

City Commission
Susan Gottlieb, Mayor

Zev Auerbach
Bob Diamond
Teri Holzberg
Billy Joel
Michael Stern
Luz Urbáez Weinberg



City Manager
Eric M. Soroka, ICMA-CM

City Clerk
Teresa M. Soroka, MMC

City Attorney
Weiss Serota Helfinan
Pastoriza Cole & Boniske

**SEPTEMBER 4, 2012
following 6 pm LPA**

Government Center
19200 West Country Club Drive
Aventura, Florida 33180

1. **CALL TO ORDER\ROLL CALL**
2. **PLEDGE OF ALLEGIANCE**
3. **AGENDA:** Request for Deletions/Emergency Additions
4. **SPECIAL PRESENTATIONS:** Employee Service Awards
5. **CONSENT AGENDA:** Matters included under the Consent Agenda are self-explanatory and are not expected to require discussion or review. Items will be enacted by one motion. If discussion is desired by any member of the Commission, that item must be removed from the Consent Agenda and considered separately.
 - A. **APPROVAL OF MINUTES:**
July 10, 2012 Commission Meeting
July 19, 2012 Commission Meeting
July 19, 2012 Workshop Meeting
 - B. **A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF AVENTURA, FLORIDA URGING THE GOVERNOR AND THE STATE BOARD OF EDUCATION TO EXERT THEIR LEADERSHIP TO PAVE THE WAY FOR ADOPTION AND IMPLEMENTATION OF THE RECOMMENDATIONS OF THE COMMISSIONER'S TASK FORCE ON INCLUSION AND ACCOUNTABILITY; URGING THE FLORIDA DEPARTMENT OF EDUCATION TO MAINTAIN CURRENT TRAINING STANDARDS FOR READING TEACHERS OF ENGLISH LANGUAGE LEARNERS ("ELLs") IN FLORIDA'S PUBLIC SCHOOLS; DIRECTING THE CITY CLERK TO TRANSMIT A COPY OF THIS RESOLUTION TO THE GOVERNOR, SENATE PRESIDENT, THE SPEAKER OF THE FLORIDA HOUSE, TO THE CHAIR AND MEMBERS OF THE MIAMI-DADE COUNTY LEGISLATIVE DELEGATION, THE CHAIRPERSON OF THE STATE BOARD OF EDUCATION, THE COMMISSIONER OF EDUCATION, AND TO THE EXECUTIVE BOARD OF THE**

MIAMI-DADE COUNTY LEAGUE OF CITIES; PROVIDING FOR CONFLICTS; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE

- C. A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF AVENTURA, FLORIDA DECLARING CERTAIN PROPERTY LISTED UNDER THE ASSETS OF THE CITY AS SURPLUS TO THE NEEDS OF THE CITY; DESCRIBING THE MANNER OF DISPOSAL; AUTHORIZING THE CITY MANAGER TO DO ALL THINGS NECESSARY TO CARRY OUT THE AIMS OF THIS RESOLUTION; AND PROVIDING AN EFFECTIVE DATE**
- D. A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF AVENTURA, FLORIDA AUTHORIZING THE CITY MANAGER TO EXECUTE THE ATTACHED AGREEMENT BETWEEN THE CITY OF AVENTURA AND PERFORMING ARTS CENTER AUTHORITY FOR MANAGEMENT, PROGRAMMING AND OPERATIONAL SUPPORT SERVICES FOR THE AVENTURA ARTS & CULTURAL CENTER; AUTHORIZING THE CITY MANAGER TO DO ALL THINGS NECESSARY TO CARRY OUT THE AIMS OF THIS RESOLUTION; AND PROVIDING AN EFFECTIVE DATE.**
- E. CITY COMMISSION, ACTING IN ITS CAPACITY AS THE GOVERNING BOARD FOR THE CITY OF AVENTURA CITY OF EXCELLENCE SCHOOL**

