Mr. Spring provided an outline of the Fiscal Year (FY) renewal of targeted and set-aside grants and referred to the memorandum which indicated no applicants were added since the prior year. He noted that the applicants were active with TDC in the past and considered to be essential to tourism which involved the visitor centers and publications that promoted the cultural and special events.

It was moved by Mr. Blumberg that the Council approve the FY2008-2009 Renewal of Targeted/Set-Aside Grants. This motion was seconded by Mayor Bower and upon being put to a vote, passed by a vote of 7-0. (Ms. Carmen Corvois-Roig was absent)

**C. GALA Choruses and American Choral Directors Association**

Mr. Spring provided a brief overview of the TDC's involvement in the initiative to attract and secure the GALA Choruses and American Choral Directors Association. He referred to the memorandum noting TDC was part of a team which was tasked with securing funds for those conferences. Therefore, TDC's staff recommended supplementing the original grant with added funds in order to ensure the initial commitment. Mr. Spring added that TDC staff identified unused funds from prior years, so the supplement funds for the foregoing item would not affect the upcoming year's budget.

It was moved by Mr. Blumberg that the Council approve the recommended supplement for the FY2008-09 Renewal of Targeted/Set-Aside Grants to fund the GALA Choruses and American Choral Directors Association event. This motion was seconded by Mayor Bower, and upon being put to a vote passed by a vote of 7-0. (Ms. Carmen Corvois-Roig was absent).

**IV. Reports and Discussion Items**

**A. TDC Nomination Update**

Mr. Spring provided an update on the status of TDC membership vacancies. He congratulated Commissioner Michelle Spence Jones and Mr. Juan Carlos Palacios on recently becoming members and noted one vacancy was left.

**B. Updated Budget/Financial Position and Funding Recommendations for FY2008-09 First Funding Period**

Mr. Spring provided a brief update and advised Tourist Development Council (TDC) members that they were beginning the fiscal year in a strong financial position. He noted the budget was composed of the following revenue sources: \$925,000 in the tourist development room tax and

\$100,000 from the hotel/motel food and beverage surtax. In addition, he noted unused money which was carried over from last fiscal year and additional unused grants totaled \$1.66 million.

Mr. Spring noted that the \$1.66 million was allocated into four quarters of the fiscal year in order to ensure the budget would cover each quarter and that applicants would have enough resources throughout the year to be supported fairly. He noted that a reserve fund was created for any needed adjustments recommended by the Council in addition to a shoulder season fund that was designed to provide some targeted funds to activities that may occur during the slower summer months.

Mr. Spring stated that in the first quarter of the funding period, TDC had 35 applicants requesting total of \$750,000. He noted (34) of those applications were non profit organizations and one (1) applicant was a for-profit organization. He also noted ten (10) applicants were new, nineteen (19) applicants were for continuing projects, and six (6) applicants were for ongoing grants entering into another 5 year cycle.

Mr. Spring noted TDC staff and Subcommittee met to review the applications and made the recommendations included in the agenda package. He also noted the thirty-one (31) organizations were recommended for a total of \$330,000 in addition to the funds that were approved for the target/set-aside grant and the supplement that would support the two conferences. Mr. Spring noted there was approximately \$83,000 in the reserve account in addition to the \$50,000 shoulder season fund.

Mr. Spring advised the TDC members that two organizations withdrew their application, one was deferred to a future funding period, and the other was referred to other grant programs.

**V. Citizen's Presentations**

**VI. Grant Applications and Recommendations – First Funding Period**

Mr. Spring requested that the TDC members review the applications and hear a brief statement from the representatives of those organizations that were present.

**A. Special Events/Promotions (Non-Profit) – Continuing**

**VI. A-1 Center for Emerging Art, Inc. Final Recommendation \$5,000**

Ms. Ava Rado, representing the Center for Emerging Art, Inc. appeared before the Council and presented a brief overview of the Music Map of the World event. She noted how the small grass roots organization had succeeded and how it had designed and provided coloring books to children in the community. Ms. Rado thanked the TDC for the recommended \$5,000, but requested additional funds from their initial request for \$8,000.

**VI. A-2 Centro Cultural Brasil-USA da Florida, Inc. Final Recommendation \$5,400**

Ms. Gloria Jones, representing Centro Cultural Brasil-USA da Florida, appeared before the Council and thanked the members for their support. She also noted the organization's marketing efforts.

**VI.A-5                      Edge Zones, Inc.    Final Recommendation  
\$7,5000**

Charo Oquet appeared before the Council and provided a brief update of the internationally known Zones Contemporary Art Fair event. She spoke about the loss of the organization's building due to lack of funding and requested additional funds.

Later in the meeting, it was moved by Commissioner Jones that the Council approve the FY 2008-09 recommendation with an increased amount from \$5,000 to a recommended amount of \$10,000; however the recommendation was amended following an even vote and at Chairman Diaz' request.

It was moved by Commissioner Jones that the Council approve an increase in the Fiscal Year (FY) 2008-09 First Funding Period recommendations from \$5,000 to a recommended amount of \$7,500. This motion was seconded by Mr. William Perry III, and upon being put to a vote, passed by a vote of 6-0 (Mr. Blumberg voted "No." Ms. Carmen Corvois-Roig was absent.).

**VI.A-9                      Florida International University Board of Trustees                      Final Recommendation  
\$7,500**

Ms. Christine Connor, representing Florida International University Board of Trustees, appeared before the Council and presented a brief overview of the Frost Museum and its expeditions. She thanked the Council members for their support and requested additional funding.

