

MIAMI BEACH

City Commission Meeting SUPPLEMENTAL MATERIAL 4

City Hall, Commission Chambers, 3rd Floor, 1700 Convention Center Drive
January 13, 2016

Mayor Philip Levine
Commissioner John Elizabeth Alemán
Commissioner Ricky Arriola
Commissioner Kristen Rosen Gonzalez
Commissioner Michael Grieco
Commissioner Joy Malakoff
Commissioner Micky Steinberg

City Manager Jimmy L. Morales
City Attorney Raul J. Aguila
City Clerk Rafael E. Granado

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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.

SUPPLEMENTAL AGENDA

R5 - Ordinances

R5E An Ordinance Granting To Peoples Gas System, A Division Of Tampa Electric Company, Its Successors And Assigns, A Non-Exclusive Natural Gas Franchise Agreement To Use The Public Rights-Of-Way Of The City Of Miami Beach, Florida, And Prescribing The Provisions And Conditions Under Which Said Franchise Shall Be Exercised; Providing For Monthly Payments To The City; Providing An Effective Date; And Repealing Prior Ordinance. **10:20 a.m. Second Reading Public Hearing**

(Public Works)

(This Franchise Agreement is not a true "ordinance" that falls within the sponsorship requirements set forth within Section 2-12 of the Miami Beach City Code.)

(First Reading on December 9, 2015 - R5N)

(Ordinance)

R9 - New Business and Commission Requests

R9G Update Regarding 2016 Early Voting Location At Miami Beach City Hall.
(Office of the City Clerk)
(Additional Information)

R9R Discussion: Proposed Alcoholic Beverages Ordinance Amendment - Modified Recommendations.
(Sponsored by Mayor Philip Levine)
(Legislative Tracking: Office of the City Attorney)
(Revised Memorandum)

R9T Motion To Reconsider Vote On Agenda Item R7C From December 16, 2015 City Commission Meeting (Re: South Beach Component Of The Direct Connect Transit Project).
(Sponsored by Commissioner Kristen Rosen-Gonzalez)
(Additional Information)

ORDINANCE NO. _____

AN ORDINANCE GRANTING TO PEOPLES GAS SYSTEM, A DIVISION OF TAMPA ELECTRIC COMPANY, ITS SUCCESSORS AND ASSIGNS, A NON-EXCLUSIVE NATURAL GAS FRANCHISE AGREEMENT TO USE THE PUBLIC RIGHTS-OF-WAY OF THE CITY OF MIAMI BEACH, FLORIDA, AND PRESCRIBING THE PROVISIONS AND CONDITIONS UNDER WHICH SAID FRANCHISE SHALL BE EXERCISED; PROVIDING FOR MONTHLY PAYMENTS TO THE CITY; PROVIDING AN EFFECTIVE DATE; AND REPEALING PRIOR ORDINANCE.

WHEREAS, there is currently in effect a franchise agreement between the City of Miami Beach ("City") and Peoples Gas System, a division of Tampa Electric Company ("PGS"), the terms of which are set forth in City of Miami Beach Ordinance No. 90-2679, passed and adopted February 7, 1990, and PGS's written acceptance thereof dated January 2, 1990, granting to PGS, its successors and assigns, a twenty (20) year gas franchise ("Current Franchise Agreement"); and

WHEREAS, PGS and the City desire to enter into a new agreement ("Franchise Agreement") providing for the payment of fees to the City in exchange for the non-exclusive right and privilege of supplying natural gas and other natural gas systems-related services within the City of Miami Beach free of competition from the City of Miami Beach, pursuant to certain terms and conditions; and

WHEREAS, the City Commission deems it to be in the best interest of the City of Miami Beach and its citizens to enter into the new Franchise Agreement.

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

SECTION 1. For the purposes of this Ordinance, the following terms shall have the meaning given herein:

- A. "Customer" shall mean any Person served by the Company or to which gas is transported within the corporate limits of the City.

- B. "City" or "Grantor" shall mean the City of Miami Beach, a municipal corporation operating pursuant to Florida law.
- C. "Company," "Grantee" or "PGS" shall mean Peoples Gas System, a division of Tampa Electric Company, a Florida corporation, its successors and assigns.
- D. "Distribution Systems" or "Distribution Facilities" shall mean any and all transmission pipe lines, main pipe lines and service lines, together with all tubes, traps, vents, vaults, manholes, meters, gauges, regulators, valves, conduits, attachments, structures and other appurtenances, as are used or useful in the sale, distribution, transportation or delivery of natural gas and as are situated within the corporate limits of the City.
- E. "Effective Date" shall mean the date this Franchise becomes effective as described in Section 21 below.
- F. "Franchise" or "Franchise Agreement" shall mean this Ordinance, as passed and adopted by the City and accepted by PGS, as provided in Section 21 below.
- G. "FPSC" shall mean the Florida Public Service Commission or any successor agency.
- H. "Gross Revenues" shall mean all revenues (as defined by the Florida Public Service Commission) received by PGS from any Customer from the sale, distribution, transportation, delivery and conveyance of Natural Gas.
- I. "Person" shall mean any individual, firm, partnership, estate, corporation, company or other entity, including, but not limited to, any government entity.
- J. "Natural Gas" or "Gas" shall mean natural gas and/or manufactured gas and/or a mixture of gases which is distributed or transported in pipes and measured by meter on the Customer's premise. It shall not mean propane gas or liquefied petroleum gas (commonly referred to as "bottled gas").
- K. "Right-of-Way" means any street, road, lane, highway, avenue, boulevard, alley, waterway, bridge, easement, public place or other Right-of-Way that is owned by the City.

SECTION 2. There is hereby granted to Grantee, for the period of ten (10) years from the effective date hereof, the non-exclusive right, privilege, and franchise (hereinafter called "Franchise") to construct, operate, and maintain in, under, upon, along, over, and across the present and future Rights-of-Way) throughout all of the incorporated areas, as such incorporated areas may be constituted from time to time, of the Grantor, in accordance with PGS's customary practice with respect to construction and maintenance, distribution systems or distribution facilities (including, without limitation, transmission and distribution pipe lines, and all other systems or facilities installed in conjunction with or ancillary to all of the Grantee's operations), for the purpose of supplying natural gas service and other natural gas-related services incidental thereto (which other natural gas-related services are defined as PGS's facility-to-facility capabilities over the distribution systems lines to identify future needs on improved methods of delivering natural gas, and other services necessary or helpful to the provision of natural gas service, and which do not include any services that are sold to others including, without limitation, the transportation and delivery of natural gas) to the Grantor and its successors, and the inhabitants thereof, and persons beyond the limits thereof.

SECTION 2.(a). The Distribution Systems shall be so located, re-located, installed, constructed, and erected as to not unreasonably interfere with the convenient, safe, continuous use, or with the maintenance, improvement, extension or expansion of any public "road," as defined under the Florida Transportation Code, nor unreasonably interfere with reasonable egress from and ingress to abutting property.

(b) To minimize such conflicts with the standards set forth in subsection (a) above, the location, relocation, installation, construction, or erection of all facilities shall be made as representatives of the City may prescribe in accordance with all applicable federal, state, and local statutes, laws, ordinances, rules, and regulations, and pursuant to Grantor's valid rules and regulations with respect to utilities' use of Rights-of-Way relative to the placing and maintaining in,

under, upon, along, over, and across said Rights-of-Way, provided that such rules and regulations shall be:

- (i) for a valid municipal purpose;
- (ii) shall not prohibit the exercise of Grantee's rights to use said Rights-of-Way for reasons other than conflict with the standards set forth above;
- (iii) shall not unreasonably interfere with Grantee's ability to furnish reasonably sufficient, adequate, and efficient natural gas service to all its customers while not conflicting with the standards set forth above; or
- (iv) shall not require relocation of any of the Distribution Systems or facilities installed before or after the effective date hereof in any Rights-of-Way unless or until the facilities unreasonably interfere with the convenient, safe, or continuous use, or the maintenance, improvement, extension, or expansion, of such Rights-of-Way.

(c) Such rules and regulations shall recognize that above-grade distribution systems of the Grantee installed after the effective date hereof should, unless otherwise permitted, be installed near the outer boundaries of the public Rights-of-Way to the extent possible, and such installation shall be consistent with the Florida Department of Transportation's Manual of Uniform Minimum Standards for Design, Construction and Maintenance for Streets and Highways, as same may be amended from time to time.

(d) When any portion of a public Right-of-Way is excavated, damaged, or impaired by PGS, or any of its agents, contractors or subcontractors, because of the installation, inspection, or repair of any of its Distribution Systems or Distribution Facilities, the portion of the public Right-of-Way so excavated, damaged, or impaired shall, within a reasonable time and as early as practicable, but in no event greater than ten (10) days after completion of the underlying project, be restored to its original condition before such excavation, damage, or impairment by the Grantee at its expense.

(e) The City shall not be liable to the Grantee for any cost or expense in connection with any relocation of the Distribution Systems required under this Section, except, however, the Grantee may be entitled to reimbursement of its costs from others and as may be provided by law.

(f) In the event the Grantor requires removal or relocation of the Distribution Systems because the Distribution Systems unreasonably interfere with the standards set forth in subsection (a) hereof, and Grantee fails to remove or relocate such Distribution Systems at Grantee's expense within thirty (30) days after written notice from the City, then the City may proceed to cause the Distribution Systems to be removed or relocated and the expense therefore shall be charged against the Grantee.

SECTION 3. The City shall in no way be liable or responsible for any accident, injury, or damage caused by PGS, and its officers, employees, agents, servants, contractors, or subcontractors, whether to persons or property, that may occur in the construction, installation, location, relocation, reconstruction, maintenance, repair, or operation by PGS of its distribution systems hereunder. Accordingly, acceptance of this Franchise Agreement by PGS shall be deemed an agreement on the part of the PGS, and PGS shall indemnify and hold harmless the City, and its officers, employees, agents, servants, contractors, or subcontractors, from and against any and all liability, loss, costs, damages, attorneys' fees, or expenses (including, without limitation, those for or related to any accident, injury, personal injury, wrongful death, or other damage to persons or property), including the City's reasonable attorneys' fees and costs incurred in defending itself against any claims for such liabilities, losses, costs, damages, or expenses asserted against the City by others which may accrue to or be incurred by or charged or sought against the City, or any of its officers, employees, agents, servants, contractors, or subcontractors, by reason of construction, installation, location, relocation, reconstruction, maintenance, repair, or operation of the Distribution Systems by PGS, or by any acts or omissions of negligence, gross negligence, strict liability, products liability, or intentional torts, default, or misconduct of PGS, or any of its officers, directors, agents, servants, employees, contractors, or subcontractors. The

indemnity hereunder shall include not only the reasonable costs, expenses, and attorneys' fees incurred by the City in defense of any third party's claim (prior to and during all phases of litigation, including trial and post-trial and appellate proceedings), but shall also include the reasonable costs, expenses, and attorneys' fees incurred by the City in the event it must enforce the terms of this indemnity prior to and during all litigation, including trial, post-trial, and appellate proceedings. This indemnity shall survive expiration or other termination of this Franchise Agreement.

SECTION 4. All rates and rules and regulations established by the Grantee from time to time shall be subject to such regulation as may be provided by law.

SECTION 5. Except as provided in Section 13, the Franchise hereby granted shall be for a period of ten (10) years from the effective date of this ordinance.

SECTION 6. The Franchise hereby granted shall not be leased, assigned or otherwise alienated or disposed of except with the prior express written consent of the City, which shall not be unreasonably withheld or unduly delayed. No assignment shall be allowed without the assignee assuming the terms of the Franchise Agreement with the City.

SECTION 7. As a consideration for this Franchise, PGS shall pay to the City, commencing thirty (30) days after the effective date herein, and each month thereafter for the remainder of the term of this Franchise, an amount which when added to the amount of all licenses, excises, fees, charges and other impositions of any kind whatsoever (except ad valorem property taxes and non-ad valorem tax assessments on property) levied or imposed by the City against PGS's property, business or operations, and against the property, business, or operations of the Grantee's subsidiaries that are directly involved in supplying natural gas and other natural gas-related services as defined in Section 1 of this Franchise Agreement, during PGS's monthly billing period ending sixty (60) days prior to each such payment, will equal six percent (6.00%) of the Grantee's gross revenues a sum of money equal to six percent (6.00%) of Gross Revenues, less those specific adjustments for uncollected accounts, from the sale, transaction, distribution,

transportation, delivery and conveyance of Natural Gas to Customers within the corporate limits of the City.

SECTION 8. As a further consideration, during the term of this Franchise, the Grantor agrees: (a) not to engage in the distribution and/or sale, in competition with the Grantee, of natural gas to any ultimate consumer of the natural gas (herein called a "customer") or to any Distribution Systems established solely to serve any customer formerly served by the Grantee; and (b) not to participate in any proceeding or contractual arrangement, the purpose or terms of which would be to obligate the Grantee to transmit and/or distribute, natural gas from any third party(ies) to any other retail customer's facility(ies); provided, however, that the Grantor shall not be considered a "third party" or an "other retail customer" for purposes of this provision. Nothing specified herein shall prohibit the Grantor from engaging with other utilities or persons in wholesale transactions or franchise agreements surrounding those third party supplies of natural gas. Nothing specified herein is intended to restrict the Grantor from securing the appropriate franchise fees from those entities that are utilizing the Distribution Systems, which is the subject of the Grantor's agreement not to compete set forth in this paragraph.

Nothing specified herein shall prohibit the Grantor, if permitted by law: (i) from purchasing natural gas from any other person or utility; or (ii) from seeking to have the Grantee transmit and/or distribute to any facility(ies) of the Grantor natural gas purchased by the Grantor from any other person or utility in compliance with applicable laws and regulations. The City shall be free to consummate such purchase transaction with such other person or utility, and all of the terms and conditions of this Franchise shall remain in effect.

SECTION 9. The Distribution Systems shall be erected, placed, or laid in such manner as will, consistent with necessity, least interfere with other public uses of the Rights-of-Way, and said Rights-of-Way shall not be unnecessarily obstructed, and before, except in an emergency situation, the Company makes any excavation or disturbs the surface of any of the Rights-of-Way, it shall obtain a permit from the appropriate City authority. The City shall issue, or if applicable deny,

permits within ten (10) business days of application by the Company. For each application by the Company, a specific time to the Company shall, with due diligence and dispatch, place such Rights-of-Way in as good a condition as before such excavation or disturbance was made shall be included in the permit issued by the Miami Beach Department of Public Works for the Company to complete any restoration of Rights-of-Way required. At the time of the approval of the terms and conditions of this Franchise Agreement in accordance with applicable law, PGS shall file with the City an annual bond in the minimum sum of \$50,000 having as a surety thereon a surety company qualified to do business in the State of Florida and conditioned for the full and faithful performance by PGS of all requirements, duties and obligations imposed upon it by the provisions of this Franchise Agreement, and such bond shall be furnished annually and shall provide a continuing guarantee of such full and faithful performance at all times throughout the effective period hereof. Should PGS fail, within ten (10) days of its receipt of written notice from the City, to restore such Rights-of-way, then the City may undertake such restoration (other than any restoration work on the Distribution Systems) and charge the reasonable cost thereof to PGS.

To the extent consistent with Florida law, PGS hereby agrees to abide by all the rules and regulations and ordinances which the City has passed or might pass in the future, in the exercise of its police power, and further agrees to abide by any established policy which the City or its duly authorized representative has passed, established, or will establish, in the exercise of its police power; provided, however, that the City shall not pass any ordinance or regulation that results in a material change in the rights or obligations of the Company under the Franchise Agreement.