MOTION TO ACCEPT FOR FILING THE SPECIAL PURPOSE FINANCIAL REPORT FOR THE AVENTURA CITY OF EXCELLENCE SCHOOL FOR THE FISCAL YEAR ENDED JUNE 30, 2012 AND TO ACCEPT FOR FILING THAT LETTER DATED AUGUST 20, 2012 ATTACHED AS ATTACHMENT 1

- F. CITY COMMISSION, ACTING IN ITS CAPACITY AS THE GOVERNING BOARD FOR THE AVENTURA CITY OF EXCELLENCE SCHOOL**

MOTION TO ACCEPT AVENTURA CITY OF EXCELLENCE SCHOOL OUT-OF-FIELD WAIVERS AS OUTLINED IN THE CITY MANAGER'S MEMORANDUM DATED AUGUST 21, 2012

- 6. ZONING HEARINGS: QUASI-JUDICIAL PUBLIC HEARINGS** – Please be advised that the following items on the Commission's agenda are quasi-judicial in nature. If you wish to object or comment upon any of these items, please inform the Mayor when she requests public comments. An opportunity for persons to speak on each item will be made available after the applicant and staff have made their presentations on each item. All testimony, including public testimony and evidence, will be made under oath or affirmation. Additionally, each person who gives testimony may be subject to cross-examination. If you refuse either to be cross-examined or to be sworn, your testimony will be given its due weight. The general public will not be permitted to cross-examine

witnesses, but the public may request the Commission to ask questions of staff or witnesses on their behalf. Persons representing organizations must present evidence of their authority to speak for the organization. Further details of the quasi-judicial procedures may be obtained from the Clerk. None.

7. ORDINANCES: FIRST READING--PUBLIC INPUT:

- A. AN ORDINANCE OF THE CITY OF AVENTURA, FLORIDA PERTAINING TO USES PERMITTED AND DEVELOPMENT CRITERIA FOR DEVELOPMENT IN THE TOWN CENTER (TC1) ZONING DISTRICT; AMENDING SECTION 31-145(B) "TOWN CENTER ZONING DISTRICTS" OF ARTICLE VII "USE REGULATIONS" OF CHAPTER 31 "LAND DEVELOPMENT REGULATIONS" TO PERMIT A LIFESTYLE CENTER USE AS A PERMITTED USE IN THE TOWN CENTER (TC1) DISTRICT; PROVIDING FOR USE, DEVELOPMENT AND DESIGN STANDARDS FOR THE LIFESTYLE CENTER USE; PROVIDING FOR AMENDMENTS TO THE USES PERMITTED AND PROHIBITED WITHIN THE TOWN CENTER (TC1) ZONING DISTRICT; PROVIDING FOR SEVERABILITY; PROVIDING FOR INCLUSION IN THE CODE; PROVIDING FOR AN EFFECTIVE DATE.**

- B. AN ORDINANCE OF THE CITY OF AVENTURA, FLORIDA, AMENDING THE CODE OF ORDINANCES BY CHANGING ALL REFERENCES IN THE CODE FROM "SOUTH FLORIDA BUILDING CODE" TO "FLORIDA BUILDING CODE"; AMENDING SECTION 30-165 "GENERAL PROVISIONS" AND SECTION 30-167 "PROVISIONS FOR FLOOD HAZARD REDUCTION" OF ARTICLE IV "FLOODS" OF CHAPTER 30 "ENVIRONMENT" TO PROVIDE FOR INTERNAL CONSISTENCY AND UPDATED CROSS-REFERENCES; AMENDING ALL REFERENCES IN CHAPTER 31 "LAND DEVELOPMENT REGULATIONS" TO CHANGE THE REQUIREMENT OF AN "OWNERSHIP AND ENCUMBRANCE REPORT" TO AN "OPINION OF TITLE"; AMENDING SECTION 31-53 "AMENDMENTS TO THE COMPREHENSIVE PLAN" OF CHAPTER 31 "LAND DEVELOPMENT REGULATIONS" TO UPDATE A REFERENCE TO THE APPLICABLE SECTION OF THE FLORIDA STATUTES; AMENDING SECTION 31-79 "ADMINISTRATIVE SITE PLAN REVIEW" OF CHAPTER 31 "LAND DEVELOPMENT REGULATIONS" TO PROVIDE FOR TIME LIMITS TO COMPLETE THE PHASES OF DEVELOPMENT OF A PHASED SITE PLAN; AMENDING SECTION 31-171 "OFF-STREET PARKING AND LOADING STANDARDS" OF CHAPTER 31 "LAND DEVELOPMENT REGULATIONS" TO UPDATE THE PARKING STALL DIMENSION FIGURE AND TO ADD THE**