**VI. A-12                      Miami Short Film Festival, Inc.    Final Recommendation  
\$6,750**

Mr. William Villa, representing Miami Short Film Festival, Inc., appeared before the Council and provided a brief overview of the event. He noted the organization's partnership with the Miami Art Museum and thanked the Council members for their support.

It was moved by Commissioner Jones that the Council approve an increase in the FY2008-09 First Funding Period recommendations from \$6,700 to a recommended amount of \$10,000. This motion died due to lack of a second.

**VI. A-13                      Museum of Science, Inc.    Final Recommendation  
\$12,000**

Mr. Tony Lima, representing the Museum of Science, Inc., appeared before the Council and expressed appreciation for their support. He also referred to the media clippings and how the local talent was a part of the event's opening celebration. Mr. Lima emphasized the difficulty in obtaining marketing dollars and requested additional funding to impact the tourist area.

**B.                      Special Events/Promotions (Non-Profit) – First Time**

**VI. B-1                      Artformz, LLC    Final Recommendation  
\$10,000**

Ms. Alette Simmons-Jimenez, representing the Artformz, LLC, appeared before Council members and presented an overview of the Giants in the City event. She noted that grants were received for this ongoing project which would continue for three more years. Ms. Jimenez thanked the TDC members for the recommended \$10,000 and requested additional funding.

**VL.B-4          Diaspora Vibe Cultural Arts Incubator, Inc.          Final Recommendation  
\$7,500**

It was moved by Commissioner Jones that the Council approve an increase in the FY2008-09 First Funding Period recommendations from \$7,500 to a recommended amount of \$10,000. This motion died due to lack of a second.

**VI. B-7                  Miami Carnival Inc.                  Final Recommendation  
\$10,000**

A representative of Miami Carnival, Inc. appeared before the Council on behalf of Mr. Marlin Hill and provided a brief overview of the Caribbean Mardi Gras 25<sup>th</sup> anniversary. He spoke of the various venues that would be featuring the carnival. He requested that the recommended amount be increased.

**D.          Special Events/Promotions (Non-Profit) – Ongoing**

**VI.D-1          Actor's Playhouse Productions, Inc.          Final Recommendation  
\$20,000**

Ms. Barbara Stein-Jones, representing the Actor's Playhouse Productions, appeared before the Council and noted that the organization had established a marketing partnership with the Spanish Broadcasting System to reach the diverse community. She thanked the Council members for their support.

**VI.D-6          Trinidad & Tobago Saga Boys International, Inc.          Final Recommendation  
\$5,000**

Mr. Norris Forde, representing Trinidad & Tobago Saga Boys International, Inc., appeared before the Council and provided a brief overview of the Miami Calypso Fiesta Program. He noted it was unfortunate that the event would undergo some cut backs due to lack of funding.

In response to Mr. Perry's inquiry regarding sustainability of the events noted by the foregoing applicant and why the amount of funds requested was not greater, Mr. Spring explained that it was recommended the applicant be granted the full funding that was requested, which totaled \$5,000; however, since the recommendation was made, the organization identified added expenses and was now requesting more funding.

**VI.E-2          Miami-Dade County Park and Recreation Department          Final Recommendation  
\$12,000**

Mr. George Parrado, representing the Miami-Dade Park and Recreation Department, appeared before the Council and provided a brief overview of the Ribfest event. He expressed appreciation of TDC's support.

**VI.H-3 Miami Beach Chamber of Commerce Final Recommendation \$20,000**

Ms. Donna Zemo, representing the Miami Beach Chamber of Commerce, appeared before the Council and thanked the members for their support, which she noted would assist the organization in providing excellent service to tourists throughout Miami.

Following the presentations, discussion included the process of considering increasing funding to some organizations and the impact that increased funding would have on TDC's ability to fund other projects within that fiscal year.

Mr. Spring concurred with Mr. Talbert's comments regarding other resources available for the applicants, noting that TDC staff encouraged the applicants to pursue other public sources to support them. He noted a summary sheet was included in the package indicating the other sources that were pursued by the applicants.

Mr. Blumberg explained TDC's voting process to approve the staff's recommended grants and noted how difficult the decision was when working with a limited budget. He noted that nevertheless, the Council had been fair.

It was moved by Mr. Blumberg that the Council approve the following (FY) 2008-09 First Funding Period recommendations. This motion was seconded by Commissioner Bower, and upon being put to vote, passed by a vote of 6-0 (Council member Ms. Carmen Corvois-Roig was absent).

**Special Events/Promotions Nonprofit Organizations (Continuing)**

<b>Agenda Item No.</b>	<b>Organization Name</b>	<b>Final Recommendation</b>
III.-C	GALA Choruses	\$16,960
III.-C	American Choral Directors Association	\$17,500
VI.A-1	Center of Emerging Art, Inc.	\$5,000
VI.A-2	Centro Cultural Brasil-USA da Florida Inc.	\$3,500
VI.A-3	Cultural Council, Inc. The	\$5,400
VI.A-4	Dave and Mary Alper Jewish Community Center, Inc.	\$13,500
VI.A-6	Exponica International, Inc.	\$13,500
VI.A-7	Florida Dance Association, Inc.	\$18,000
VI.A-8	Florida Film Institute, Inc. F/a Florida Media Market, Inc.	\$3,000
VI.A-9	Florida International University Board of Trustees	\$7,500
VI.A-10	GableStage, Inc.	\$9,000
VI.A-11	Miami Book Fair International, Inc.	\$22,500
VI.A-12	Miami Short Film Festival Inc.(	\$6,750
VI.A-13	Museum of Science, Inc.	\$12,000
VI.A-14	University of Miami School of Music	\$13,500