SECTION 10. All such components of the Distribution Systems or Distribution Facilities located within the City shall be installed and maintained in accordance with accepted industry practice and in accordance with the orders, rules, and regulations of the Florida Public Service Commission.

SECTION 11. All components of the Distribution Systems or facilities shall be laid consistent with all applicable codes, rules, regulations and laws.

SECTION 12. The City reserves the right to permit to be laid, electric conduits, water and gas pipes and lines, cables, sewers, and to do and permit to be done any underground work that may be deemed necessary or proper by the City in, across, along, or under any Right-of-Way. Whenever, by reason of establishing a grade or by reason of changes in the grade of any Right-of-Way, or by reason of the widening, grading, paving, or otherwise improving present or future Rights-of-Way, or in the location or manner of construction of any water pipes, electric conduits, sewers, or other underground structure located within the Rights-of-Way, it shall be deemed necessary by the City to remove, relocate or disconnect any portion of the Distribution Systems hereto for any public purpose as determined in the sole discretion of the City, such removal, relocation or disconnection shall be made by the Company as ordered in writing by the City without claim for reimbursement. If the City shall require the Company to remove, relocate or disconnect any portion of its Distribution Systems or in any way to alter the placement or location of the Distribution Systems, to enable any other Person to use said Rights-of-Way, as part of its permitting or approval process, the City shall require the Person desiring or occasioning such removal, relocation, disconnection or alteration to reimburse the Company for any loss, cost or expense caused by or arising out of such removal, relocation, disconnection or alteration of any portion of the Distribution Systems. PGS further agrees that it will not intentionally interfere with, change, or injure any water pipes, drains, or sewers of said City unless it has received specific permission from the City or its duly authorized representative.

SECTION 13. Failure on the part of PGS to comply in any material respect with any of the provisions of this Franchise shall be grounds for forfeiture. In the event Grantor reasonably determines that it will invoke this forfeiture provision, Grantor shall give the Grantee at least sixty (60) days advance written notice of its intent to invoke the forfeiture provision, and the Grantor and Grantee agree to negotiate in good faith toward a mutually acceptable resolution of the claimed

basis for the forfeiture during this sixty (60) day period. Such notice shall, without prejudice to any of the rights reserved for the Grantor herein, advise the Grantee of the substance of the alleged failure of Grantee to comply in a material respect with the provisions of this Franchise that Grantor considers to be the basis for the forfeiture. The Grantee shall then have thirty (30) days in which to correct or otherwise remedy the claimed basis for the forfeiture. If the Grantor reasonably determines that such claimed basis for the forfeiture is not remedied by the Grantee within said time period, the Grantor may invoke this forfeiture provision by delivering written notice to Grantee's Corporate Secretary and forfeiture shall be effective on the date of delivery of such notice. Nothing contained herein shall be construed as constraining Grantee's rights to legally challenge at any time Grantor's determination of the claimed basis for the forfeiture leading to termination under this Section. The Grantor maintains the right, at its discretion, to grant such additional time to the Grantee for compliance as necessities in the case require.

Section 14. The City may, at its option and at its sole expense, examine the books and records of Grantee as such books and records relate to the calculation of the franchise fee payment to the Grantor for the calendar year preceding such anniversary date, and those records related to third party natural gas suppliers based upon the sale, distribution, transportation, delivery, and conveyance of the natural gas through the Distribution Systems; provided, that any such inspection shall take place during regular business hours at Grantee's head office, no more than once per year and City provides PGS with reasonable advance written notice. Grantee shall observe all legal and regulatory requirements in establishing and maintaining its system of accounts and forms of material. Grantee shall attach to each payment to Grantor a statement of its gross revenues against which the franchise fee is to be calculated as to all accounts. Acceptance of payment by Grantor shall not stop Grantor from asserting that the amount paid is not the amount due. Grantee shall make available for review all accounts and records of Grantee that Grantor may reasonably request or require relative to calculating the franchise fee. Such examination of books and records of Grantee by Grantor shall be made during the regular business hours of the

Grantee at the general office of the Grantee. Records not prepared by the Grantee in the ordinary course of its business may be provided at the Grantor's expense and as the Grantor and the Grantee may agree in writing. Additionally, where copies of Grantee's records may be properly obtained by Grantor for purposes of this Section, said copies will be made at the Grantee's expense. Such audit shall be impartial and all audit findings, whether they decrease or increase payment to the Grantor, shall be reported to the Grantee. The Grantor's right to examine the records of the Grantee in accordance with this Section shall not be conducted by any third party employed by the Grantor whose fee, in whole or part, for conducting such audit is contingent on findings of the audit. Records shall be retained by Grantee for a period of five (5) years. The provisions of this Section shall survive termination of this Franchise Agreement for a period of five (5) years.

Notwithstanding the preceding paragraph, Grantor shall have one (1) year following the expiration or termination of the Current Franchise Agreement within which to conduct the examination and audit contemplated by this Section, as to such Agreement; such examination and audit to cover the last three (3) years of the Current Franchise Agreement.

SECTION 15. Notwithstanding any provision of this Franchise Agreement, nothing herein shall prevent, prohibit, or in any way restrict the Grantor's ability to take advantage of all applicable services set forth in Grantee's tariffs as those tariffs are approved from time-to-time by Grantee's regulators, and nothing herein shall prevent, prohibit, or in any way restrict the Grantor's ability to avail itself of all rights accruing to Grantor as a retail customer of Grantee under Florida law and the rules and regulations of the Florida Public Service Commission.

SECTION 16. During the term of this Franchise, the Company shall file with the City Clerk and shall keep in full force and effect at all times during the effective period hereof, insurance certificates evidencing a general liability insurance policy or policies or evidence of self-insurance within the corporate limits of the City, as they currently exist or may exist in the future. Each such policy shall be in the minimum sum of \$1,000,000.00 for injury or death to any one person, and in

the minimum sum of \$5,000,000.00 for injury or death to all persons where there is more than one person involved in any one accident, and in the minimum sum of \$1,000,000.00 for damage to property, resulting from any one accident, and each of the said minimum sums shall remain in full force and shall be undiminished during the effective period of this Ordinance. The coverage requirements set forth in this Section may be satisfied, in whole or in part, with self-insurance.

Every such insurance policy shall contain a provision whereby every company executing the same shall obligate itself to notify the clerk of the City, in writing, at least thirty (30) days before any material alteration, modification, or cancellation of such policy is to become effective.

SECTION 17. Changes in the terms and conditions hereof may be made by written agreement between the City and the Company.

SECTION 18.

A. If any section, part of a section, paragraph, sentence, or clause of this Ordinance shall be adjudged by a court of competent jurisdiction to be invalid, such decision shall not affect the validity of any other portion hereof, but shall be restricted and limited in its operation and effect to that specific portion hereof involved in the controversy in which such decision shall have been rendered; provided, however, that should elimination of the specific portion of the Franchise Agreement adjudged to be invalid results in significant adverse consequences to a party, then that party may terminate this Franchise Agreement by providing thirty (30) days written notice to the other party.

B. Upon the issuance by a court of competent jurisdiction of an order, ruling, or decision, or the enactment or adoption by the Florida Legislature, the City or any other governmental or regulatory body, of a law, rule, regulation or ordinance, that materially diminishes a municipality's ability to exact franchise fees from a utility, or that effectively does away with the ability of a municipality to grant a franchise altogether, then the Company or City may terminate this Franchise Agreement by providing ninety (90) days written notice to the other party.

SECTION 19. Ordinance 90-2679, passed and adopted February 7, 1990 and all other ordinances and parts of ordinances and all resolutions and parts of resolutions in conflict herewith, are hereby repealed.

SECTION 20. As a condition precedent to the taking effect of this Ordinance, the Grantee shall file its acceptance hereof with the Grantor's Clerk. Grantor and Grantee agree and acknowledge that Grantee shall deliver its Acceptance to Grantor on or before January 29, 2016, provided that this Ordinance has passed on first and second reading on or before January 29, 2016, and in that event the effective date of the Franchise Agreement shall be the date on which said Acceptance is delivered to the Grantor's Clerk by Grantee.

PASSED on first reading this _____ day of _____, 201____.

PASSED AND ADOPTED on second reading this _____ day of _____, 201____.

ATTEST:

PHILIP LEVINE, MAYOR

RAFAEL GRANADO, CITY CLERK

APPROVED AS TO
FORM & LANGUAGE
& FOR EXECUTION

Rafael Granado 1-11-16

City Attorney **AB** Date

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MIAMI BEACH

City of Miami Beach, OFFICE OF THE CITY CLERK, 1700 Convention Center Drive, Miami Beach, Florida 33139, www.miamibeachfl.gov

COMMISSION MEMORANDUM

TO: Mayor Philip Levine and Members of the City Commission

FROM: Rafael E. Granado, City Clerk 

DATE: January 13, 2016

SUBJECT: **CITY HALL EARLY VOTING OPTIONS AND COST BREAKDOWN**

At the direction of the City Commission on December 16, 2015, options have been reviewed in an effort to retain Miami Beach City Hall, in lieu of the Miami Beach Regional Library, located at 227 22nd Street, as an Early Voting location for the 2016 Elections.

Below please find the cost breakdown, and attached related back-up materials.

OPTION ONE:

First Floor Conference Room:	March 15, 2016	August 30, 2016	November 8, 2016
Leveling floor inside FFCR (attached)	\$25,662.50	N/A	N/A
New Carpet Floor Tiles (attached)	\$12,570.46	N/A	N/A
Placing AC Tent extended from room to Breezeway (attached)	<u>\$ 8,990.00</u>	<u>\$ 8,990.00</u>	<u>\$ 8,990.00</u>
	\$47,222.96	\$ 8,990.00	\$ 8,990.00

TOTAL – Option One: \$65,202.96

The approximate usable space is 2,395 square feet.

OPTION TWO:

Short-Term Parking Area DISCARDED

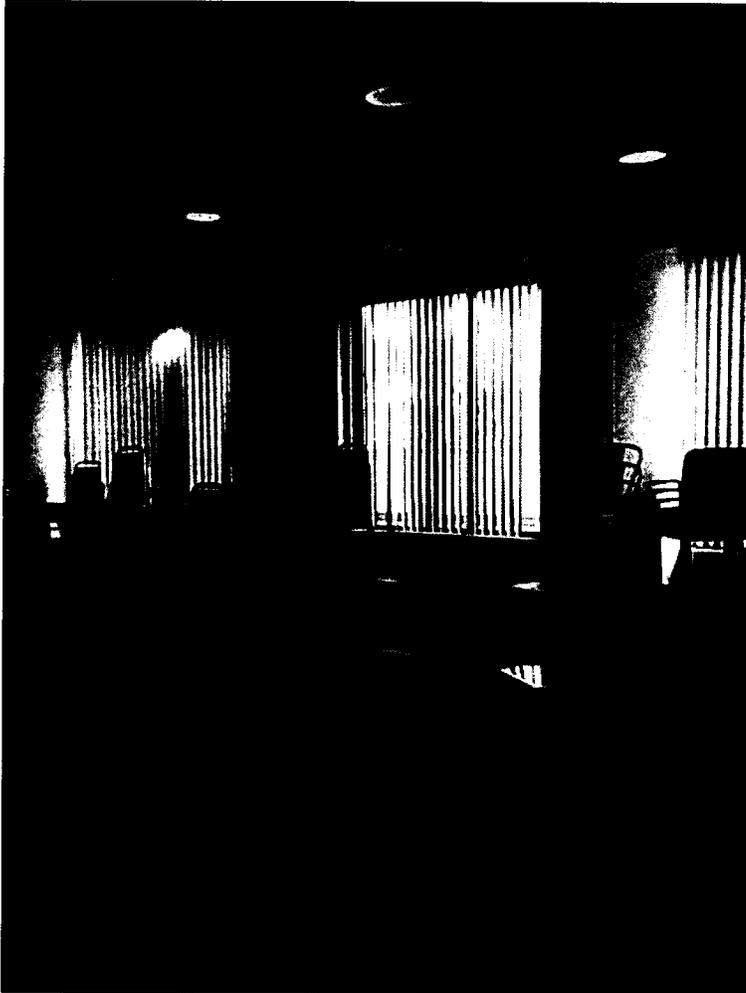
OPTION THREE:

7 th Floor Parking Garage	March 15, 2016	August 30, 2016	November 8, 2016
AC Tent 40' x 80' 8' (attached)	\$23,206.00	\$23,206.00	\$23,206.00
Portable Bathroom	<u>\$ 300.00 (one)</u>	<u>\$ 600.00 (two)</u>	<u>\$ 1,200.00 (four)</u>
	\$23,506.00	\$23,806.00	\$24,406.00

TOTAL – Option Three: \$71,718.00

The approximate usable space is 3,200 square feet.

OPTION ONE



**FIRST FLOOR
CONFERENCE ROOM**



**STATE CONTRACT #360-240-12-1-NJPA
NJPA # 022712-MC
Broward County Projects
QUOTATION FORM**

PAGE 1

PROPOSAL #:	P300000304
PURCHASE ORDER #	
CUSTOMER ACCOUNT#	

MQ #:	08-02814
TAX EXEMPT:	Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>

PROPOSAL DATE:	January 7, 2016
VENDOR NAME:	Milliken Services, LLC
ADDRESS:	300 W. Lukken Industrial Drive
CITY, STATE, ZIP:	LaGrange, GA 30240
TELE #:	706-880-3039
FAX #:	877-503-6780

BILL TO:	City of Miami Beach
	Public Works - Property Management Division
	1245 Michigan Avenue
	Miami, FL 33139
DATE PO ISSUED	DATE

MATERIAL SHIP TO:	Commercial Interior Contractors, Corp
INSTALLER COMPANY:	Milliken Services, LLC
STREET:	1799 NW 22 Street
CITY:	Miami
STATE: ZIP:	FL 33142
CUSTOMER/PROJECT:	Miami Beach 1st Flr Auditorium w/ Steps
STREET:	1700 Convention Center Dr
CITY:	Miami Beach
STATE: ZIP:	FL

COMPLETION:	
CONTACT:	Don Carson / Brandy Stewart
PHONE #:	864-503-1947 (Brandy)
CELL #:	407-375-9438 (Don Cell)
EMAIL:	Brandy.Stewart@Milliken.com
CONTACT:	Edgar Zapata
PHONE #:	305-673-7000x2964
EMAIL:	edgardzapata@miamibeachfl.gov
CELL #:	786-299-0118

SERVICES REQUIRED

1st PRODUCT: Ghost Artist	Façade FAC52-126
2nd PRODUCT:	Prod
3rd PRODUCT:	Prod
4th PRODUCT:	Prod
BACKING:	PVC Free Cushion
ADHESIVE	Releasable Adhesive