REQUIRED SIZE OF A PARALLEL PARKING SPACE; AMENDING SECTION 31-221, "LANDSCAPING REQUIREMENTS" TO UPDATE MINIMUM LANDSCAPE DESIGN STANDARDS FOR INTERIOR ISLANDS IN PARKING LOTS; AND AMENDING SECTION 31-239, "COMPLIANCE WITH COMPREHENSIVE PLAN" TO UPDATE THE LEVEL OF SERVICE STANDARDS FOR POTABLE WATER; PROVIDING FOR SEVERABILITY; PROVIDING FOR INCLUSION IN THE CODE; PROVIDING FOR AN EFFECTIVE DATE.

- C. AN ORDINANCE OF THE CITY OF AVENTURA, FLORIDA CREATING DIVISION 6 "ART IN PUBLIC PLACES ADVISORY BOARD" OF ARTICLE III "ADVISORY BOARDS" OF CHAPTER 2 "ADMINISTRATION" OF THE CITY CODE OF THE CITY OF AVENTURA, FLORIDA; ESTABLISHING ADVISORY BOARD AND PROVIDING FOR ITS DUTIES AND RESPONSIBILITIES; PROVIDING FOR SEVERABILITY; PROVIDING FOR INCLUSION IN CODE; PROVIDING FOR AN EFFECTIVE DATE**

8. ORDINANCES – SECOND READING – PUBLIC HEARING:

- A. AN ORDINANCE OF THE CITY OF AVENTURA, FLORIDA, AMENDING SECTION 31-144(f) "MEDICAL OFFICE (MO) DISTRICT" OF THE CITY'S LAND DEVELOPMENT REGULATIONS TO ADD "SELF SERVICE STORAGE FACILITIES WITH A MINIMUM LOT AREA OF 1.5 ACRES" AS A CONDITIONAL USE IN THE DISTRICT; PROVIDING FOR SEVERABILITY; PROVIDING FOR INCLUSION IN THE CODE; PROVIDING FOR AN EFFECTIVE DATE.**
- B. AN ORDINANCE OF THE CITY OF AVENTURA, FLORIDA, AMENDING SECTION 31-238 "ACCESSORY USES" OF THE CITY'S LAND DEVELOPMENT REGULATIONS TO ADD STANDARDS FOR INSTALLATION OF RENEWABLE ENERGY DEVICES AS AN ACCESSORY USE IN ALL ZONING DISTRICTS IN THE CITY; PROVIDING FOR WAIVER PROCEDURE; PROVIDING FOR SEVERABILITY; PROVIDING FOR INCLUSION IN THE CODE; PROVIDING FOR AN EFFECTIVE DATE.**

9. RESOLUTIONS – PUBLIC HEARING: None.

10. REPORTS

11. PUBLIC COMMENTS

12. OTHER BUSINESS: None.

13. ADJOURNMENT

FUTURE MEETINGS

COMMISSION MEETING	SEPTEMBER 4, 2012	6PM	COMMISSION CHAMBER
COMMISSION MEETING	SEPTEMBER 11, 2012	6PM	COMMISSION CHAMBER
1ST BUDGET HEARING			
COMMISSION MEETING	SEPTEMBER 19, 2012	6PM	COMMISSION CHAMBER
2ND BUDGET HEARING			
WORKSHOP MEETING	SEPTEMBER 20, 2012	9AM	5th FL. EX. CONFERENCE ROOM