**Special Events/Promotions Non-Profit Organizations (First Time)**

<b>Agenda Item No.</b>	<b>Organization Name</b>	<b>Final Recommendation</b>
VI.B-1	Artformz, LLC	\$10,000
VI.B-2	Buena Vista East Historic Neighborhood Association	Deferred
VI.B-3	Camposition, Inc.	\$12,500
VI.B-4	Diaspora Vibe Cultural Arts Incubator, Inc.	\$7,500
VI.B-5	Family & Children Faith Coalition, Inc.	\$7,500
VI.B-6	Florida International University Board of Trustees, African New World Studies	CG
VI.B-7	Miami Carnival, Inc.	\$10,000
VI.B-8	Miami Children's Museum	\$20,000

**Special Events/Promotions For-Profit Organizations (First Time)**

VI.C-1	Peninsula Sculpture, LLC	\$10,000
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**Special Events/Promotions Non-Profit Organizations (Ongoing)**

VI.D-1	Actor's Playhouse Productions, Inc.	\$20,000
VI.D-2	Bayfront Park Management Trust Corporation	\$7,500
VI.D-3	Greater So. Dade/So. Miami/Kendall Chamber of Commerce, Inc. dba Chamber South	\$6,000
VI.D-4	Jamaica Awareness, Inc.	\$10,000
VI.D-5	Tigertail Productions, Inc.	\$12,000
VI.D-6	Trinidad & Tobago Saga Boys International, Inc.	\$5,000

**Special Events/Promotions Government (Continuing)**

VI.E-1	City of Sunny Isles Beach	\$15,000
VI.E-2	Miami-Dade County Parks and Recreation Department (Operations Region 5)	\$12,000

**Sports Non-Profit Organizations (First Time)**

VI.F-1	PR Racing Miami, LLC	\$5,000
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**Sports For-Profit Organizations (Continuing)**

VI.G-1	South Florida Super Bowl Host Committee, Inc.	\$25,000
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**Adjournment**

There being no further business to come before the TDC, the meeting was adjourned at 9:08 a.m.

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Chairman Jose "Pepe" Diaz  
Tourist Development Council

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# MIAMI BEACH

OFFICE OF THE MAYOR AND COMMISSION

## MEMORANDUM

TO: **Jorge Gonzalez, City Manager**

FROM: **Matti Herrera Bower, Mayor**

DATE: **March 2, 2009**

SUBJECT: **For Your Information-Provided by the Bicycle/Pedestrian Advisory Committee of the Metropolitan Planning Organization for the Miami Urbanized Area**

Attached please find the summary minutes of the January 28, 2009 Bicycle/Pedestrian Advisory Committee meeting as well as the agenda for the February 25, 2009 meeting.

MHB/lw

2009 MAR 02 10:11:15  
OFFICE OF THE MAYOR AND COMMISSION

Agenda Item E2  
Date 3-18-09

# BICYCLE/PEDESTRIAN ADVISORY COMMITTEE

## MINUTES

MEETING OF WEDNESDAY, JANUARY 28, 2009

### MEMBERS

#### PRESENT

Brett Bibeau     Jeremy Gauger     Lee Marks  
 Susan Kairalla     Steve Greenberg     Ken Groce  
 Eric Tullberg     Larry Thorson     Paul Yavis

### MEMBERS

#### ABSENT

Theodore Karantsalis     Gabrielle Redfern  
 John O'Brien

### OTHERS PRESENT

David Henderson - Staff     Julio Boucle - URS/FDOT     John Hopkins - Green Mobility Net.  
 Jae Manzella - Staff     Christine Stinson - U of Miami/Walk Safe     Tom Blazejack - Green Mobility Net.  
 Sgt. Charlie Triana - MDPD     Stephen Helfman - Weiss, Serota, Helfman     Javier Betancourt - Member Elect  
 Colin Worth - City of Miami     Scott Rosenbaum - 405 S Dixie Hwy., LLC

*The meeting began at 5:35 p.m.*

<u>ISSUE</u>	<u>DISCUSSION</u>
<b>APPROVAL OF AGENDA</b>	- <b>BB:</b> <i>Hearing no objections the Agenda was approved as presented.</i>
<b>APPROVAL OF MINUTES</b>	- • <b>ET:</b> <i>Motion approving amended December Minutes; LT seconded; vote: unanimous.</i>
<b>CITIZEN COMMENTS</b>	- (None at this time.)
<b>TRAFFIC ENFORCEMENT</b>	- <b>CT:</b> (Handing out FL. Bike Laws & Safety Tips.) His district consists of Metrorail, Jackson Hospital and Key Biscayne; including Rickenbacker Cswy., where most bicycle incidents occur. Weekends are the most popular; pelotons become unruly. The biggest issue along the causeway is: running red lights. Although he understands the cyclists are training, it isn't an excuse. Although motorists routinely travel well over the speed limit, his squad doesn't write tickets unless speeds go over 20 MPH the posted limit. He attempted to have the speed lowered near MAST Academy; however, the responses were: High School pupils don't cross the street (they do to catch the bus); and, that the speed limit was already lowered, because the design speed is 70 MPH. FL. Laws also state that cyclists can't ride more than 2 abreast. The pelotons often occupy 2 full lanes. FL. Laws state that substandard lane widths are those that don't allow for safe sharing of a lane with a motor vehicle. Most roads in Miami-Dade don't conform, especially with the new law regarding a 3' clearance. Many cyclists don't think this applies to them. When residents complain, enforcement is stepped-up; then, the cyclists complain that they are being singled-out. Cyclists often disobey common courtesies when they use sidewalks; such as complete stops, or audibly notifying pedestrians of their intent to pass. After they are ticketed, the court judges often have leniency, and won't convict them. He is less lenient – his wife was involved in a traffic crash that left her in constant pain. He has a duty to enforce these laws. Skaters are often mad when they are told to get off the roadway. Sometimes a cyclist will attempt a tricky maneuver to keep rolling at a Stop signal, only to cause a crash. There are correct ways to make a turn; the Safety Tips explains these. This book is a general guideline, it doesn't encompass everything. For example: when it tells you to stay away from possible car doors opening; it doesn't say that drivers are responsible to check behind them before opening their doors. These crashes would be violations by the drivers. He has stopped people regarding the 3' clearance law. Most don't know about it.