COLOR:	Ensnce
COLOR:	
COLOR:	
COLOR:	
1st MTRL NUMBER	
2nd MTRL NUMBER	

DESCRIPTION	QTY	UNIT	PRICE	AMOUNT	TOTAL
YDG: Pat#1 FAC52-126	205	S/Y	MATERIAL \$27.09	AMOUNT =	\$5,553.45
OVER_RUN 1% or 25 yds	2	S/Y	MATERIAL \$27.09	AMOUNT =	\$54.18
ATTIC STOCK 3%	6	S/Y	MATERIAL \$27.09	AMOUNT =	\$162.54
YDG: Pat#2	0.00	S/Y	INSTALL \$0.00	AMOUNT =	\$0.00
OVER_RUN 1% or 25 yds	0	S/Y	MATERIAL \$0.00	AMOUNT =	\$0.00
ATTIC STOCK	0	S/Y	MATERIAL \$0.00	AMOUNT =	\$0.00
YDG: Pat#3	0	S/Y	INSTALL \$0.00	AMOUNT =	\$0.00
OVER_RUN 1% or 25 yds	0	S/Y	MATERIAL \$0.00	AMOUNT =	\$0.00
ATTIC STOCK	0	S/Y	MATERIAL \$0.00	AMOUNT =	\$0.00
YDG: Pat#4	0	S/Y	INSTALL \$0.00	AMOUNT =	\$0.00
OVER_RUN 1% or 25 yds	0	S/Y	MATERIAL \$0.00	AMOUNT =	\$0.00
ATTIC STOCK	0	S/Y	MATERIAL \$0.00	AMOUNT =	\$0.00
ADHESIVE	2	BOX	MATERIAL \$129.71	AMOUNT =	\$259.42
TRACTION BACK	0	S/Y	MATERIAL \$1.29	AMOUNT =	\$0.00
INSTALL CARPET	205	S/Y	INSTALL PRICE \$5.77	AMOUNT =	\$1,182.85
CARPET REMOVAL	0	S/Y	INSTALL PRICE \$3.45	AMOUNT =	\$0.00
CARPET DISPOSAL	0	S/Y	INSTALL PRICE \$1.25	AMOUNT =	\$0.00
FURNITURE MOVE AND REPLACE	0	S/Y	INSTALL PRICE \$5.00	AMOUNT =	\$0.00
SYSTEM LIFTING (9)	0	S/Y	INSTALL PRICE \$12.97	AMOUNT =	\$0.00
SUPPLY&INST TRANSITIONS	12	LFT	INSTALL PRICE \$4.00	AMOUNT =	\$48.00
SUPPLY&INST 4" VINYLBASE@ Wall	300	LFT	INSTALL PRICE \$2.45	AMOUNT =	\$735.00
SUPPLY&INST 6" VINYLBASE @ Steps	200	LFT	INSTALL PRICE \$2.75	AMOUNT =	\$550.00
CARPET USED AS COVE BASE	0	S/Y	INSTALL PRICE \$0.00	AMOUNT =	\$0.00
LABOR FOR CARPET COVE BASE	0	LFT	INSTALL PRICE \$5.00	AMOUNT =	\$0.00
STAIR NOSING STANDARD	240	LFT	INSTALL PRICE \$5.00	AMOUNT =	\$1,200.00
FLOOR PREP:	1800	S/F	INSTALL PRICE \$1.00	AMOUNT =	\$1,800.00
LABOR -NIGHTS & WEEKENDS	205	S/Y	INSTALL PRICE \$2.50	AMOUNT =	\$512.50
PROJECT MANAGEMENT FEE	1	Each		AMOUNT =	\$512.52
OTHER CHARGES:				AMOUNT =	\$0.00
MOISTURE TESTING	0	Each	INSTALL PRICE	AMOUNT =	\$0.00
MOISTURE PROOFING		S/F	INSTALL PRICE	AMOUNT =	\$0.00

TOTAL AGREEMENT AMOUNT \$12,570.46

NOTES:

- Pricing for Industry Standard Floor Prep- any unforeseen conditions require a change order.
- Yardages that are based on drawings from customer (Bill to) or independent installer estimates that result in xtra material that may

be required, the cost of extra material is the responsibility of the Bill to.

3. Work to be provided on schedule provided by Owner

(consecutive workdays until completion)

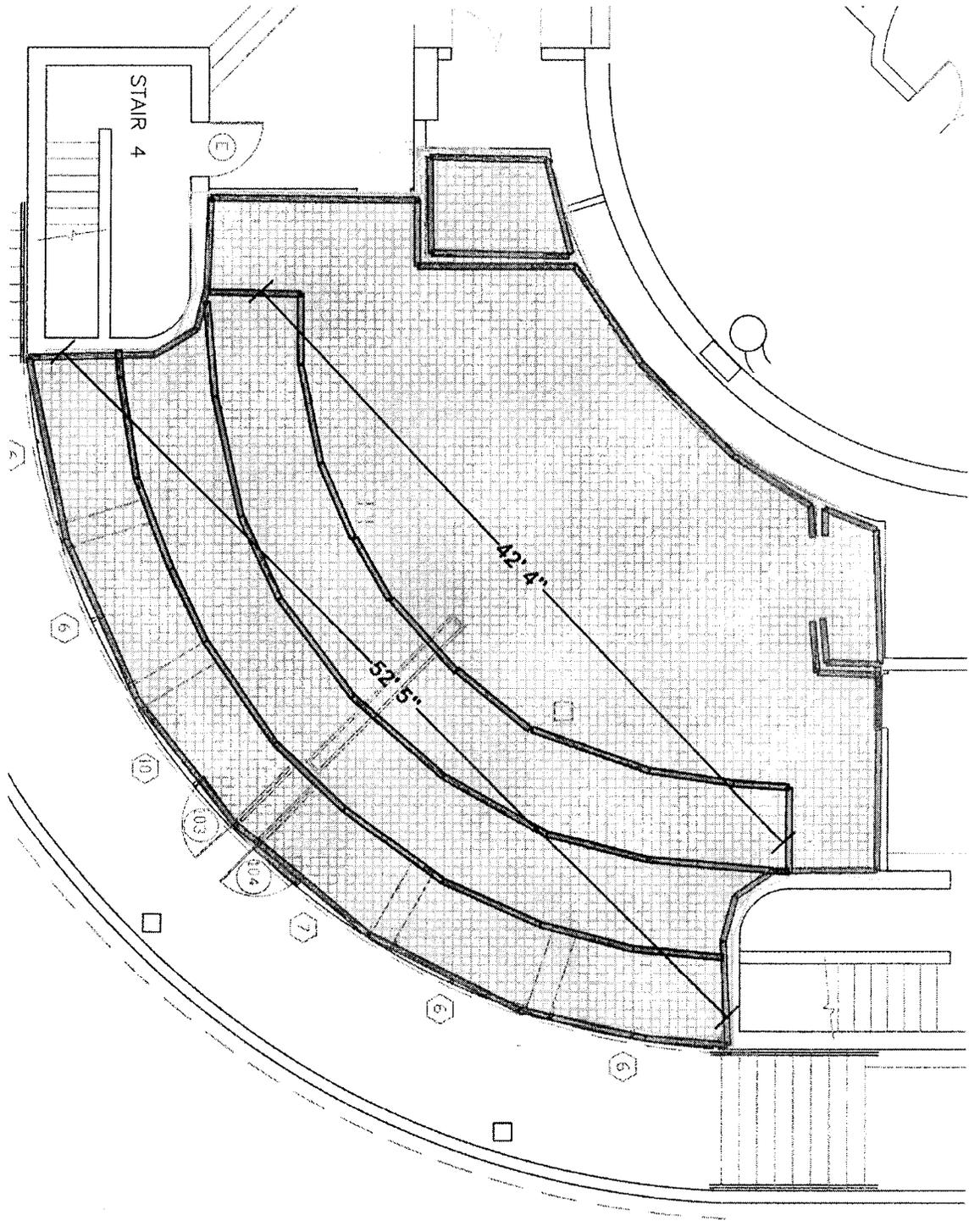
4) Extra trips charges will be added when cancelled or stopped work occurs from unplanned owner schedule changes

5) Materials are billed separate from installation subject to POD at ship to

All Commercial transactions, offers and acceptances are exclusively subject / limited to and conditioned upon our terms at

<http://www.milliken.com/terms>

and we object to and reject any of your additional / different terms and conditions unless we expressly agree to them in a signed writing. Thank You



MILLIKEN CARPET TILE
w/ STEPS COVERED @ STEP NOSING



Remit To: **PRESTIGE EVENT SERVICES, INC**
14317 SW 139 COURT
MIAMI, FL 33186
PHONE: 786-243-0725
FAX: 786-243-1415 www.prestigetents.com

Job Site: CITY OF MIAMI BEACH
1700 CONVENTION CENTER DRIVE
MIAMI BEACH, FLORIDA 33139

RENTAL CONTRACT

Reservation #
Invoice # 13175
Contract Date: 1/8/2016
Date Out: 2/17/2016
Event Date: 2/21/2016 - 3/15/16
Date In: 3/15/2016
Job Name: N/A
Job Location: MIAMI BEACH
P.O. Number: N/A
Ordered By: EDGAR ZAPATA
Written By: ARTHUR ORTEGA
Terms: 80% DOWN, 20% UPON COMPLETION OF SETUP

Customer: CITY OF MIAMI BEACH
1245 MICHIGAN AVENUE
MIAMI BEACH, FLORIDA 33139
CONTACT: EDGAR ZAPATA
CELL: 786-299-0118
EDGARDZAPATA@MIAMIBEACHFL.GOV
PH: 305-673-7963 EXT. 2964 FAX:

Cat-Class	Qty.	Description	Unit Price	Total
	1	15' X 45' X 8' WHITE FRAME TENT	\$ 1,245.00	\$ 1,245.00
	6	8' X 20' WHITE WALLS	\$ 40.00	\$ 240.00
	2	15' RAINGUTTERS	\$ 30.00	\$ 60.00
	8	WATER BARRELS WITH WHITE COVERS	\$ 40.00	\$ 320.00
	2	SETS OF DOUBLE GLASS DOORS WITH RAMPS	\$ 600.00	\$ 1,200.00
	2	EXIT SIGNS	\$ 75.00	\$ 150.00
	4	FIRE EXTINGUISHERS	\$ 35.00	\$ 140.00
	4	NO SMOKING SIGNS	\$ -	\$ -
	4	PAR 38'S AS UPLIGHTING	\$ 30.00	\$ 120.00
	1	AIR CONDITIONING PACKAGE INCLUDES	\$ -	\$ 3,785.00
CUSTOM	1	9' X 25' WHITE WALLS	\$ 385.00	\$ 385.00
CUSTOM	2	9' X 20' WHITE WALLS	\$ 360.00	\$ 720.00
CUSTOM	1	LABOR CHARGE TO INSTALL WALLS ON BUILDING	\$ 350.00	\$ 350.00

Sub-Total \$ 8,715.00
 7% Taxes
 Sub-Total \$ 8,715.00
 Delivery \$ 275.00
 Less Deposit
TOTAL DUE \$ 8,990.00

Customer is responsible for all insurance and marking of all underground lines. Proposal valid for 30 DAYS

X			
CUSTOMER SIGNATURE	DATE	NAME PRINTED	ARTHUR ORTEGA PRESTIGE REPRESENTATIVE
			1/8/2016 DATE

OPTION TWO



**SHORT TERM
PARKING GARAGE**

OPTION THREE



**SEVENTH FLOOR
PARKING GARAGE**



Remit To: PRESTIGE EVENT SERVICES, INC
 14317 SW 139 COURT
 MIAMI, FL 33186
 PHONE: 786-243-0725
 FAX: 786-243-1415 www.prestigetents.com

Job Site: CITY OF MIAMI BEACH
 1700 CONVENTION CENTER DRIVE
 MIAMI BEACH, FLORIDA 33139

RENTAL CONTRACT

Reservation #
 Invoice # 13174
 Contract Date: 1/8/2016
 Date Out: 2/17/2016
 Event Date: 2/21/2016 - 3/15/16
 Date In: 3/15/2016
 Job Name: N/A
 Job Location: MIAMI BEACH
 P.O. Number: N/A
 Ordered By: EDGAR ZAPATA
 Written By: ARTHUR ORTEGA
 Terms: 80% DOWN, 20% UPON COMPLETION OF SETUP

Customer: CITY OF MIAMI BEACH
 1245 MICHIGAN AVENUE
 MIAMI BEACH, FLORIDA 33139
 CONTACT: EDGAR ZAPATA
 CELL: 786-299-0118
EDGARDZAPATA@MIAMIBEACHFL.GOV
 PH: 305-673-7963 EXT. 2964 FAX:

Cat-Class	Qty.	Description	Unit Price	Total
	1	12M X 24M X 2.4M (40' X 80' X 8') WHITE CLEARSPAN TENT WITH WHITE WALLS	\$ 1.50	\$ 6,000.00
	48	LAG BOLTS, SHIELDS AND WASHERS	\$ 7.00	\$ 336.00
	1	LABOR CHARGE TO DRILL BOLTS	\$ 350.00	\$ 350.00
	1	40' X 100' PLYWOOD LAYDOWN FLOOR	\$ 1.10	\$ 4,400.00
	4	1,200 SQURE FOOT ROLLS OF NEW BLACK TURF	\$ 0.75	\$ 3,600.00
	2	SETS OF DOUBLE GLASS DOORS WITH RAMPS	\$ 600.00	\$ 1,200.00
	2	EXIT SIGNS	\$ 75.00	\$ 150.00
	4	FIRE EXTINGUISHERS	\$ 35.00	\$ 140.00
	4	NO SMOKING SIGNS	\$ -	\$ -
	6	PAR 38'S AS UPLIGHTING	\$ 30.00	\$ 180.00
	1	AIR CONDITIONING PACKAGE INCLUDES	\$ -	\$ 6,400.00

SPECIAL NOTES TO CUSTOMER:

1	PRICE BASED ON DRILLING TO PARKING LOT	Sub-Total	\$ 22,756.00
		7% Taxes	\$ -
		Sub-Total	\$ 22,756.00
		Delivery	\$ 450.00
		Less Deposit	
		TOTAL DUE	\$ 23,206.00

Customer is responsible for all insurance and marking of all underground lines. Proposal valid for 30 DAYS

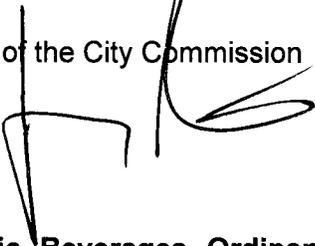
X	DATE	NAME PRINTED	ARTHUR ORTEGA	1/8/2016
CUSTOMER SIGNATURE			PRESTIGE REPRESENTATIVE	DATE

MIAMIBEACH

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

COMMISSION MEMORANDUM

TO: Mayor Philip Levine and Members of the City Commission

FROM: Jimmy L. Morales, City Manager 

DATE: January 13, 2016

SUBJECT: **Discussion: Proposed Alcoholic Beverages Ordinance Amendment – Modified Recommendations**

BACKGROUND

On December 15, 2015, the Planning Board reviewed a comprehensive set of proposed revisions to the City's alcoholic beverage regulations, which are contained in three separate draft Ordinances, and transmitted the legislation to the City Commission with an 'Unfavorable' recommendation. The subject Ordinances are tentatively scheduled to be noticed for First Reading at the February 10, 2016 City Commission meeting.

The following is a summary of the legislative tracking of the proposed ordinances:

July 9, 2014

The Land Use and Development Committee (LUDC) discussed potential amendments to the City Code pertaining to alcoholic beverage establishments, allowable accessory uses and Neighborhood Impact Establishments (NIE). The Committee recommended that the City Commission refer a discussion item to the Land Use Committee pertaining to the following:

1. Alcoholic Beverage Establishments (Chapter 6);
2. Requirements for determining the size and square footage of "Accessory Uses" in relation to the main permitted use; and
3. The clarification of threshold standards for Neighborhood Impact Establishments.