This meeting is open to the public. In accordance with the Americans with Disabilities Act of 1990, all persons who are disabled and who need special accommodations to participate in this meeting because of that disability should contact the Office of the City Clerk, 305-466-8901, not later than two days prior to such proceeding. One or more members of the City of Aventura Advisory Boards may be in attendance and may participate at the meeting. Anyone wishing to appeal any decision made by the Aventura City Commission with respect to any matter considered at such meeting or hearing will need a record of the proceedings and, for such purpose, may need to ensure that a verbatim record of the proceedings is made, which record includes the testimony and evidence upon which the appeal is to be based. Agenda items may be viewed at the Office of the City Clerk, City of Aventura Government Center, 19200 W. Country Club Drive, Aventura, Florida, 33180. Anyone wishing to obtain a copy of any agenda item should contact the City Clerk at 305-466-8901.



**MINUTES
CITY COMMISSION MEETING
JULY 10, 2012 6 PM**

Aventura Government Center
19200 W. Country Club Drive
Aventura, Florida 33180

1. CALL TO ORDER/ROLL CALL: The meeting was called to order by Mayor Susan Gottlieb at 6:43 p.m. immediately following the 6 p.m. LPA meeting. Present were Commissioners Zev Auerbach, Bob Diamond, Billy Joel, Michael Stern, Luz Urbaz Weinberg, Vice Mayor Teri Holzberg, Mayor Gottlieb, City Manager Eric M. Soroka, City Clerk Teresa M. Soroka and City Attorney Alan Gabriel. As a quorum was determined to be present, the meeting commenced.

2. PLEDGE OF ALLEGIANCE: Led during LPA.

3. AGENDA: REQUESTS FOR DELETIONS/EMERGENCY ADDITIONS: None.

4. SPECIAL PRESENTATIONS: Mr. Soroka presented 15-year employee service awards to Police Department employees Olga Burns and Karyn Brinson. He then presented 10-year employee service awards to Police Department employees Michael Leoncini and Cesar Flores.

5. CONSENT AGENDA: A motion to approve the Consent Agenda was offered by Commissioner Joel, seconded by Commissioner Auerbach, passed unanimously and the following action was taken:

A. The following minutes were approved:
June 5, 2012 Commission Meeting
June 14, 2012 Commission Meeting
June 14, 2012 Workshop Meeting

B. **Resolution No. 2012-29** was adopted:

CITY COMMISSION, IN ITS CAPACITY AS THE AVENTURA CHARTER OF EXCELLENCE SCHOOL BOARD OF DIRECTORS:

A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF AVENTURA, FLORIDA AUTHORIZING THE CITY MANAGER TO EXECUTE THE ATTACHED THIRD AMENDMENT TO THE CHARTER SCHOOL CONTRACT FOR THE AVENTURA CITY OF EXCELLENCE SCHOOL BETWEEN THE CITY OF AVENTURA AND THE MIAMI-DADE COUNTY SCHOOL BOARD; AUTHORIZING THE CITY MANAGER TO DO ALL THINGS NECESSARY TO CARRY OUT THE AIMS OF THIS RESOLUTION; AND PROVIDING AN EFFECTIVE DATE.

C. **Resolution No. 2012-30** was adopted as follows:

A RESOLUTION OF THE CITY OF AVENTURA, FLORIDA, SUPPORTING THE MIAMI-DADE COUNTY LEAGUE OF CITIES' EFFORTS TO NEGOTIATE A NEW CHARTER COUNTY TRANSIT SYSTEM SURTAX INTERLOCAL AGREEMENT ON BEHALF OF THE MUNICIPALITIES IN MIAMI-DADE COUNTY; AUTHORIZING THE CITY MANAGER TO DO ALL THINGS NECESSARY TO CARRY OUT THE AIMS OF THIS RESOLUTION; AND PROVIDING FOR AN EFFECTIVE DATE.

D. Resolution No. 2012-31 was adopted as follows:

A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF AVENTURA, FLORIDA DECLARING CERTAIN PROPERTY LISTED UNDER THE ASSETS OF THE CITY AS SURPLUS TO THE NEEDS OF THE CITY; DESCRIBING THE MANNER OF DISPOSAL; AUTHORIZING THE CITY MANAGER TO DO ALL THINGS NECESSARY TO CARRY OUT THE AIMS OF THIS RESOLUTION; AND PROVIDING AN EFFECTIVE DATE.