	<p><b>TB:</b> Concerned about the use of PDAs and other devices by drivers. Erratic behavior makes it apparent who is using them. Inquired if enforcement of their use will be stepped-up in the future; also if cellphones are checked on a routine basis to spot if they were in use during the altercation.</p> <p><b>CT:</b> The Careless Driving rule covers this; however, there has to be an accompanying violation to stop the vehicle. Unless it is a severe accident, cellphone records are not checked. Drifting through Stop signs causes many crashes. Drivers pretend they don't understand why they are ticketed; most of the time they know they are doing wrong.</p> <p><b>LT:</b> Inquired about the use of a flashing front light.</p> <p><b>CT:</b> <i>They are allowed.</i></p> <p><b>CW:</b> There has been a significant increase in pedestrian crashes in the last few months. Inquired if there has been any stepped-up enforcement.</p> <p><b>CT:</b> There isn't a lot that can be done on the enforcement level. After the girl was killed on US-1, some fines were increased. Some people walk in the road for exercise – they can be told to use the sidewalk or path. Dodging between cars is another bad habit.</p> <p><b>CW:</b> Inquired about automobiles being parked on bikeways.</p> <p><b>CT:</b> <i>These are ticketed;</i> however, it takes time for a tow truck to arrive. M-DPD loses 2-300 officers/year; and, they aren't hiring replacements fast enough.</p> <p><b>SK:</b> Inquired if jay-walking laws are enforced.</p> <p><b>CT:</b> He has never written a ticket for that. Doubts that many officers have.</p> <p><b>SK:</b> <i>Suggested a campaign to step-up enforcement.</i></p> <p><b>CT:</b> Some officers resist enforcing some laws because someone will complain to a Commissioner; then than complaint stays in the officer's personnel record.</p> <p><b>ET:</b> <i>Suggested that traffic officers be provided the FBA's Law Enforcement Guide.</i></p> <p><b>CT:</b> He is unfamiliar with those. There is a clause in the Florida laws that prescribe officers to hand-out safety brochures/pamphlets as a warning to violators. His district does not have these materials. <i>He would be happy to distribute them.</i></p> <p><b>JG:</b> Bike theft is a major issue; it deters many people from riding. Inquired about the coordination between municipalities.</p> <p><b>CT:</b> He is not familiar with any such coordination. In his experience, the majority of cyclists don't know their bike's serial number, nor had paperwork with such.</p> <p><b>LM:</b> The Sgt. has made a good reputation on Key Biscayne working with cycling groups. Two other Key Biscayne officers he talked to were unaware of the 3' rule. <i>There is a need for this to be well known.</i> Too often automobiles stray very close to bicyclists.</p> <p><b>CT:</b> That information was presented at last year's 3' Clearance campaign meeting.</p> <p><b>BB:</b> Inquired how many citations had been issued regarding this law.</p> <p><b>CT:</b> There have been more warnings to let motorists become aware of the law. As far as the actual number, that would have to be researched.</p> <p><b>BB:</b> <i>Requested CT to do so and report the number to DH.</i></p> <p><b>CT:</b> One issue is: that officers have to witness the incident; then, there is difficulty in measuring the distance between the two vehicles. Another subjective factor is whether the officer considers the violation severe enough. They have discretionary powers.</p>
<p><b>NEW DEVELOPMENTS ALONG METRORAIL GUIDEWAY – GABLES</b></p>	<p><b>SH:</b> He and LM did a field review to discuss the issues presented at last month's meeting. This is an automobile lot at US-1 and LeJeune Rd. The M-Path abuts the rear of the property fence. Three points of access are currently identified for Gables Station. <i>The fourth location, (which would cross the M-Path), would also accommodate pedestrian access. The developers have reached agreements with both the City of Coral Gables and MDT regarding the 1<sup>st</sup> three access points.</i> The preliminary design for the</p>

**STATION**

M-Path crossing, which included a speed table, was deemed insufficient by the BPAC.

**LM:** During the field review, there weren't any cyclists using the route. However, since this (and the next item) may set precedence, it is important to be on the side of caution. *Someone suggested a gate activated by sensor that an M-Path user triggers. A Stop sign could be a secondary device.*

**SH:** *The developer is willing to put all these protective measures in place. A tally was taken: there were no cyclists in Summer mornings and three in Winter mornings (before the shopping center would be opened). During the hours the center would be open, there were no bicyclists. Aside from these low numbers, the developers take this seriously, because it is a condition that MDT placed upon approval for the easement agreement. The BPAC must have input to satisfy their concerns.*

**ET:** Cautioned that there may be cyclists traveling near 20 MPH; so, *the sensor has to be set for a wide range of user-speeds.*

**SH:** *Whatever the specifics, these must be approved by MDT & MPO staff.*

**SK:** *Had previously requested a concise site map. The City of Coral Gables will not allow a gate. Automobiles will be backed-up once any physical barrier is in effect. It is important to get this safety design right; because, it will set precedence for future requests. Believes the speed table and stop sign would be sufficient.*

**SG:** Believes the more safety devices, the better; *such as parabolic Mirrors.* Since there is a shopping center being built, cycling may increase in the area.