(NOTE: This part of the legislation was to address the current conflict between the requirements of the life-safety code as it pertains to the establishment of an occupational load and the zoning standards for an NIE.

July 23, 2014

The Mayor and the City Commission referred to the LUDC (Item C4K) a discussion item regarding proposed amendments to the City Code pertaining to alcoholic beverage establishments, allowable accessory uses and Neighborhood Impact Establishments (NIE).

October 1, 2014

The Land Use Committee discussed the proposal and directed the Administration to draft an Ordinance and return to the Committee on November 5, 2014. (Note: the draft ordinances requested were not ready in time for the November 5, 2014 LUDC meeting, so the item was moved

Agenda Item R9R
Date 1-13-16

to the December 10, 2014 LUDC meeting).

December 10, 2014

The LUDC discussed three proposed draft ordinance amendments (Chapter 6, Chapter 114 and Chapter 142). Commissioner Malakoff agreed to be the sponsor of the proposed legislation. The proposed ordinance amendments, while primarily a clean-up and consolidation proposal, did include some substantive changes (see substantive changes in the Analysis section below), as well as a number of text changes in order to accommodate the proposed consolidations. After extensive discussion by the Committee and the public, the LUDC recommended that the City Commission refer the subject Ordinances (Chapters 6, 114 & 142), including the amendments discussed, to the Planning Board.

January 14, 2015

The City Commission referred the proposed amendments to Chapters 6, 114 & 142 of the City Code to the Planning Board (Item C4H).

February 24, 2015

The Planning Board had a lengthy discussion regarding the proposed ordinances, recommended further revisions and continued the items to the March 24th, 2015 meeting.

March 24, 2015

The Planning Board discussed the updated ordinances and continued the items to the May 26th, 2015 meeting. The Board requested that Planning Staff meet with affected stakeholders prior to May 26, 2015.

April 17, 2015

Planning staff met with representatives of business interests affected by the proposed legislation, including a number of Land Use Attorneys.

May 11, 2015

Planning staff met with residents of the Palm View and WAVNA neighborhoods regarding the proposed legislation

May 26, 2015

The Planning Board discussed the item and continued the proposed ordinances to the July 28th, 2015 meeting.

July 8, 2015

The City Commission removed the subject ordinances from the Planning Board agenda and re-referred the matter to the Land Use and Development Committee for further discussion.

July 29, 2015

The Land Use Committee discussed the item and considered two (2) revised versions of the legislation:

“Option A”: Clarifies and adds definitions in Chapter 114, consolidates the code language pertaining to alcoholic beverage establishments into Chapter 6, clarifies language used in Chapters 6 and 142 in regards to accessory uses and Neighborhood Impact Establishment thresholds, updates the code to align it with current state statues and adds new neighborhood compatibility requirements.

“Option B”: New language pertaining to hours of operation for alcoholic beverage establishment South of Fifth Street.

After discussing the item, the Land Use Committee recommended that Option “B” be removed from consideration and that Option “A”, as slightly modified, be referred to the Planning Board.

September 2, 2015

The City Commission discussed the recommendation of the Land Use Committee to refer the subject ordinances to the Planning Board. The Commission continued the item to October 14, 2015, in order to better evaluate the recommendation of the Land Use Committee.

October 14, 2015

The City Commission referred the subject ordinances to the Planning Board (Item C4A), with additional language pertaining to ‘ambient DJ’s’. The current sponsor of the proposed Ordinances is Commissioner Joy Malakoff.

November 24, 2015

The Planning Board discussed the proposed ordinances and continued the item to the December 15, 2015 meeting. The Board also recommended further revisions to the legislation, pursuant to the public discussion.

December 15, 2015

The Planning Board discussed the proposed Ordinance, as revised, and transmitted the legislation to the City Commission with an ‘Unfavorable’ recommendation. The Planning Board also recommended that if the City Commission was to consider approving the Ordinances, that such approval be limited to those portions of the legislation that are ‘clarifications’ and ‘consolidations’ only.

ANALYSIS

The subject legislation has been pending since January of 2015 when it was first referred to the Planning Board. The three proposed Ordinances have been reviewed and discussed on multiple occasions by the Land Use Committee and the Planning Board. The Planning Board has recommended that the City Commission only consider for approval the non-substantive clarification and consolidation portions of the proposed legislation.

The Administration expects to notice the proposed Ordinances, which require two public hearings, for a First Reading public hearing at the February 10, 2016 Commission meeting. The following is a summary of those portions of the legislation that consist of new substantive language:

CHAPTER 114 (DEFINITIONS):

Modification of Existing Definitions:

- *Entertainment establishment* means a commercial establishment ~~with any live or recorded, amplified or nonamplified performance, including, but not limited to, restaurants, bars, halls for hire, bottle clubs, supper clubs, and alcoholic beverage establishments that include live entertainment, Disc Jockey, patron dancing, and/or recorded entertainment.~~ Entertainment does not include television, radio and/or recorded background music, played at a volume that does not interfere with normal conversation, Ambient Disc Jockey and indoor movie theater operations. Entertainment establishments may not operate between the hours of 5:00 a.m. and 10:00 a.m., except as provided for under subsection 6-3(3)(b).

New Definitions:

- Ambient Disc Jockey means a person who plays recorded music for an audience at Ambient Volume Level and who generates music using the sound system of the subject venue or business. The sound system must have an electronic lock, which can be unlocked only by management of the venue and not by the Ambient Disc Jockey, which prevents the volume level of music from being played above Ambient Volume Level.
- Ambient Volume Level refers to music or other sound, whose volume level does not interfere with normal conversation.
- Disc Jockey (abbreviated D.J., DJ or deejay) means a person who plays recorded music for an audience, but does not include an Ambient Disc Jockey.
- Live entertainment shall mean and include all shows, live music, games of sport and performances of any kind but shall not include Ambient Disc Jockey or adult entertainment.
- Patron dancing shall mean dancing by patrons or guests of an establishment or business.
- Recorded entertainment means recorded music or recorded vocal entertainment or both, amplified or non-amplified, but shall not include Ambient Disc Jockey or adult entertainment.

CHAPTER 6:

Section 6-4. Location and use restrictions.

(a) Generally. The following location and use restrictions are applicable for facilities selling or offering alcoholic beverages for consumption:

(1) Educational facilities. ~~Other than as provided under Section 562.45, Florida Statutes, no alcoholic beverage shall be sold or offered for consumption establishment serving less than 51% sales of food and non-alcoholic beverages, including, but not limited to bottle clubs, shall be located in a commercial use, within 300 500 feet of any property used as a public or private school operated for the instruction of minors in the common branches of learning. Except for uses in the civic and convention center (CCC) district, hospital (HD) district or within 300 feet of a marina. provided, however, for the following exceptions:~~

- a. Civic and Convention Center (CCC) district;
- b. Hospital (HD) district; and
- c. Within 300 feet of a marina.

The change from a minimum of 300 feet to 500 feet is for consistency with state statute. Depending upon the language of the state statute, the aforementioned exceptions may need to be modified.

Sec. 6-5. Patron age restrictions.

(a) It shall be unlawful for persons under the age of 21 to patronize, visit, loiter, be admitted or allowed access, in any alcoholic beverage establishment, as defined in section 114-1 of this Code, except as hereinafter provided. This restriction shall not apply to:

(1) Supermarkets conducting wine tastings upon a premises authorized to sell beer and wine by package or for consumption on premises, provided that the conduct of the wine tasting shall be limited to and directed toward the general public of the age of legal consumption.

The proposed language clarifies that supermarkets may have wine tastings.

Section 6-6. Minimum seats and hotel room requirements:

(3) Variance requests from subsections (1) and (2) above shall not be permitted to exceed 30% of the required number of seats.

This proposed modification sets a hard cap on the number of required seats that can be varied from by the Board of Adjustment.

Section 6-8. Neighborhood Compatibility Requirements.

Under the provisions of this Chapter, a new Certificate of Use and/or Business Tax Receipt shall not be issued for any alcoholic beverage establishment, without submitting evidence of complying with the following requirements:

(1) All alcoholic beverage establishments shall have a litter abatement program, certified by the Division of Sanitation. Such program shall include the following items:

- a. All trash receptacles, excluding dumpsters, shall be located inside of a structure and shall be placed in the public right-of-way on pick-up days only;
- b. All garbage pickups and service deliveries shall not take place between 5 p.m. and 8 a.m.;
- c. All litter shall be cleared from the site, the adjacent public right-of-way and any accessory parking lot on a daily basis;
- d. The establishment shall sweep the public right-of-way adjacent to the petitioned site and any accessory parking lot daily and shall clean such public right-of-way with a pressure washing hose a minimum of once per week.

(2) The establishment shall screen any dumpster used in conjunction with site, which is visible from the public right-of-way or parking area with a six-foot opaque fence with gates. No dumpster is permitted to be placed within the public right-of-way.

(3) Equipment and supplies shall not be stored in areas visible from adjacent streets, alleys or nearby buildings.

(4) If installing a kitchen, the establishment shall install an exhaust system, as required by Code, that will substantially reduce grease and smoke that would otherwise escape to the surrounding area. This may include the installation of a fan in connection with the kitchen exhaust system within the interior of the building in order to reduce noise levels.

The inclusion of this section of the code essentially codifies standards and operational conditions that have been imposed by the City's land Use Boards (DRB, HPB, Planning Board) for some time.

Section 6-8. Neighborhood Compatibility Requirements (CONTINUED).

(5) Any outdoor or rooftop areas permitted to be utilized as part of an alcoholic beverage establishment shall comply with the following operational and noise attenuation requirements and limitations not in contravention of district- specific provisions of the Land Development Regulations:

- a. Outdoor bar counters which are within 100 feet of a property with a residential use shall require Conditional Use approval.
- b. Outdoor bar counters, where permitted, shall not be operated or utilized between midnight and 8:00 a.m.; however, for a property with an accessory outdoor bar counter that is within 100 feet of a property with a residential use, the accessory outdoor bar counter may not be operated or utilized between 8:00 p.m. and 8:00 a.m.
- c. No exterior loudspeakers are permitted except those necessary for fire and life safety purposes, unless approved pursuant to the Conditional Use Procedures and Review Guidelines as listed in section 118-191, et seq.;
- d. All entertainment is prohibited in the exterior spaces of the property unless approved pursuant to the Conditional Use Procedures and Review Guidelines as listed in section 118-191, et seq.;

- e. Rooftop accessory bar counters shall require either Design Review or Historic Preservation Board approval, as applicable;
- f. In residential districts, rooftop food and beverage services shall cease no later than 11:00 p.m., unless hours of operation are extended pursuant to the Conditional Use Procedures and Review Guidelines as listed in section 118-191, et seq.;
- g. For all alcoholic beverage establishments located in residential districts, except the RM-3 zoning district, only tables and chairs shall be permitted at the ground level or first floor. Any other type of furniture, including, but not limited to, sofas, love seats, benches and picnic tables, shall require the review and approval of the Design Review Board, Historic Preservation Board, or Planning Board, as applicable.

This proposed section would expand the review authority of the Planning Board as it pertains to outdoor and roof-top areas. As it pertains to outdoor bars, the Code currently requires DRB or HPB approval. Additionally, the following language exists in each zoning district that permits an outdoor bar:

*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.*

Section 6-8. Neighborhood Compatibility Requirements (CONTINUED).

(6) The principal means of ingress and egress for an alcoholic beverage establishment shall be from a public street or public sidewalk. A public or private alley way, a private road or a public park shall not be permitted as a means of ingress. This shall not be applicable to Lincoln Lane North, or Ocean Court and Collins Court north of Fifth Street.

This proposed section would require that the principal means of access to an alcoholic beverage establishment is from the public sidewalk, and not from an alley that may have residences on the opposite side. Exceptions have been made for Lincoln Lane North, Washington Avenue and the MXE areas.

CHAPTER 142:

Sec. 142-215. - Prohibited uses.

Off-premise package sales of alcoholic beverages is added to prohibited uses in the RM-2 district.

Sec. 142-245. - Prohibited uses.

Off-premise package sales of alcoholic beverages is added to prohibited uses in the RM-3 district.

Sec. 142-305. - Prohibited uses.

Ambient disc jockey is added to prohibited uses in the CD-2 district in Sunset Harbor.

Sec. 142-332. - Main permitted uses.

Entertainment establishments has been added to dance halls as being prohibited on Lincoln Road unless located within a hotel with a minimum of 100 hotel units or also operating as restaurants with full kitchens and serving full meals and licensed as alcoholic beverage establishments.

Sec. 142-362. - Main permitted uses.

Alcoholic beverage establishments pursuant to the regulations set forth in Chapter 6 is added to the main permitted uses in the CCC civic and convention center district.

Sec. 142-363. - Conditional uses.

Conditional use approval for a neighborhood impact establishment may be waived by the City Commission in the CCC, Civic and Convention Center District.

Sec. 142-422. - Main permitted uses.

Alcoholic beverage establishments pursuant to the regulations set forth in Chapter 6 have been added to the main permitted uses in the GU, Government Use District.

Sec. 142-485. Prohibited uses.

Ambient disc jockeys have been added to the prohibited uses in the I-1 urban light industrial district

Sec. 142-693. Permitted uses In Performance Standard Districts.

- Ambient disc jockeys have been added as a prohibited use south of Fifth Street.
- In the RPS-4 District, accessory outdoor bar counters remain permitted in oceanfront hotels with at least 100 hotel units in the R-PS4 district, and new language has been added: provided such oceanfront hotels are not located within 100 feet of a property with a residential use.
- In the CPS-1,2,3 & 4 Districts, accessory outdoor bar counters remain a permitted accessory use, and new language has been added: However, accessory outdoor bar counters shall not be permitted on a property within 100 feet of a property with a residential use

Sec. 142-901. - General provisions.

Accessory uses shall comply with the following general provisions:

~~*(2) Accessory uses shall be incidental to and customarily associated with the main permitted use, in accordance with the regulations herein. In making the determination, the planning and zoning director may require the applicant to provide evidence that such use meets this criteria. The planning and zoning director may also make use of and require the applicant to provide planning reports and studies and other investigations to support the applicant's request.*~~

This proposed revision clarifies the intent and application of accessory uses and deletes language that is vague and arbitrary. Additionally, the requirements for, and specific types of accessory uses permitted are already defined and have been better defined in Sec 142-902.

Sec. 142-901. - General provisions (CONTINUED).

(3) Accessory uses in residential districts shall comply with the following, whether covered or uncovered:

- a. In the RM-1 zoning district, the floor area of individual accessory uses, or the total aggregate floor area of multiple accessory uses, shall not occupy more than twenty (20) percent of the floor area of the main permitted use.*
- b. In the RM-2 zoning district, the floor area of individual accessory uses, or the total aggregate floor area of multiple accessory uses, shall not occupy more than thirty (30) percent of the floor area of the main permitted use. The Planning Board may allow up to thirty-five (35) percent through the conditional use process.*
- c. In the RM-3 zoning, the floor area of individual accessory uses, or the total aggregate floor area of multiple accessory uses, shall not occupy more than forty (40) percent of the floor area of the main permitted use. The Planning Board may allow up to forty-nine (49) percent through the conditional use process.*
- d. Any outdoor, unenclosed or uncovered accessory use serving alcohol and located in an RM-2 district shall require Conditional Use approval.*
- e. The percentages contained in this section 142-901 (3) do not include required parking.*

The additional language proposed would better quantify the amount of accessory use space permitted by district. Currently, there is a long standing application that allows accessory uses to occupy up to 49% of the floor area of a main permitted use. As accessory uses are subordinate to the main permitted use, the proposed limits would comport with the intended purpose and intensity of multi-family districts.

Sec. 142-901. - General provisions (CONTINUED).

~~(4) A use other than those listed in this division may be considered as an accessory use if it is customarily associated with one of the main permitted uses and if the planning and zoning director finds that the use complies with the below mandatory criteria:~~

- ~~a. The use complies with subsections (1) and (2) of this section.~~
- ~~b. The use is consistent with the purpose of the zoning district in which it is located.~~
- ~~c. That the necessary safeguards will be provided for the protection of surrounding property, persons and neighborhood values.~~
- ~~d. That the public health, safety, morals and general welfare of the community will not be adversely affected.~~
- ~~e. It is consistent with the comprehensive plan and neighborhood plan if one exists.~~

This section is proposed to be deleted as it is vague and arbitrary. Additionally, the requirements for, and specific types of accessory uses permitted are already defined and have been better defined in Sec 142-902.

Sec. 142-902. - Permitted accessory uses.

The following are permitted accessory uses:

- (1)
 - a. Hotels not located in the RM-1 or RM-2 district are permitted to have any accessory restaurants, drinking establishments, outdoor and sidewalk cafés, hotel management offices, and retail uses use in accordance with the regulations herein, as well as accessory uses customarily associated with the operation of an apartment building, as specified in subsection 142-902(2), that is customarily associated with the operation of a hotel or apartment building.
 - b. Hotels located in the RM-2 district are permitted to have any accessory restaurants, and hotel management offices use in accordance with the regulations herein, that is customarily associated with the operation of a hotel or apartment building, except for dDance halls, entertainment establishments, neighborhood impact establishments, outdoor entertainment establishments or open air entertainment establishments shall be prohibited in an RM-2 district.

- (2) Apartment buildings may have accessory uses based upon the below criteria: A retail store and / or a café with less than 30 seats may occupy space on the amenity level of an apartment building located within a RM-3 district that is only open to residents and their guests.

The modifications proposed for this section better define the specific types of accessory uses permitted.

DIVISION 6. ENTERTAINMENT ESTABLISHMENTS AND NEIGHBORHOOD IMPACT ESTABLISHMENTS

Sec. 142-1361. Definitions.

~~Entertainment means any live show or live performance or music amplified or nonamplified. Exceptions: Indoor movie theater; big screen television and/or background music, amplified or nonamplified, played at a volume that does not interfere with normal conversation.~~

This definition is proposed to be deleted because it overlaps and contradicts with the proposed definition of 'Entertainment Establishment' in Chapter 114.

Neighborhood impact establishment means:

(1) An alcoholic beverage establishment, place of assembly, hall for hire or restaurant, not also operating as an entertainment establishment or dance hall (as defined in section 114-1), with ~~an occupant content of 300 or more persons as determined by the chief fire marshal~~ 6,000 square feet or more of gross floor area inclusive of outdoor areas associated with food and beverage services;
or

(2) An alcoholic beverage establishment, place of assembly, hall for hire or restaurant, which is also operating as an entertainment establishment or dance hall (as defined in section 114-1), with ~~an occupant content of 200 or more persons as determined by the chief fire marshal~~ 3,500 square feet or more of gross floor area inclusive of outdoor areas associated with food and beverage services.

(3) For purposes of this section, an alcoholic beverage establishment shall include multiple establishments in one building site unless both criteria (a) and (b) below are met:

a. The alcoholic beverage establishments have separate Business Tax Receipts.

b. The alcoholic beverage establishments are completely self-contained and do not share any patron ingress or egress points.

The proposed revision herein would go from an 'Occupational Load' threshold to a 'Square Footage' threshold for Neighborhood Impact Establishments (NIE). The reason for this proposal is to establish more consistency in terms of the application of NIE thresholds. Specifically, a square footage based threshold is a much more definable method of establishing a true NIE threshold, as opposed to an occupational load, which can be artificially adjusted and manipulated. The square footage thresholds proposed roughly comport with the corresponding previous occupational load thresholds in most circumstances. It is also important to note the difference between the fire safety occupational load and the NIE square footage requirement. This revision would clearly separate these two issues as one is a Land Development Regulation / zoning threshold and one a state fire safety requirement.

SUMMARY

The subject legislation and the length of time in the review process showed that there are many sides to the issues and opinions on this matter. While the proposal was always intended to be a clarification and consolidation Ordinance, with some substantive changes, it has instead created an increased lack of consensus among the affected stakeholders.

In light of the size and complexity of the proposed Ordinance, incorporating additional new text and modified regulations has proven challenging, particularly from a review standpoint. In this regard, the Administration would recommend that all of the substantive portions of the legislation noted above, save for some minor clean-up text, be excluded from the Ordinance and that it be limited to the consolidation items, as recommended by the Planning Board. Draft versions of the revised ordinances, reflecting these changes, are attached. The remaining substantive portions above can be addressed as a separate referral(s), at the direction of the City Commission.

The Administration would also recommend a separate referral to the Land Use and Development Committee regarding NIE Thresholds in Section 142-1361. Specifically, additional study is needed, as a stand-alone item, in order to address conflicts with the Life-Safety Code.

CONCLUSION

The Administration recommends the following:

1. The City Commission discuss the matter and provide appropriate policy direction.
2. In accordance with the Planning Board recommendation, the First Reading version of the subject Ordinances exclude those sections of the proposed Ordinance noted in the 'Analysis' section herein, with the exception of the following, which are non-substantive:
 - *Sec. 142-362. - Main permitted uses.*
Alcoholic beverage establishments pursuant to the regulations set forth in Chapter 6 is added to the main permitted uses in the CCC civic and convention center district.
 - *Sec. 142-363. - Conditional uses.*
Conditional use approval for a neighborhood impact establishment may be waived by the City Commission in the CCC, Civic and Convention Center District.
 - *Sec. 142-422. - Main permitted uses.*
Alcoholic beverage establishments pursuant to the regulations set forth in Chapter 6 have been added to the main permitted uses in the GU, Government Use District.
3. A separate discussion be referred to the Land Use and Development Committee regarding the NIE Thresholds in Section 142-1361, in order to address conflicts with the Life-Safety Code.



JLM/SMT/TRM

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CHAPTER 6 – ALCOHOLIC BEVERAGES

ORDINANCE NO. _____

AN ORDINANCE OF THE MAYOR AND CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA, AMENDING SUBPART A - GENERAL ORDINANCES, CHAPTER 6 "ALCOHOLIC BEVERAGES" OF THE CODE OF THE CITY OF MIAMI BEACH, TO CONSOLIDATE ALL PROVISIONS RELATING TO ALCOHOL REGULATION IN ONE CHAPTER OF THE CITY CODE BY RELOCATING CERTAIN ALCOHOLIC BEVERAGE ESTABLISHMENT REGULATIONS FROM CHAPTER 142 AND PLACING THOSE PROVISIONS IN CHAPTER 6; PROVIDING FOR—HOURS OF OPERATION; LOCATION AND USE RESTRICTIONS; PATRON AGE RESTRICTIONS; MINIMUM SEATS AND HOTEL ROOMS REQUIREMENTS; PROVIDING FOR NEIGHBORHOOD COMPATIBILITY REQUIREMENTS; AMENDING ARTICLE II, CONDUCT; PROVIDING DEFINITIONS;; PROVIDING FOR REPEALER; SEVERABILITY; CODIFICATION; EXCEPTIONS; AND AN EFFECTIVE DATE.

WHEREAS, Alcoholic Beverages are addressed in Chapters 6, entitled "Alcoholic Beverages,"; and

WHEREAS, to ensure that all regulations relating to alcoholic beverages are clear and concise and in one location of the code that is logical and convenient to user; and,

WHEREAS, the amendment set forth below is necessary to accomplish the objectives identified above.

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

SECTION 1. Chapter 6, "Alcoholic Beverages" is amended, as follows:

* * *

Section 6-1. Purpose.

To achieve the purposes of this Chapter and to provide for the general welfare and safety of the public, it is necessary that regulations be established relating to the location, size and hours of operation, and patron age of uses that permit the sale and consumption of alcoholic beverages.

Section 6-2. Licenses.

(a) No vendor shall sell or distribute any alcoholic beverages without securing a license from the Florida Division Of Alcoholic Beverages And Tobacco Of The Department Of Business And Professional Regulation of the state ("State License"). A service charge as specified in Appendix A shall be paid by an applicant requesting the review of an application to the state for an ~~alcoholic beverage~~ State License. The purpose of this charge is to defray the cost to the City for the ~~verification of a correct occupational license, parking impact fees, and proximity to places of worship and/or schools~~ review of the regulations enumerated in herein Chapter 6, and an area and establishment inspection and any other zoning inspection and/or review that may be applicable to the review of such an application.

~~(b) Consideration of a request for a private club Conditional Use permit, including the hours of operation, shall be pursuant to the Conditional Use Procedures and Review Guidelines as listed in section 118-191 et seq.~~

Sec. 6-3. Hours of Sale/Violations.

~~(a) The hours of sale of alcoholic beverages, whether as a permitted main or accessory use, shall require a State License, and shall be according to the following schedule, except as may be otherwise provided pursuant to subsection ~~(7)~~ (6):~~

~~(1) Retail stores for package sales only – off premises consumption, either as permitted main or accessory uses. Vendors having a license from the state Division of alcoholic beverages and tobacco for the sale of liquor and other alcoholic beverages for consumption off the premises shall only offer for sale alcoholic beverages within may make sales of alcohol only for off premises consumption between the hours of 8:00 a.m. and midnight, ~~on any day of the week.~~~~

~~(2) Retail stores, including grocery, –and–convenience stores, and gasoline service/filling stations, either as permitted main or accessory uses, which primarily offer for sale products other than alcoholic beverages may make sales of beer and wine only for off premises consumption sealed containers between the hours of 8:00 a.m. and midnight, ~~on any day of the week.~~~~

~~(3) All alcoholic beverage establishments with state licensure licensed as alcoholic beverage establishments (midnight to 5:00 a.m.) –on premise consumption only, either as permitted main or accessory uses, shall only offer for sale the on-premises consumption of alcoholic beverages within may make sales of alcohol between the hours of 8:00 a.m. and 5:00 a.m. ~~on any day of the week.~~~~

~~a. Restaurants with full kitchen facilities, serving full meals, licensed as alcoholic beverage establishments ~~(midnight to 5:00 a.m.)~~, but not operating as dance halls or entertainment establishments, may remain open 24 hours a day; however, alcoholic beverages may not be offered for sale or on-premises consumption between the hours of 5:00 a.m. and 8:00 a.m.~~

~~b. Restaurants with full kitchen facilities, serving full meals, licensed as alcoholic beverage establishments ~~(midnight to 5:00 a.m.)~~, and also operating as dance halls, or entertainment establishments, may remain open 24 hours a day; however, alcoholic beverages may not be offered for sale or on-premises consumption between the hours of 5:00 a.m. and 8:00 a.m., and dancing and entertainment shall not be conducted between the hours of 5:00 a.m. and 10:00 a.m.~~

~~c. Other alcoholic beverage establishments ~~(midnight to 5:00 a.m.)~~, not containing restaurants with full kitchen facilities, shall close at 5:00 a.m. and keep remain closed, the place of business and not allow any No patron or other persons, other than those employed by the vendor may, to remain on the premises therein between the hours of 5:00 a.m. and 8:00 a.m.~~

~~Note: For purposes of this section, full kitchen facilities shall mean having commercial grade burners, ovens and refrigeration units of sufficient size and quantity to~~

~~accommodate the occupancy content of the establishment. Full kitchen facilities must contain grease trap interceptors, and meet all applicable City, county and state codes.~~

~~(4) Off-premises package sales associated with alcoholic beverage establishments other than retail stores shall be permitted between the hours of 8:00 a.m. and 11:00 p.m., midnight, for all establishments licensed as alcoholic beverage establishments.~~

~~(5) Consideration of a request for a private club Conditional Use permit, including the hours of operation, shall be pursuant to the Conditional Use Procedures and Review Guidelines as listed in section 118-191 et seq. Private clubs, either as a permitted main or accessory use, shall be considered pursuant to subsection 6-2(a). Hours of operation and the consumption of alcoholic beverages will be considered between the hours of 8:00 a.m. and 5:00 a.m., Monday through Sunday, provided that service is made only to members and guests of members as provided under the pursuant to Florida Statutes. However, any private club permitted to remain open after 2:00 a.m. shall purchase an extra-hours license and must provide for security in its premises by hiring private security guards or off-duty police officers between the hours of 2:00 a.m. and 5:00 a.m. each day. Private clubs securing a State License from the state Division of alcoholic beverages and tobacco by complying with the requirements of Florida Statute, § 561.20 for racquetball, tennis or golf course facilities may admit members at any time for use of such facilities, but may not serve alcoholic beverages after 2:00 a.m. each day unless such private club is the holder of an extra-hours license Business Tax Receipt and complies with the above requirements.~~

~~(6) Upon a finding by the special master that a violation of this section has occurred, the City may initiate proceedings to revoke the Certificate of Use, occupational license or Certificate of Occupancy of the violator. In addition, this section may be enforced and violations may be punished as second degree misdemeanors, as provided in F.S. §§ 775.082 and 775.083.~~

(6) Alcoholic beverage establishments set forth in subsections (3) and (5) permitted to remain open to serve alcoholic beverages for on-premises consumption until 5:00 a.m. may continue to serve alcoholic beverages (i) until 7:00 a.m. on January 1 (New Year's Day) or, if January 1 is on a Sunday, until 7:00 a.m. on Monday if the day that is observed as a national holiday for New Year's Day is on Monday, and (ii) until 7:00 a.m. during certain major event days or weekends as may be designated by the City Commission or as may be designated by the City Manager following approval by the City Commission, under the following conditions:

- a. The police department and the code compliance Division of the City must be notified by a letter, received no later than 15 business days prior to either (a) January 1 or (b) the day on which alcohol sales are to be extended, stating that the alcoholic beverage establishment intends to serve alcoholic beverages for on-premises consumption until 7:00 a.m.;
- b. If deemed reasonably necessary by the police chief, or the police chief's designee, off-duty police officers must be provided at the alcoholic beverage establishment until 7:00 a.m.;
- c. There are no pending City Code violations against the alcoholic beverage establishment;
- d. No delinquent or past due monies are owed to the City;

- e. Outdoor entertainment or open-air entertainment is not allowed;
- f. No violation of the City's noise ordinance shall be permitted;
- g. No violation of the approved fire code occupancy load shall be permitted;
- h. All required City permits and licenses are current;
- i. ~~The State of Florida alcoholic beverage~~ License is current; and
- j. Any other conditions required by the City Manager in order to protect the public health, safety, or welfare.

(7) Alcoholic beverage establishments set forth in subsections (3) and (5) permitted to remain open to serve alcoholic beverages for on-premises consumption until 5:00 a.m. may continue to serve alcoholic beverages until 6:00 a.m. on the first day of daylight savings time in the spring.

(8) The City Manager may suspend the provisions of subsection (6) at any time to protect the public health, safety, or welfare.

(b) Violations/Special Master. Upon a finding by the special master that a violation of this section has occurred, the City may initiate proceedings to revoke the Certificate of Use, Business Tax Receipt, or Certificate of Occupancy of the violator. In addition, this section may be enforced and violations may be punished as second degree misdemeanors, as provided in Florida Statutes §§ 775.082 and 775.083.