**SH:** *Another suggestion was in-ground lighting. These draw instant attention.*

**KG:** *The final design should be presented/approved by the BPAC before any conditional use. The developer should be responsible for maintenance of these safety devices.*

**JB:** He agrees with SK that Coral Gables will not look favorably at a gate. *There are bollards that pop-up from the ground. Other issues are enforcement and penalties if the developer starts to become negligent to maintain the devices.*

**SH:** Traffic counts and usage studies cannot properly predict, because the shopping center tenants have changed, are still changing, and will change over time.

**JG:** *Suggested the BPAC review permit drawings to ensure that all terms were met.*

**CW:** *Suggested that alleyway use may eliminate the need for this access.*

**SH:** There have been multiple designs tried in lieu of an M-Pass crossing. As far as setting precedent, there are few areas where something like this is possible.

**CW:** Inquired about using Coral Gables property for this purpose.

**SH:** The City is not interested in providing such use.

**LM:** It is important that M-Path users have top priority now and in the future.

**DH:** The safety and operational needs for the M-Path were evaluated last year. The estimated costs are \$8-10 million.

**BB:** When these improvements are made, the usage is expected to rise.

**JB:** Inquired if there were improvement plans, and what they consist of.

**DH:** There are conceptual plans calling for the widening of the 8' path to 12'.

**JB:** The development includes that area, this can be part of the condition for approval.

**BB:** He is wary of any unwritten promises; although there have been discussions last month, there is no new proposal. The Red Light Guard, the flashing lights must be in writing. MDT has not yet struck a deal with the developer. Unsure what MDT expects from this deal. Inquired why an MDT representative was not in attendance. There was a question whether the project could go forward with this access.

**SH:** It is necessary. The developer is willing to agree to all conditions stated today. There are some things that he cannot commit to. The agreement with MDT is at least ½ a year a way. The permitting 3 years away. I can present a covenant, and it could be

meaningless, due to future issues.  
**BB:** At least there will be something in writing – an agreement of understanding.  
**SH:** Suggested providing a list of safety conditions to MDT to move the project forward. He will come back with a set of plans that show those conditions.  
**KG:** *Motion to defer the Gables Station project decision until next meeting; seconded by SG; vote – unanimous.*

**NEW DEVELOPMENTS ALONG METRORAIL GUIDEWAY – 405 SOUTH DIXIE HWY.**

- **SR:** He began the approval process more than 2 years ago, receiving minimal feedback from any agencies. Only last month was he informed about an M-Path issue, or the existence of the BPAC. *His property is on the corner of LeJeune Rd. & US-1, where he plans to build an office building.* There are currently 2 access points; yet FDOT has recommended a third access (crossing the M-Path), because of predictive back-ups. If this 3<sup>rd</sup> access is not provided, the development cannot continue. When this property had a gas station, there were 2-3 automobile incidents everyday. The safer route is across the M-Path. *He would like to modify and use an existing cut through the M-Path.* Currently, many people access the cut-thru; only to realize it doesn't take them to their destination. *His modification would thwart off these occurrences.*  
**LM:** *There has to be the same kind of safeguards for current and future M-Path users as was included in the last development proposal.*  
**KC:** Inquired if the M-Path cut-thru would be the primary in/out access; and whether FDOT would limit in/out access at LeJeune Rd. when the M-Path cut-thru is granted.  
**SR:** *He is planning in/out access along LeJeune Rd.* There used to be an alleyway; but, a lot of utility lines have been buried along it throughout the years.  
**BB:** SR's presentation does not address B/P mobility. The site plan is inadequate for evaluation. *Requested SR to come back to the next meeting with materials and options to address the BPAC's concerns, (listed during the last developer's presentation).*  
**SR:** He doesn't have all the resources as the last developer to get studies and literature on alternative safety devices, etc. *He will add much of the language the BPAC seems to desire. This development would be around 30,000 sq.ft., as opposed to 1 million for the last development.* He is required to provide about 90 parking spaces.  
**SG:** Noted that bicyclists will be slowing down for LeJeune Rd. when they arrive at the cut-thru. *Inquired if SR would be willing to widen the path along his property.*  
**SR:** He had already placed a 10' widening in his proposal – 12' would not be a problem. *There are other modifications of the access points for logistical reasons.*  
**CW:** Improving the existing alley ROW would eliminate the need to cross the M-Path.  
**SR:** *The alley is dirt. That configuration would contribute to the poor access that has caused many crashes.* The FDOT has consistently requested an alternative.  
**JG:** *The proposed modification should be as perpendicular to the M-Path as possible.*  
**SR:** Regarding the requested lighting; *the back of the building is planned to be lit-up so extensively that he doesn't think any more would be necessary.*  
**SG:** *Suggested narrowing the cut-thru modification, and limiting it to out-only.*  
**SR:** *Narrowing can be done. Will attempt out-only access.*  
**ET:** *Suggested promoting non-motorized transportation to his development.*  
**KG:** *Motion to defer the 405 So. Dixie Hwy. project decision until the next meeting; seconded by JG; vote – unanimous.*