Section 6-4. Location and use restrictions.

(a) *Generally.* The following location and use restrictions are applicable for facilities selling or offering alcoholic beverages for consumption:

* * *

(2) *Places of worship.* No alcoholic beverage shall be sold or offered for consumption in ~~a commercial use, except in restaurants for consumption on the premises,~~ in a alcoholic beverage establishment, including bottle clubs, within 300 feet of any property used as a place of worship, except in restaurants operating with full kitchens and serving full meals for consumption on the premises.

* * *

(5) *Filling station.* No liquor as defined by Florida Statute § 568.01 shall be sold or offered for consumption on or off the premises of any filling station.

* * *

(b) *Determination of minimum distance separation.*

(1) For purposes of determining the minimum distance separation, the requirement shall be measured by following a straight line from the main entrance or exit in which the use associated with alcoholic beverages occurs to the nearest point of the property used for a public or private school. In cases where a minimum distance is required between two uses associated with the alcoholic beverages for consumption on or off the premises other than a public or private school, the minimum requirement shall be determined by measuring a straight line between the principal means of entrance of each use.

(2) When a distance separation is required, a scaled survey drawn by a registered land surveyor shall be submitted attesting to the separation of the uses in question. This requirement may be waived upon the written certification by the planning and zoning director that the minimum distance separation has been met.

(c) *Variances.* Variances to the provisions of this section may be granted pursuant to the procedure in section 118-351, et seq.

Sec. 6-5. Patron age restrictions.

(a) It shall be unlawful for persons under the age of 21 to patronize, visit, loiter, be admitted or allowed access, in any alcoholic beverage establishment, as defined in section 114-1 of this Code, except as hereinafter provided. This restriction shall not apply to:

(1) Persons employed by or at the alcoholic beverage establishments;

(2) Persons accompanied by either of their parents (natural, adoptive, or stepparent) or legal guardian (appointed by a court);

(3) Alcoholic beverage establishments also licensed and operating as restaurants, containing a full kitchen of appropriate size to serve the occupancy load of the establishment, serving full meals at all times. In the case of hotels, supermarkets, and other similar multiuse establishments, this restriction applies only to those areas of the establishment operating primarily as an alcoholic beverage establishment, and not also operating as a restaurant ~~as described above~~; and

(4) Alcoholic beverage establishments also licensed and operating as motion picture theaters, subject to compliance with subsection 6-4(a)(4).

* * *

Section 6-6. Minimum seats and hotel room requirements:

Vendors shall be permitted to sell alcoholic beverages within zoning districts if such district permits as a permitted main use or accessory use one of the following: Restaurant, bar, alcoholic beverage establishment, outdoor cafe, private club, hall for hire or golf clubhouse pursuant to the following standards:

(1) Permitted main uses:

a. Restaurants, alcoholic beverage establishments, and private clubs shall be permitted to sell alcoholic beverages for consumption on the premises based upon the following: when beer and wine are served a minimum of 30 seats shall be provided; and when, beer, wine and liquor are served, a minimum of 60 seats shall be provided.

b. Outdoor cafes, when visible from or facing a public street and associated with (a) above, shall have a minimum of 20 seats in order to be permitted to sell alcoholic beverages for consumption on the premises.

c. Outdoor cafes, when not visible from or on a public street, alley, or way, and associated with (a) above, shall have no minimum seating requirement and shall be permitted to sell alcoholic beverages only for consumption on the premises.

d. Golf clubhouse located on a golf course shall be permitted to sell alcoholic beverages only for consumption on the premises.

(2) Accessory uses. Hotels, apartment-hotels, or apartments, when permitted under Chapter 142, shall be permitted to have accessory uses on site, which sell alcoholic beverages pursuant to the following minimum standards:

a. Restaurants, alcoholic beverage establishments, and private clubs shall be permitted to sell alcoholic beverages for consumption on the premises based upon the following; when beer and wine are served a minimum of 30 seats shall be provided; and when, beer, wine and liquor are served, a minimum of 40 seats shall be provided.

b. Outdoor cafes when visible from a public street which have a minimum of 20 seats are permitted to sell alcoholic beverages for consumption only on the premises.

c. Outdoor cafes when not visible from a public street, alley, or way, shall have no minimum seating requirement and shall be permitted to sell alcoholic beverages only for consumption on the premises.

d. Golf clubhouse; when located on a golf course, the sale of alcoholic beverages is permitted only for consumption on the premises.

e. Hotels, when requesting a "S" Class State License shall be required to demonstrate that they comply with all applicable Florida Statutes.

Section 6-7. Exemptions.

(a) Notwithstanding any other provision of this Chapter, the sale of beer for off-premises consumption by a vendor licensed by the State shall be exempt from the regulations in Section 6-4, and Section 6-6. However, the sale by such vendor of alcoholic beverages other than beer and of beer for on-premises consumption shall be conducted in accordance with the provisions of Section 6-6.

(b) Nothing herein shall be construed to restrict sales of alcoholic beverages in the Civic and Convention Center District or Government Use Districts.

ARTICLE II. CONDUCT

Section. 6-36. Definitions.

The following words, terms and phrases, when used in this ~~article~~ Chapter, shall have the meanings ascribed to them in this section or if not defined in this Chapter, the meaning ascribed to them in Chapters 114 and 142, except where the context clearly indicates a different meaning:

Alcoholic beverage sales—On premises means the sale of beverages in open containers for consumption on the premises only.

Alcoholic beverage sales—Package means the sale of beverages in sealed containers for consumption off the premises.

* * *

Full kitchen facilities means having commercial grade burners, ovens and refrigeration units of sufficient size and quantity to accommodate the occupancy content of the establishment. Full kitchen facilities must contain grease trap interceptors, and meet all applicable City, county and state codes.

* * *

Primarily means that more than fifty (50) percent of the floor area of a retail establishment shall be dedicated to the sale of alcoholic beverages. And in the instance of a restaurant, at least fifty-one (51) percent of the gross income of the restaurant must be derived from the sale of prepared food and non-alcoholic beverages.

School means a facility providing a curriculum of elementary and secondary academic instruction, including kindergartens, elementary schools, junior high schools, high schools and comparable private schools.

* * *

Section 6-37. Violations and penalties.

Upon a finding by the appropriate administrative official or agency that a violation of this article has occurred, the City shall initiate proceedings to revoke the Business Tax Receipt, Certificate of Use, occupational license or Certificate of Occupancy, whichever is appropriate. Additionally, this article may be enforced and violations may be punished as follows:

SECTION 2. 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 re-lettered to accomplish such intention, and, the word "ordinance" may be changed to "section", "article", or other appropriate word.

SECTION 3. REPEALER.

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

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. EXCEPTIONS.

This Ordinance shall not apply to an application filed for Land Use Board Approval with the Planning Department on or before December 15, 2015, inclusive of hours of operation specified in the Land Use Board's final order, and shall not apply to any business that has received a business tax receipt on or before December 15, 2015. A business tax

receipt that is issued in connection with an annual renewal of such business tax receipt or in connection with a change in the name of the licensee relating to such business tax receipt shall not be deemed to be issued after December 15, 2015 for purposes of this ordinance if the original business tax receipt for such business was issued before such date.

SECTION 6. EFFECTIVE DATE.

This Ordinance shall take effect ten days following adoption.

PASSED and ADOPTED this ____ day of _____, 2016.

MAYOR

ATTEST:

CITY CLERK

APPROVED AS TO
FORM AND LANGUAGE
& FOR EXECUTION

City Attorney Date

First Reading: February __, 2016

Second Reading: March __, 2016

Verified by: _____
 Thomas Mooney, AICP
 Planning Director

Underscore denotes new language
~~Strikethrough~~ denotes removed language

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CHAPTER 114 – DEFINITIONS

ORDINANCE NO. _____

AN ORDINANCE OF THE MAYOR AND CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA, AMENDING SUBPART B - LAND DEVELOPMENT REGULATIONS, CHAPTER 114 "GENERAL PROVISIONS" , AMENDING SECTION 114-1, DEFINITIONS, BY MODIFYING AND ADDING DEFINITIONS TO CLARIFY ALCOHOLIC BEVERAGE AND USE REQUIREMENTS OF THE CODE OF THE CITY OF MIAMI BEACH, PROVIDING FOR REPEALER; SEVERABILITY; CODIFICATION; EXCEPTIONS; AND AN EFFECTIVE DATE.

WHEREAS, Chapter 114 of the City Code, entitled "General Provisions," provides definitions; and

WHEREAS, to ensure that the all the definitions are clear and concise and are located in one area of the code that is logical and convenient to the user; and

WHEREAS, the amendment set forth below is necessary to accomplish the above objectives.

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

SECTION 1. Chapter 114, entitled "General Provisions" is amended, as follows:

* * *

Sec. 114-1. Definitions.

(a). Interpretation of terms or words.

For the purpose of this chapter, certain terms or words used in this chapter shall be interpreted as follows:

- i. The word "shall" is always mandatory and the word "may" is permissive.
- ii. The words "used" or "occupied" include the words intended, designed or arranged to be used or occupied.
- iii. The singular number includes the plural and the plural the singular, unless the context clearly indicates the contrary.
- iv. Words and terms not defined herein shall be interpreted in accord with their normal dictionary meaning and customary usage.

(b). The following words, terms and phrases when used in this Subpart B or Chapter 6 of Subpart A, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

* * *

Apartment hotel means a building containing both apartment units and hotel units, with at least 25% being apartment units, under resident supervision, and having an inner lobby through which all tenants must pass to gain access. Apartment Hotel uses may contain suite hotel units.

* * *

Bar means an alcoholic beverage establishment which is ~~not also licensed as a restaurant, dance hall or entertainment establishment.~~ derives a minimum of 51 percent of gross revenue from the sale alcoholic beverages.

* * *

Bottle club means a commercial establishment, operated for a profit, whether or not a profit is actually made, wherein patrons consume alcoholic beverages brought onto the premises and not sold or supplied to the patrons by the establishment, whether the patrons bring in and maintain custody of their own alcoholic beverages or surrender custody to the establishment for dispensing on the premises.

* * *

Business tax means the fees charged and the method by which the City grants the privilege of engaging in or managing any business, profession, or occupation within the City's jurisdiction (formerly known as an occupational license).

* * *

Certificate of use (CU) means a document issued by the ~~fire department, department of code compliance~~ City allowing the use of a building and certifying that the use is in compliance with all applicable City codes, regulations and ordinances.

* * *

Food service establishment includes but is not limited to any restaurant, bakery, bar, bistro, café, coffee shop, cafeteria, delicatessen, ice cream parlor, lounge, nightclub, pub, tavern, private, public, or nonprofit organization or institution routinely serving food, catering kitchen, commissary or similar place in which food or drink is prepared for sale or for service on the premises or elsewhere, and any other eating or drinking establishment or operation where food is served or provided for the public with or without charge.

* * *

Full cooking facilities, residential and suite hotels shall mean having burners, ovens and refrigeration units. Cooking facilities in units of less than 550 square feet shall be limited to one microwave oven and one five-cubic-foot refrigerator except historic district suites hotels or apartments may have full cooking facilities in units with a minimum of 400 square feet.

Full kitchen facilities, commercial shall mean having commercial grade burners, ovens and refrigeration units of sufficient size and quantity to accommodate the occupancy content of the establishment. Full kitchens must contain grease trap interceptors, and meet all applicable City, county and state codes.

* * *

Hall for hire means an establishment which rents space, and may provide tables, chairs, catering, decor, sound systems, or other services in order to hold or host a private event.

* * *

Loading, off-street means a loading space located on private property outside of any street right-of-way or easement and designed to accommodate the temporary parking of vehicles used for bulk pickups and deliveries.

* * *

Occupational license means the required license to conduct business within the City pursuant to chapter 18.

Office, business or professional means an establishment offering services or knowledge to the business community or to individuals, but excluding a medical office. Such activities would include but are not limited to accounting, brokerage, insurance, advertising, employment services, real estate services, lawyer and architect.

Office, medical means a licensed establishment offering medical services and knowledge to the community or individuals. Such activities may include but shall not be limited to physician, dentist, psychologist, chiropractor, mental health therapist and physical therapists.

Operator means the person who conducts, manages, maintains or controls, either directly or indirectly, any business or commercial establishment.

Personal service use means an establishment that provides services such as barbershops, beauty salons, tailor, shoe repair shops, dry cleaning, banks and financial service institutions.

Place of Assembly means an establishment that may have fixed seating that is not used for retail sales and service, restaurant, office or hotel, and may include a "hall for hire" use whether for a private event or a public event.

* * *

~~Restaurant means a commercial establishment where refreshments or meals may be purchased by the public and which conducts the business of serving of food to be consumed on or off the premises.~~

Restaurant, Cafeteria means a food service establishment characterized typically by the selection of prepared food items by customers as they move in a line in front of the individual food items or selected from an open self-serve area. An individual menu is not normally provided and food items are typically placed on the customer's plate or packaged by restaurant employees or the customer. The food items are transported to adjoining tables by the customer.

Restaurant, standard means a food service establishment whose principal business is the sale of foods and beverages to the customer in a ready-to-consume state, and where customers are normally provided with an individual menu, are served their food or beverages on non-disposable service ware by a restaurant employee at a table or counter for consumption.

Restaurant, take-out means a food service establishment whose principal business is the sale of foods and beverages to the customer in a ready-to-consume state for carry-out with consumption off the premises, and which has all of the following characteristics:

- (a) Food items are served primarily in paper, plastic or other disposable containers.
- (b) The restaurant provides rapid customer service by preparing the menu items in advance of the customer's order or by having the items in a ready-to-assemble condition.

Retail establishment means any store, merchant or organization selling merchandise to the general public.

* * *

School means a facility providing a curriculum of elementary and secondary academic instruction, including kindergartens, elementary schools, junior high schools, high schools and comparable private schools.

~~Shall is mandatory, the word "may" is permissive.~~

Supper club means a standard restaurant having a minimum enclosed dining/entertainment area of 4,000 square feet and providing entertainment, but not adult entertainment. The dining/entertainment area shall be composed of restaurant tables and seating and an entertainment stage area and/or dance floor. The dining area must occupy a minimum of fifty (50) percent of the gross floor area of the establishment. A supper club must provide full and continual food service throughout the periods of its operation. No more than twenty (20) percent of the seating area, may be removed to accommodate special performances.

* * *

SECTION 2. 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 re-lettered to accomplish such intention, and, the word "ordinance" may be changed to "section", "article", or other appropriate word.

SECTION 3. REPEALER.

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

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. EXCEPTIONS.

This Ordinance shall not apply to an application filed for Land Use Board Approval with the Planning Department on or before November 24, 2015, and shall not apply to any business that has received a business tax receipt on or before November 24, 2015. A business tax receipt that is issued in connection with an annual renewal of such business tax receipt or in connection with a change in the name of the licensee relating to such business tax receipt shall not be deemed to be issued after November 24, 2015 for purposes of this ordinance if the original business tax receipt for such business was issued before such date.

SECTION 6. EFFECTIVE DATE.

This Ordinance shall take effect ten days following adoption.

PASSED and ADOPTED this _____ day of _____, 2016.

MAYOR

ATTEST:

CITY CLERK

APPROVED AS TO
FORM AND LANGUAGE
& FOR EXECUTION

City Attorney

Date

First Reading: February __, 2016

Second Reading: March __, 2016

Verified by: _____
Thomas Mooney, AICP
Planning Director

Underscore denotes new language
~~Strikethrough~~ denotes removed language

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CHAPTER 142 – ZONING DISTRICTS AND ALCOHOLIC BEVERAGES

ORDINANCE NO. _____

AN ORDINANCE OF THE MAYOR AND CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA, AMENDING CHAPTER 142 “ZONING DISTRICTS AND REGULATIONS;” ARTICLE II, “DISTRICT REGULATIONS”, DIVISION 3, “RESIDENTIAL MULTIFAMILY DISTRICTS” DIVISION 4, “CD-1 COMMERCIAL, LOW INTENSITY DISTRICT” DIVISION 5, “CD-2 COMMERCIAL, MEDIUM INTENSITY DISTRICT” DIVISION 6, “CD-3 COMMERCIAL, HIGH INTENSITY DISTRICT” DIVISION 7, “CCC CIVIC AND CONVENTION CENTER DISTRICT” DIVISION 8, “GC GOLF COURSE DISTRICT” DIVISION 9, “GU GOVERNMENT USE DISTRICT” DIVISION 10, “HD HOSPITAL DISTRICT” DIVISION 11, “I-1 LIGHT INDUSTRIAL DISTRICT” DIVISION 12, “MR MARINE RECREATION DISTRICT;” DIVISION 13, “MXE MIXED USE ENTERTAINMENT DISTRICT;” DIVISION 16, “WD-1 WATERWAY DISTRICT” DIVISION 17, “WD-2 WATERWAY DISTRICT” DIVISION 18, “PS PERFORMANCE STANDARD DISTRICT,” TO DELINEATE ALL ALCOHOLIC BEVERAGE ESTABLISHMENTS AS RELATED MAIN PERMITTED, CONDITIONAL, AND PROHIBITED USES BY ZONING DISTRICT; MODIFYING CHAPTER 142, ARTICLE V, “SPECIALIZED USE REGULATIONS,” TO DELETE DIVISION 4, AND SECTION 143-1301, ENTITLED “PERMITTED DISTRICTS; STRIKING ALCOHOL REGULATIONS RELATING TO HOURS OF OPERATION, MINIMUM SEAT AND HOTEL ROOMS FROM CHAPTER 142 “ZONING DISTRICTS AND REGULATIONS”, ARTICLE II “DISTRICT REGULATIONS,” DIVISION 20 “TC NORTH BEACH TOWN CENTER DISTRICTS,” AT SECTION 142-736; AND MODIFYING CHAPTER 142, ARTICLE V “SPECIAL USE REGULATIONS,” AT DIVISION 4 “ALCOHOLIC BEVERAGES,” BY STRIKING SECTIONS 142-1302 AND 142-1303; AMENDING CHAPTER 142, DIVISION 6, “ENTERTAINMENT ESTABLISHMENTS” TO MODIFY AND CLARIFY DEFINITIONS REGULATIONS RELATING ENTERTAINMENT ESTABLISHMENTS AND NEIGHBORHOOD IMPACT ESTABLISHMENTS; BY AMENDING THE NEIGHBORHOOD IMPACT ESTABLISHMENT THRESHOLD REQUIREMENTS; PROVIDING FOR REPEALER; SEVERABILITY; CODIFICATION; EXCEPTIONS; AND AN EFFECTIVE DATE.

WHEREAS, Chapter 142 of the City Code, entitled “Zoning Districts and Regulations,” includes specialized use regulations that address alcoholic beverages; and

WHEREAS, Chapter 6 of the City Code entitled “Alcoholic Beverages”, which regulates the hours of operation of and size of such establishments; and

WHEREAS, Chapter 142 shall be amended to ensure that each districts lists whether alcoholic beverage establishments are permitted, not permitted or conditional uses; and

WHEREAS, to ensure that all regulations relating to alcoholic beverages are clear, concise and in one location of the code that is logical and convenient to the user; and

WHEREAS, the amendment set forth below is necessary to accomplish the objectives identified above.

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

SECTION 1. That Chapter 142, "Zoning Districts and Regulations" is amended, as follows:

DIVISION 3. - RESIDENTIAL MULTIFAMILY DISTRICTS

* * *

Subdivision IV. - RM-2 Residential Multifamily, Medium Intensity

* * *

Sec. 142-214. - Accessory uses.

The accessory uses in the RM-2 residential multifamily, medium intensity district are as required in article IV, division 2 of this chapter and ~~uses that serve alcoholic beverages establishments as listed in article V, division 4 of this chapter, pertaining to alcoholic beverages pursuant to the regulations set forth in Chapter 6.~~ RM-2 properties within the Palm View, or West Avenue corridors may not have accessory outdoor entertainment establishments. Notwithstanding the foregoing, a property that had a legal conforming use as of May 28, 2013, shall have the right to apply for and receive special event permits that contain entertainment uses.

* * *

Subdivision V. - RM-3 Residential Multifamily, High Intensity

Sec. 142-244. - Accessory uses.

The accessory uses in the RM-3 residential multifamily, high intensity district are as follows:

* * *

~~(2) Uses that serve a Alcoholic beverages establishments as listed in article V, division 4 of this chapter, pertaining to alcoholic beverages pursuant to the regulations set forth in Chapter 6.~~

(3) Accessory outdoor bar counters, pursuant to the regulations set forth in Chapter 6. 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.

(4) Oceanfront hotels with at least 100 hotel units may operate and utilize an accessory outdoor bar counter, notwithstanding the above restriction on the hours of operation, provided the accessory outdoor bar counter is (i) located in the rear yard, and (ii) set back 20 percent of the lot width (50 feet minimum) from any property line adjacent to a property with an apartment unit thereon.

Sec. 142-245. - Prohibited uses.

The prohibited use in the RM-3 residential multifamily, high intensity district is accessory outdoor bar counter, except as provided in Section 142-244.; ~~and~~ ~~and~~ ~~For~~ properties located within the West Avenue Corridor, hotels and apartment-hotels, except to the extent preempted

by Florida Statutes § 509.032(7), and unless a legal conforming use. Properties that voluntarily cease to operate as a hotel for a consecutive three-year period shall not be permitted to later resume such hotel operation. Without limitation, (a) involuntary hotel closures due to casualty, or (b) cessation of hotel use of individual units of a condo-hotel, shall not be deemed to be ceasing hotel operations pursuant to the preceding sentence.

DIVISION 4. - CD-1 COMMERCIAL, LOW INTENSITY DISTRICT

Sec. 142-272. - Main permitted uses.

The main permitted uses in the CD-1 commercial, low intensity district are commercial uses; apartments; bed and breakfast inn (pursuant to ~~Section 142-1401~~); religious institutions with an occupancy of 199 persons or less, and ~~uses that serve alcoholic beverages establishments as listed in article V, division 4 of this chapter, pertaining to alcoholic beverages~~ pursuant to the regulations set forth in Chapter 6.

DIVISION 5. CD-2 COMMERCIAL, MEDIUM INTENSITY DISTRICT

Sec. 142-302. - Main permitted uses.

The main permitted uses in the CD-2 commercial, medium intensity district are commercial uses; apartments; apartment/hotels; hotels; religious institutions with an occupancy of 199 persons or less and ~~uses that serve alcoholic beverages establishments as listed in article V, division 4 of this chapter, pertaining to alcoholic beverages (alcoholic beverages)~~ pursuant to the regulations set forth in Chapter 6.

Sec. 142-304. - Accessory uses.

The accessory uses in the CD-2 commercial, medium intensity district are as required in article IV, division 2 of this chapter; and accessory outdoor bar counters, pursuant to the regulations set forth in Chapter 6. provided that the accessory outdoor bar counter is not operated or utilized between midnight and 8:00 a.m.; however, for a property 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.

Sec. 142-305. - Prohibited uses.

The prohibited uses in the CD-2 commercial, medium intensity district are accessory outdoor bar counters, except as provided in ~~this division~~ Article IV, Division 2 of this chapter and in Chapter 6. Except as otherwise provided in these land development regulations, prohibited uses in the CD-2 commercial medium intensity district in the Sunset Harbour Neighborhood, generally bounded by Purdy Avenue, 20th Street, Alton Road and Dade Boulevard, also include alcoholic beverage establishments (not also operating as a full restaurant with a full kitchen, serving full meals); dance halls; entertainment establishments; outdoor entertainment establishment; neighborhood impact establishment; and open air entertainment establishment.

DIVISION 6. - CD-3 COMMERCIAL, HIGH INTENSITY DISTRICT

Sec. 142-332. - Main permitted uses.

The main permitted uses in the CD-3 commercial, high intensity district are commercial uses; apartments; apartment/hotels; hotels, alcoholic beverage establishments pursuant to the

~~regulations set forth in Chapter 6, and religious institutions with occupancy of 199 persons or less. Oceanfront properties in the architectural district shall not be permitted to have new retail and/or office areas totaling more than 250 square feet unless the building is rehabilitated according to the South Florida Building Code, the city property maintenance standards, and fire prevention and safety codes and if it is a historic structure the U.S. Secretary of the Interior Standards for Rehabilitation and Guidelines for Rehabilitating Historic Structures. Offices are prohibited on the ground floor on that portion of Lincoln Road which is closed to traffic, unless the office area is located in a mezzanine, or at least 75 feet back from the storefront; also apartments, apartment/hotels and hotels located on that portion of Lincoln Road shall comply with section 142-335. Dance halls (as defined in section 114-1 of this Code) not also operating as restaurants with full kitchens and serving full meals and licensed as alcoholic beverage establishments are prohibited on properties having a lot line adjoining Lincoln Road, from the Atlantic Ocean to Biscayne Bay, unless the dance hall is located within a hotel with a minimum of 100 hotel units.~~

Sec. 142-334. - Accessory uses.

The accessory uses in the CD-3 commercial, high intensity district are as follows:

- (1) Those uses permitted in Article IV, Division 2 of this chapter.
- (2) Accessory outdoor bar counters, pursuant to the regulations set forth in Chapter 6, 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.
- ~~(3) Oceanfront hotels with at least 100 hotel units may operate and utilize an accessory outdoor bar counter notwithstanding the above restriction on the hours of operation, provided the accessory outdoor bar counter is (i) located in the rear yard, and (ii) setback 20 percent of the lot width (50 feet minimum) from any property line adjacent to a property with an apartment unit thereon.~~

Sec. 142-335. - Prohibited uses.

The prohibited uses in the CD-3 commercial, high intensity district are pawnshops; secondhand dealers of precious metals/precious metals dealers; and accessory outdoor bar counter, except as provided in ~~this division~~ Article IV, Division 2 of this chapter and in Chapter 6.

DIVISION 7. CCC CIVIC AND CONVENTION CENTER DISTRICT

* * *

Sec. 142-362. - Main permitted uses.

The main permitted uses in the CCC civic and convention center district are parking lots, garages, performing arts and cultural facilities; hotel; alcoholic beverage establishments pursuant to the regulations set forth in Chapter 6, merchandise mart; commercial or office development; landscape open space; parks. Any use not listed above shall only be approved after the City Commission holds a public hearing. See section 142-367 for public notice requirements.

* * *

Sec. 142-363. - Conditional uses.

Conditional use approval for a neighborhood impact establishment may be waived by the City Commission, otherwise ~~There are no conditional uses in the CCC,~~ Civic and Convention Center District

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DIVISION 8. - GC GOLF COURSE DISTRICT

* * *

Sec. 142-394. - Accessory uses.

The accessory uses in the GC golf course district are as required in article IV, division 2 of this chapter and the sale or distribution of alcoholic beverages pursuant to the regulations set forth in Chapter 6.

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DIVISION 9. - GU GOVERNMENT USE DISTRICT

* * *

Sec. 142-422. - Main permitted uses.

The main permitted uses in the GU₁ Government Use District₁ are government buildings and uses, including but not limited to parking lots and garages; parks and associated parking; schools; performing arts and cultural facilities; alcoholic beverage establishments pursuant to the regulations set forth in Chapter 6, monuments and memorials. Any use not listed above shall only be approved after the city commission holds a public hearing. See subsection 142-425(e) for public notice requirements.

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DIVISION 10. - HD HOSPITAL DISTRICT

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Sec. 142-452. - Permitted uses.

In the HD₁ Hospital District₁, no land, water or structure may be used, in whole or in part, except for one or more of the following permitted uses. ~~Permitted uses that sell, serve or otherwise distribute alcoholic beverages in this district shall comply with the standards and regulations found in article V, division 4 of this chapter~~ The sale of alcohol within the HD shall be regulated pursuant to the requirements of Chapter 6.

* * *

DIVISION 11. I-1 LIGHT INDUSTRIAL DISTRICT

Sec. 142-482. - Main permitted uses.

The main permitted uses in the I-1₁ Urban Light Industrial District₁ are those uses that are consistent with the district purpose including the following:

* * *

13) Commercial uses that provide support services to the light industrial uses and to the adjacent RM-3 residents, including but not limited to retail sales, photocopying, coffee shop, ~~standard~~ restaurant, alcoholic beverage establishments pursuant to the regulations set forth in Chapter 6, video rental, bank;

DIVISION 12. - MR MARINE RECREATION DISTRICT

* * *

Sec. 142-514. - Accessory uses.

The accessory uses in the MR₁ Marine Recreation District₁ are as required in article IV, division 2 of this chapter. Accessory uses in this district shall be any use that is customarily associated with a main permitted use; including but not limited to ~~and~~ alcoholic beverage establishments pursuant to the regulations set forth in Chapter 6.

* * *

DIVISION 13. - MXE MIXED USE ENTERTAINMENT DISTRICT

* * *

Sec. 142-543. - Accessory uses.

The accessory uses in the MXE₁ Mixed Use Entertainment District₁ are as follows.

(1) Those uses permitted in Article IV, Division 2 of this chapter. ~~See also Article IV, Division 2, of this article Chapter. Note:~~

(2) Uses that serve alcoholic beverages are also subject to the regulations of ~~article V, division 4 of this chapter.~~ set forth in Chapter 6.

(3) Accessory outdoor bar counters, pursuant to the regulations set forth in Chapter 6, 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.

~~(2) Accessory outdoor bar counter located in the cabaret overlay district.~~

(4) Oceanfront hotels with at least 100 hotel units may operate and utilize an accessory outdoor bar counter, notwithstanding the restriction on the hours of operation, set forth in subsection (1) of this section, provided the accessory outdoor bar counter is located in the rear yard and set back 20 percent of the lot width (50 feet minimum) from any property line adjacent to a property with an apartment unit thereon.

* * *

Sec. 142-546. - Additional restrictions for lots fronting on Ocean Drive, Ocean Terrace and Collins Avenue.

In the MXE₁ Mixed Use Entertainment District₁ permitted uses in existing buildings at the time of adoption of this section with two stories or less fronting on Ocean Drive or Ocean Terrace and any building fronting on Collins Avenue from Sixth Street to 16th Street shall comply with the following:

* * *

- (2) ~~Such~~ The buildings may contain offices ~~(medical and dental offices are prohibited), retail, eating or drinking uses~~ food service establishments, alcoholic beverage establishments and residential uses or any combination thereof. Medical and dental office shall be prohibited uses in the MXE districts. Commercial uses located above the ground floor shall only have access from the interior of the building; no exterior access shall be permitted, unless a variance from this requirement is granted.

DIVISION 16. - WD-1 WATERWAY DISTRICT

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Sec. 142-634. - Accessory uses.

The accessory uses in the WD-1, Waterway District, are as required by Article IV, Division 2 of this Chapter and as delineated in Chapter 6, as it relates to alcoholic beverage establishments.