**FDOT PROJECT UPDATE**

- **JB:** (Handing out a list of projects.) *The 1<sup>st</sup> item on the list is an update report for FDOT's Design Guidelines. The FDOT performed an internal review and made some modifications; now it is being submitted for other agencies' input. He will provide a copy to DH. Once it is a final draft, the BPAC will have a chance to comment.*  
 • *The 2<sup>nd</sup> item modifies conditions along the MacArthur Cswy. in consideration of the*

	<p><i>bicyclists that were killed last year. More signs will be installed; the 2 inside lanes will be reduced from 12' to 11'; 5' bike lanes will be introduced where the bus bays are, continue through the intersections, and then transition back to the existing shoulders.</i></p> <p><b>JM:</b> Inquired if any modifications are planned at the eastern bridge.</p> <p><b>JB:</b> No. Not much can be done. This is only a Milling &amp; Resurfacing project.</p> <ul style="list-style-type: none"> <li>• <i>The 3<sup>rd</sup> project is a ramp on NW 167 St. There are no issues.</i></li> <li>• <i>The 4<sup>th</sup> project is in the Keys. They have the Overseas Heritage Trl. as an alternative.</i></li> <li>• <i>The last project is NW 107 Av. ROW restraints thwart any B/P accommodations.</i></li> </ul> <p><b>LT:</b> Concerned with the bus bays installed within the paved shoulders along Collins Av. at Haulover Pk. This design forces cyclists into the travel lanes. <i>He requested JB to consider an alternative design.</i></p> <p><b>JB:</b> <i>Suggested LT to take pictures and send them to him.</i></p> <p><b>BB:</b> Requested JB to make presentations on the NW 5<sup>th</sup> and 12<sup>th</sup> St. bridges. <i>Both of these projects are expected to accommodate B/P use as part of the Miami River Grnwy.</i></p> <p><b>JB:</b> Noted that these are County-owned bridges.</p>
<b>BIKE MIAMI #4</b>	<p>- <b>CW:</b> <i>The next event will be on February 21, 2009. It will be held from 9am-3pm, with music and bike valets. Bayfront and Lummus Pks. will have events.</i></p> <p><b>BB:</b> <i>The City of Miami is doing a great service for Miami-Dade County residents.</i></p>
<b>MANDATORY ADVISORY BOARD TRAINING</b>	<p>- <b>DH:</b> <i>Over a year ago, then-BPAC members took this class. Now is time for the new members to do so. Classes are fairly convenient. Old members that have taken the class can attend again.</i></p>
<b>MONTHLY REPORTS</b>	<p>- <b>DH:</b> <i>The report was not included in the Agenda Pkg. He will provide this at the next meeting.</i></p>
<b>BPAC ATTENDANCE</b>	<p>- <b>DH:</b> <i>The attendance sheet is included in the Agenda Pkg.</i></p>
<b>2009 CALL FOR IDEAS</b>	<p><b>DH:</b> <i>The MPO's Planning Work Program follows this process. Last year, the BPAC endorsed a Trails Maintenance Program. It received funding; and the 1<sup>st</sup> kick-off meeting was recently. The BPAC will receive a presentation at an appropriate time.</i></p> <p><b>BB:</b> <i>Requested anyone with an idea to notify DH for a discussion at the next meeting.</i></p>
<b>MEMBER COMMENTS</b>	<p>-</p> <ul style="list-style-type: none"> <li>• <b>ET:</b> <i>The new Old Cutler Trl. extension has been completed. It runs along SW 216 St., ¾ of a mile from Old Cutler Rd., connecting to Black Creek Trl. (just west of the HEFT). This includes realigning the lights to the edge of the 10' concrete path.</i></li> <li>• <b>ET:</b> <i>While attending the Rickenbacker Cswy. Bike Lanes Grand Opening, he rode with M-DPW J. Cohen to determine a realignment of the path within Crandon Pk. A proposal is to use the existing beachwalk, instead of the narrow path along the road.</i></li> <li>• <b>BB:</b> <i>The County put on a great event. Miami Herald's front page article benefited us.</i></li> <li>• <b>KG:</b> <i>Inquired how he can become more-informed of projects occurring or planned around the County.</i></li> <li>• <b>DH:</b> <i>Encouraged him to meet with him.</i></li> <li>• <b>DH:</b> <i>The next meeting will be February 25, 2009.</i></li> </ul>

- *The meeting was adjourned at 8:30 p.m.*



## FY 2008 UNIFIED PLANNING WORK PROGRAM

Work Element No: 3.04 Element Title: *Comprehensive Bicycle/Pedestrian Planning Programs*

Reporting Period: Oct – December 2008

Project Manager: David Henderson

\_\_\_\_\_  
Signature of Project Manager

1. Progress Made This Month:

### Administration

- Participated in Miami Beach Bikeways Committee meetings.
- Held BPAC meeting and transcribed Minutes.
- Assisted MPO office, including front desk support.

### Education

- Ongoing media Printing (e.g., safety brochures, various maps); Revision (e.g., network map); and, Distribution (e.g., mail-outs, the Government Center Metrorail station B/P kiosk, telephone requests).
- Distributed English, Spanish and Haitian Creole versions of "Share the Road" poster/bumper stickers.
- Attended "Walk to School Day" event at Spanish Lakes Elementary
- Attended the Pro Bike/Pro Walk Florida Conference
- Revised Health and Built Environment presentation
- Presented "Traffic Skills for Cyclists" class at Biscayne Nature Center
- Attended the Alliance for Aging's "Aging in Place" workshop
- Attended UMSA Community Traffic Safety Team
- Distributed educational material at Bike Miami Days #2

### Encouragement

- Distributed materials/information to individuals and groups requesting assistance.
- Attended Southeast Air Coalition for Outreach (SEACO) meeting at Broward Co DERM
- Processed bicycle locker transactions and changed locks of delinquent lease holders, including coordinating with MDT on the demolition of lockers at Coconut Grove Metrorail station.
- Participated in Bike Miami event.
- Worked with planning committee for the Rickenbacker Causeway ribbon-cutting event

### Enforcement

- Distribution/copy of *Road Riders Are Drivers and Regulations Relating to Pedestrians and Motorists* brochures.

### Engineering

- Attended coordination meeting for AASHTO international scan project
- Assisted City of Miami planners with bike counts along S Bayshore Dr
- Met with FDOT planning team regarding South Florida East Coast Corridor Study
- Field reviewed new bike rack locations at Metrorail and transit hub sites with MDT staff
- Attended Miami Bicycle Action Committee meeting
- Attended Miami Springs ADA complaint coordination meeting
- Attended monthly Parks Dept greenways status meeting
- Attended Greenways Working Group meeting
- Met with FPL staff regarding routing of transmission lines along greenway corridors
- Reviewed concept plans for the Parks Dept 3 pedestrian bridges project Met with PW and Parks staff regarding Old Cutler path at Matheson Hammock Park
- Participated in M-Path redesign coordination meetings
- Reviewed Dadeland South parking lot plans for M-Path extension
- Met with MDX and MDT staff to discuss M-Path extension across the SR 878 entrance ramps
- Attended the Consortium for a Healthier Miami-Dade's Health and Built Environment Committee meeting
- Attended UMSA Community Traffic Safety Team meeting
- Attended School Board Community Traffic Safety Team meeting
- Attended Commodore Trail design review meeting
- Hosted presentation of "BikeLink" shared bike parking system to MDT and TriRail staff
- Attended FEC Transit Connection Study kick-off meeting

- Field reviewed bike parking locations along the US-1 Busway
- Attended meeting at Comm. Gimenez's office regarding Ludlam Trail
- Submitted information about broken fence on M-Path to 3-1-1
- Prepared table of juvenile pedestrian traffic crashes for Safe Routes to School program
- Presented Snapper Creek Trail master plan to Transportation Planning Council
- Submitted list of projects for inclusion in economic stimulus funding program

2. Products Completed This Quarter as Related to the Approved UPWP Program: (Provide copies if applicable)

#1-2007	Conceptually endorsing the <u>Miami Gardens Recreational Trails Master Plan</u> , since it reflects excellent opportunities within this region for bicycle/pedestrian mobility
#2-2007	Endorsing either 2a or 2b as Preferred Alternatives to the Flagler St. PD&E Study
#3-2007	Requesting the FDOT to consider a shared-use bus/bike lane as an alternative to the Flagler St. PD&E Study
#4-2007	Requesting the FDOT to amend their <u>Design Manual</u> to provide two curb-ramps, rather than one unified ramp
#5-2007	Statement that the BPAC stands in solid support of the FDOT's plan to include a portion of the Krome Av. Trl. within the Krome Av. roadway project from SW 136 St. to SW 296 St.
#6-2007	Supporting the Safe Routes to School study.
#7-2007	Requesting the MPO Governing Board to investigate the feasibility of countywide pedicab use.
#8-2007	Supporting the 2007 Walk To School Day.
#9-2007	Pedestrian bridges at University and South Miami Metrorail Stations
#10-2007	Requesting PD&E presentations by FDOT
#11-2007	Supporting the County's current policies for inclusion of bicycle facilities, when feasible, on every road.
#12-2007	Supporting the SW 48 St. bike lane project, from SW 97 <sup>th</sup> to 117 <sup>th</sup> Aves.
#13-2007	Demanding striped bike lanes along Alton Rd., from 5 St. to Michigan Av., encouraging the City of Miami Beach to include Alton Rd. bike lanes within their CDMP; as well as accepting the new FDOT alternative design with 10' medians, 12' & 11' travel lanes, 9' sidewalks, and 5' bike lanes.
#14-2007	Requesting the FDOT to routinely incorporate appropriate bicycle signage/proper striping with in project scopes for Milling & Resurfacing in order to promote bicycle safety.
#15-2007	Refusal of alternative routes presented for the proposed project design of NE 2 Av.
#16-2007	Endorsement of the M-DP&R Interim Dir. memorandum regarding the BPAC's participation in future projects.
#17-2007	Requesting a study to provide for a maintenance plan for bicycle & pedestrian facilities throughout M-D County.
#18-2007	Requesting FDOT to prioritize bike lanes over on-street parking within the scope of the Normandy Dr. project, from Bay Dr. E to Rue Notredame, since this action would provide connectivity throughout Normandy Isle.
#19-2007	Recommending 1) a series of interconnected, minimum 12', multi-use paths; 2) the increase of bike lanes along roads; 3) construction of a B/P-accessible route beneath the eastern end of the Powell Bridge to avoid crossing Rickenbacker Cswy. at grade; 4) the inclusion of off-road sporting trails in the northern section of Virginia Key.
#20-2007	Recommending a 4-lane, undivided replacement option for NW 27 <sup>th</sup> Av. Bridge, including the construction of a landscaped, minimum 10' path, which is critical to Miami River Grnwy.; placement of 2, Miami River Grnwy. way-finding signs to direct users to the MIC and Miami River Rapids Park; furthermore, recommending secured funding to relocate the historic bridge to the Fern Isle Park area, as well as to complete the overall project goal.
#21-2007	Supporting the Black Creek Trl., Segment B project, as presented at the October 2007 BPAC meeting.
#22-2007	Commending M-DPW and M-DP&R staff for coordinating efforts for unified trail maintenance; yet, specifying sweeping facilities, rather than blowing of debris into other areas.
#23-2007	Requesting restoration and maintenance of the off-road sport trails at A. Earhart Pk.
#1-2008	Requesting protection of Miami-Dade Bike Route #1
#2-2008	Supporting the 2008 Walk To School Day.
#3-2008	Endorsing bike lanes within the FDOT's Coral Way project, from SW 12 Av. to Brickell Av., as requested by the City of Miami.
#4-2008	Commending Ted Silver for his 14 years of participation with the BPAC - 8 as Chair.
#5-2008	Supporting the River of Grass Greenway to connect with the Shark Valley path the Krome Trl. plan.
#6-2008	Requesting the FDOT provide 7' or wider paved shoulders along the Krome Av. project, from SW 8 St. to Kendall Dr., to provide safer, undesignated bike lanes.
#7-2008	Supporting the Snapper Creek Trl. Master Plan, and requesting the Snapper Crk. Trl. (phase a) project be expedited, and that the scope is extended to link with Tamiami Trl..