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DIVISION 17. - WD-2 WATERWAY DISTRICT

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Sec. 142-664. - Accessory uses.

The accessory uses in the WD-2, Waterway District, are as required in Article IV, Division 2 of this Chapter and as delineated in Chapter 6, as it relates to alcoholic beverage.

DIVISION 18. PS PERFORMANCE STANDARD DISTRICT

* * *

Sec. 142-693. Permitted uses.

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* * *

- (i) Notwithstanding the uses permitted in (a) and (d) above, in all districts except GU, government use district, no alcoholic beverage establishment, or restaurant, may be licensed or operated as a main permitted, conditional, or accessory use in any open area above the ground floor (any area that is not included in the FAR calculations) located south of 5th Street. Except that:

- (1) Outdoor restaurant seating, not exceeding 40 seats, associated with indoor venues may be permitted in the areas described in this subsection (i) before 8:00 p.m. with no background music (amplified or nonamplified).
- (2) No commercial activity may be permitted on areas as described in this subsection (i) between the hours of 8:00 p.m. and 10:00 a.m.
- (3) Nothing herein shall prohibit residents of a multifamily (apartment or condominium) building, or hotel guests and their invitees to use these areas as described in this subsection (i), which may include a pool or other recreational amenities, for their individual, personal use.

Variances from this subsection (i) shall not be permitted. Special events shall not be permitted in the areas described in this subsection (i).

- (j) In districts that allow commercial and hotel uses above, alcoholic beverage establishments are permitted pursuant to the regulations set forth in Chapter 6, but not in contravention of section (i) herein.

* * *

DIVISION 20. - TC NORTH BEACH TOWN CENTER DISTRICTS

Sec. 142-736. Main permitted uses, Conditional Uses, accessory uses, and prohibited uses.

- (a) Land uses in the TC-1, Town Center Core District shall be regulated as follows:

- (1) The main permitted uses in the TC-1 District are commercial uses; alcoholic beverage establishments pursuant to the regulations set forth in Chapter 6; apartments; apartments/hotels; hotels. The ground story frontage along 71st Street and Collins Avenue shall be governed by subsection 142-737(c). The provisions of chapter 6 subsection 6-4(a)(1) concerning distance separation for consumption of alcoholic beverages on-premises in restaurants shall not apply to this district.

* * *

- (3) The accessory uses in the TC-1 District are those uses permitted in Article IV, Division 2 of this Chapter; alcoholic beverage establishments and accessory outdoor bar counters pursuant to the regulations set forth in Chapter 6; and accessory outdoor bar counters, provided that the accessory outdoor bar counter is not operated or utilized between midnight and 8:00 a.m.; however, accessory outdoor bar counters located within 100 feet of an apartment unit may not be operated or utilized between 8:00 p.m. and 8:00 a.m.

* * *

- (c) Land uses in the TC-3 Town Center Residential Office District shall be regulated as follows:

* * *

- (2) The Conditional Uses in the TC-3 District are hotel, adult congregate living facility; day care facility; nursing home; religious institutions; private and public institutions; schools; and commercial or noncommercial parking lots and garages (with accessory commercial uses) in accord with subsection 130-68(9).

- a. In areas designated TC-3(c) on the zoning map, the following uses may be permitted as Conditional Uses in addition to the uses in paragraph (2) above: neighborhood-oriented retail and services uses, limited to 2,500 square feet or less per establishment, located on the ground floor of buildings. Such neighborhood-oriented retail and service uses shall be limited to antique stores; art/craft galleries; artist studios; bakery or specialty food stores; barber shops and beauty salons; coffee shop or juice bar; dry cleaner or laundry with off-site processing (dry cleaning receiving station); newspapers, magazines and books; photo studio; shoe repair; tailor or dressmaker; and food service establishments with 30 seats or less (including outdoor cafe seating) pursuant to the regulations set forth in Chapter 6. with alcohol limited to beer and wine and closing no later than 12 midnight subject to limitations established in the Conditional Use process. In addition, full service restaurants serving alcoholic

beverages pursuant to the regulations set forth in Chapter 6 or and with 30 seats or more may be permitted only on waterfront properties with a publicly accessible waterfront walkway in the area located south of 71st Street.

(3) The accessory uses in the TC-3 district are those uses customarily associated with the district purpose, as set forth in article IV, Division 2 of this Chapter, except that hotels may have accessory uses based upon the criteria below:

* * *

- b. Hotels in the TC-3(c) district may include accessory restaurants or ~~bars~~ alcoholic beverage establishments pursuant to the regulations set forth in Chapter 6 when approved as part of the Conditional Use. Such accessory restaurants or bars that serve alcohol shall be limited to a maximum of 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~~ alcoholic beverage establishments on the entire site shall not exceed 1.5 persons, per hotel and/or apartment unit. For a hotel or apartment property of less than 32 units, the restaurant or bar may have a maximum of 40 seats in the aggregate on the site. The number of units shall be those that result after any renovation. Accessory restaurants and bars shall be permitted to sell alcoholic beverages for consumption only on the premises and shall be limited to closing no later than 12 midnight subject to limitations established in the Conditional Use process.

ARTICLE V. - SPECIALIZED USE REGULATIONS

DIVISION 4. ALCOHOLIC BEVERAGES

Sec. 142-1301. Permitted districts.

~~Vendors may be permitted to sell or distribute alcoholic beverages, either for consumption on or off the premises only in the following zoning districts:~~

- ~~(1) RM-2 multiple family, medium intensity.~~
- ~~(2) RM-3 multiple family, high intensity.~~
- ~~(3) CD-1 commercial, low intensity.~~
- ~~(4) CD-2 commercial, medium intensity.~~
- ~~(5) CD-3 commercial, high intensity.~~
- ~~(6) CCC convention center district.~~
- ~~(7) HD hospital district.~~
- ~~(8) I-1 industrial, light.~~
- ~~(9) MR marine recreational.~~
- ~~(10) MXE mixed use entertainment.~~
- ~~(11) WD-1 waterway district.~~
- ~~(12) WD-2 waterway district.~~
- ~~(13) R-PS2 residential medium density.~~
- ~~(14) R-PS3 residential medium-high density.~~
- ~~(15) R-PS4 residential high density.~~
- ~~(16) C-PS1 commercial limited mixed use.~~
- ~~(17) C-PS2 commercial general mixed use.~~

- ~~(18) C PS3 commercial intensive mixed use.~~
- ~~(19) C PS4 commercial intensive phased bayside.~~
- ~~(20) RM-PS1 residential limited mixed use development.~~
- ~~(21) TC-1 North Beach Town Center core.~~
- ~~(22) TC-2 North Beach Town Center mixed use.~~
- ~~(23) TC-3 North Beach Town Center residential/office.~~

Sec. 142-1302. Permitted main and accessory uses.

~~Vendors shall be permitted to sell alcoholic beverages within the zoning districts listed in section 142-1301 if such district permits as a permitted main use or accessory use one of the following: Restaurant, bar, alcoholic beverage establishment, outdoor cafe, private club, or golf clubhouse pursuant to the following standards:~~

~~(1) Permitted main uses.~~

- ~~a. Restaurants, alcoholic beverage establishments, and private clubs shall be permitted to sell alcoholic beverages for consumption on the premises based upon the following; when beer and wine are served a minimum of 30 seats shall be provided; and when beer, wine and liquor are served, a minimum of 60 seats shall be provided.~~
- ~~b. Outdoor cafes, when visible from or facing a public street, shall have a minimum of 20 seats in order to be permitted to sell alcoholic beverages for consumption on the premises.~~
- ~~c. Outdoor cafes, when not visible from or on a public street, alley, or way, shall have no minimum seating requirement and shall be permitted to sell alcoholic beverages only for consumption on the premises.~~
- ~~d. Golf clubhouse; when located on a golf course, the sale of alcoholic beverages is permitted only for consumption on the premises.~~

~~(2) Accessory uses. Hotels, apartment hotels, or apartments, or any mixed use having a minimum of 100 apartment units or a minimum of 100 hotel units or which are located in the MXE district shall be permitted to have accessory uses which sell alcoholic beverages pursuant to the following minimum standards:~~

- ~~a. Bars, alcoholic beverage establishments, restaurants, or private clubs which have a minimum of 40 seats shall be permitted to sell alcoholic beverages for consumption on or off the premises.~~
- ~~b. Outdoor cafes when visible from a public street which have a minimum of 20 seats are permitted to sell alcoholic beverages for consumption only on the premises.~~
- ~~c. Outdoor cafes when not visible from a public street, alley, or way, shall have no minimum seating requirement and shall be permitted to sell alcoholic beverages only for consumption on the premises.~~
- ~~d. Golf clubhouse; when located on a golf course, the sale of alcoholic beverages is permitted only for consumption on the premises.~~

~~(3) [Accessory uses which sell alcoholic beverages.] Accessory uses which sell alcoholic beverages in the TC-1, TC-2 and TC-3 districts shall be governed by the district use regulations in section 142-746.~~

Sec. 142-1303. Exemption.

~~(a) Notwithstanding any other provision of this Division, the sale of beer for off-premises consumption by a vendor licensed for such sale from that location by the Division of alcoholic beverages and tobacco of the department of business and professional regulation of the state shall be exempt from the regulations in section 6-4, and sections 142-1301 and 142-1302. However, the sale by such vendor of alcoholic beverages other than beer and of beer for on-~~

~~premises consumption shall be conducted in accordance with the provisions of sections and 142-1302.~~

~~(b) Nothing herein shall be construed to restrict sales of alcoholic beverages in the civic and convention center district or government use district.~~

SECTION 2. 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 re-lettered to accomplish such intention, and, the word "ordinance" may be changed to "section", "article", or other appropriate word.

SECTION 3. REPEALER.

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

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. EXCEPTIONS.

This Ordinance shall not apply to an application filed for Land Use Board Approval with the Planning Department on or before December 15, 2015, and shall not apply to any business that has received a business tax receipt on or before December 15, 2015. A business tax receipt that is issued in connection with an annual renewal of such business tax receipt or in connection with a change in the name of the licensee relating to such business tax receipt shall not be deemed to be issued after December 15, 2015 for purposes of this ordinance if the original business tax receipt for such business was issued before such date.

SECTION 6. EFFECTIVE DATE.

This Ordinance shall take effect ten days following adoption.

PASSED and ADOPTED this ____ day of _____, 2016.

MAYOR

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MIAMI BEACH

OFFICE OF THE CITY MANAGER

COMMISSION MEMORANDUM

TO: Mayor Philip Levine and Members of the City Commission

FROM: Jimmy L. Morales, City Manager

DATE: January 11, 2016

SUBJECT: **SUPPLEMENTAL INFORMATION FOR AGENDA ITEM R9T: MOTION TO RECONSIDER VOTE ON AGENDA ITEM R7C FROM DECEMBER 16, 2015 CITY COMMISSION MEETING (RE: SOUTH BEACH COMPONENT OF THE DIRECT CONNECT TRANSIT PROJECT)**

Attached please find a letter from Jeffrey F. Boothe, President of Boothe Transit Consulting, LLC, and a member of the Kimley-Horn Team for the preparation of the environmental analysis for the Miami Beach Light Rail/Modern Streetcar, regarding the potential impact of the Miami Beach project on eligibility for Federal funding for the remainder of the Beach Corridor Direct Connection Project.

Attachment

JLM/KGB



Boothe Transit Consulting LLC

January 11, 2016

Mr. Jimmy Morales
City Manager
City of Miami Beach
1700 Convention Center Drive
Miami Beach, Florida 33139

RE: Development of Miami Beach Streetcar

Dear Mr. Morales:

This letter addresses the following two questions: (1) does the procurement or construction of the Miami Beach Streetcar impact the eligibility for federal funding of any expansion of the streetcar outside the boundaries of the City of Miami Beach; and, (2) does advancing the City of Miami Beach Streetcar independent of a project that extends beyond the boundaries of the City of Miami Beach affect the ability of a future project constructed outside of the boundaries of the City of Miami Beach to meet federal environmental requirements?

The Federal Transit Administration (FTA) defines a fixed guideway project in 49 USC §5309(a)(5) as a project with a “minimum operable segment or extension to an existing fixed guideway project that can operate even if no other extension was built.” Further, a project must demonstrate a number of criteria, including (i) that it has “independent utility or independent significance” (which is defined as a project that is a usable and involves a reasonable expenditure even if no more transportation improvements are made); (ii) the project connects logical termini; and, (iii) it does not restrict consideration of alternatives. This is also the approach the FTA applies for determining the full scope of a project for environmental review under the National Environmental Policy Act (NEPA) and to avoid impermissible segmentation. A project that addresses each of these criteria and undertakes an environmental review under NEPA does not preclude the eventual construction of a transportation project in phases.

To answer the first question, the project within the boundaries of the City of Miami Beach has logical termini and independent utility since it serves the citizens of Miami Beach and provides a meaningful transportation investment. If the extensions are built in phases, the City of Miami Beach would be a logical termini since it is a major destination and an end point for any project. The extensions are added at end of the City of Miami Beach Streetcar, the termini of the extension would have to meet the test of being “logical termini” and clearly the expanded system would have independent utility.

“Where Policy and Project Development Intersect”

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Letter to Jimmy Morales

Page 2

January 11, 2016

A subsequent phase of the City of Miami Beach Streetcar beyond the boundaries of the city of Miami Beach would be eligible for federal funding or financing from the Capital Investment Grants (CIG) program, TIGER or the Transportation Infrastructure Finance and Innovation Act (TIFIA) as an extension of the streetcar. Any project beyond the boundaries of the City of Miami Beach would have to follow the federal project evaluation, rating and approval process under the CIG program and would benefit from the ridership and project benefits realized from the Miami Beach Streetcar being in revenue service.

Moreover, the Program of Interrelated Projects (PIP) was authorized in Moving Ahead for Progress in the 21st Century (MAP-21). The PIP allows a region to advance more than one project simultaneously if the program of projects is rated and evaluated under the CIG project approval process. The PIP assumes that only one project is federally funded but that the federally funded project is able to count the local investment in the locally funded project as local match. The federally funded projects(s) that is included within the PIP is capped at 80 percent federal share. However, the Fixing America's Surface Transportation (FAST) Act limits a Full Funding Grant Agreement (FFGA) for a New Start project to 60 percent. These two provisions are in conflict and will require reconciliation either by the FTA administratively or by a subsequent act clarifying the intent of Congress. FTA is in the process of implementing the PIP program and seeking to address concerns raised by the Office of Management and Budget. We will monitor these developments closely to assess any additional opportunities that may arise with the implementation of the PIP.

To address the second question, the environmental process that is soon to be undertaken by the City of Miami Beach will examine the project alternatives and make a determination regarding the issue of segmentation before any commitments are made to assess the impact on any federal or other funding for the City's project. However, since the project would have logical termini and independent utility without regard to whether an expanded system is built, it is anticipated that any challenge on segmentation would not be successful. Further, the expanded system that connects to the City of Miami Beach Streetcar would obtain the full benefit of the ridership, mobility benefits, land use and other environmental benefits realized by the construction of the first segment and would likely be very competitive in a federal process and could potentially improve the chances for obtaining federal funding for the overall Direct Connect Project. Thus, no action taken by the City of Miami Beach would prejudice any future action to expand the system and, moreover, the expanded system would fully benefit from the initial investment made by the City of Miami Beach.

Sincerely,



Jeffrey F. Boothe
President

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