3. Problems Encountered/Anticipated:

- None

4. Schedule Adherence:

(Yes or No) If No, Explain

- Yes

**BICYCLE/PEDESTRIAN ADVISORY COMMITTEE**

2009 ATTENDANCE REPORT (as of 1/28/2009)

Member	Designator	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec	Total
Brett Bibeau	Barreiro	P												P-1 E-0 U-0
Ken Groce	Bell	P												P-1 E-0 U-0
Steve Greenberg	Sosa	E												P-1 E-0 U-0
Susan Kairalla	Hantman	P												P-1 E-0 U-0
Vacant	Jordan	-												
John O'Brien	Burns	E												P-0 E-1 U-0
Vacant	Gibson	-												
Lee Marks	Gimenez	P												P-1 E-0 U-0
Vacant	Kerdyk	-												
Vacant	Martinez	-												
Vacant	Edmonson	-												
Larry Thorson	Heyman	P												P-1 E-0 U-0
Javier Betancourt	Moss	P												P-1 E-0 U-0
Vacant	Jose Diaz	-												
Eric Tullberg	Sorenson	P												P-1 E-0 U-0
Paul Yavis	Robaina	P												P-1 E-0 U-0
Vacant	Rolle	-												
Jeremy Gauger	Sarnoff	P												P-1 E-0 U-0
Vacant	Seijas	-												
Vacant	Souto	-												
Gabrielle Redfern	Bower	E												P-0 E-1 U-0

P - Present    E - Excused Absence    U - Unexcused Absence    X - No Meeting That Month  
 \*A member having three or more consecutive un-excused absences or five or more absences during a twelve-month period shall be removed from the BPAC.



**Bicycle/Pedestrian  
Advisory  
Committee**  
of the  
Metropolitan Planning  
Organization  
for the  
Miami Urbanized Area

**Chairman**  
Brett Bibeau

**Members**  
Javier Betancourt  
Jeremy Gauger  
Steve Greenberg  
Ken Groce  
Susan Kairalla  
Lee Marks  
John O'Brien  
Gabrielle Redfern  
Larry Thorson  
Eric Tullberg  
Paul Yavis

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**BICYCLE/PEDESTRIAN ADVISORY COMMITTEE**

**MEETING OF WEDNESDAY, FEBRUARY 25, 2009  
5:30 P.M.**

STEPHEN P. CLARK GOVERNMENT CENTER  
111 NW FIRST STREET  
18<sup>th</sup> FLOOR - CONFERENCE ROOM 3  
MIAMI, FLORIDA 33128

**AGENDA**

- I. SELECTION OF VICE-CHAIR
- II. APPROVAL OF AGENDA
- III. APPROVAL OF MINUTES: January 28, 2008
- IV. CITIZEN COMMENTS (5 minutes)
- V. PRESENTATIONS
  - A. PARKS DEPT UPDATE – M. Heinicke, MDP&R
  - B. NEW DEVELOPMENT ADJACENT TO THE M-PATH
    - i. 405 South Dixie Highway: Scot Rosenbaum
  - C. CALL FOR IDEAS/ON-LINE BIKE ROUTING SYSTEM – Dr. F. ZHAO, FIU COLLEGE OF ENGINEERING
  - D. FDOT PROJECT UPDATE – K. Jeffries, FDOT
  - E. MIAMI-DADE PUBLIC WORKS UPDATE – J. Cohen, MDPW
  - F. FLORIDA BIKE MONTH – D. Henderson
- VI. INFORMATION
  - A. FEDERAL ECONOMIC STIMULUS PROJECTS
  - B. TIP INTERACTIVE MEETING – Tuesday, March 31, 5:30pm
  - C. MONTHLY REPORT
  - D. BPAC ATTENDANCE
- VII. MEMBER COMMENTS

*It is the policy of Miami-Dade County to comply with all requirements of the Americans with Disabilities Act. The facility is accessible. For sign language interpreters, assistive listening devices, or materials in accessible format, please call 305-375-4507 at least five business days in advance.*

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