E. Resolution No. 2012-32 was adopted as follows:

A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF AVENTURA, FLORIDA AUTHORIZING THE CITY MANAGER TO EXECUTE THE ATTACHED BASIC SERVICES AGREEMENT BETWEEN THE CITY OF AVENTURA AND PGAL ARCHITECTS TO PERFORM ARCHITECTURAL AND ENGINEERING SERVICES TO DESIGN AND PERMIT THE CITY'S GOVERNMENT CENTER PARKING EXPANSION PROJECT IN ACCORDANCE WITH RFQ NO. 11-9-21-2; AUTHORIZING THE CITY MANAGER TO DO ALL THINGS NECESSARY TO CARRY OUT THE AIMS OF THIS RESOLUTION; AND PROVIDING AN EFFECTIVE DATE.

F. The following motion was approved:

MOTION AUTHORIZING THE APPROPRIATION OF UP TO \$39,587 FOR POLICE TRAINING FACILITY BUILD OUT PROJECT, CHANGE ORDER NO. 1 FROM THE POLICE STATE FORFEITURE FUNDS IN ACCORDANCE WITH THE CITY MANAGER'S MEMORANDUM

- 6. ZONING HEARINGS: QUASI-JUDICIAL PUBLIC HEARINGS** — Please be advised that the following items on the Commission's agenda are quasi-judicial in nature. If you wish to object or comment upon any of these items, please inform the Mayor when she requests public comments. An opportunity for persons to speak on each item will be made available after the applicant and staff have made their presentations on each item. All testimony, including public testimony and evidence, will be made under oath or affirmation. Additionally, each person who gives testimony may be subject to cross-examination. If you refuse either to be cross-examined or to be sworn, your testimony

will be given its due weight. The general public will not be permitted to cross-examine witnesses, but the public may request the Commission to ask questions of staff or witnesses on their behalf. Persons representing organizations must present evidence of their authority to speak for the organization. Further details of the quasi-judicial procedures may be obtained from the Clerk.

Mr. Gabriel advised that this matter is quasi-judicial in nature, reviewed the procedures, and ex parte communications, if any were disclosed in accordance with the quasi-judicial procedures. He then read the following resolution by title:

A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF AVENTURA, FLORIDA GRANTING APPROVAL OF A VARIANCE FROM SECTION 31-147(a)(3) OF THE CITY'S LAND DEVELOPMENT REGULATIONS TO ALLOW A 16'8" WIDE SIDE STREET YARD SETBACK, WHERE A MINIMUM 30' WIDE SIDE STREET YARD SETBACK IS REQUIRED BY CODE; AND GRANTING APPROVAL OF A VARIANCE FROM SECTION 31-147(a)(3) OF THE CITY'S LAND DEVELOPMENT REGULATIONS TO ALLOW A 3' WIDE REAR YARD SETBACK, WHERE A MINIMUM 20' WIDE REAR YARD SETBACK IS REQUIRED BY CODE; FOR THE AVENTURA GOVERNMENT CENTER PARKING GARAGE TO BE LOCATED AT 19200 WEST COUNTRY CLUB DRIVE, CITY OF AVENTURA; PROVIDING FOR AN EFFECTIVE DATE.

After being sworn in by Mrs. Soroka with all other interested parties wishing to offer testimony, Community Development Director Joanne Carr addressed the Commission and entered the staff report into the record. A motion for approval was offered by Commissioner Stern and seconded by Commissioner Weinberg. Mayor Gottlieb opened the public hearing. There being no speakers, the public hearing was closed. The motion for approval passed unanimously and **Resolution No. 2012-33** was adopted.

7. ORDINANCES: FIRST READING/PUBLIC HEARING:

A. Mr. Gabriel read the following ordinance by title:

AN ORDINANCE OF THE CITY OF AVENTURA, FLORIDA, AMENDING SECTION 31-144(f) "MEDICAL OFFICE (MO) DISTRICT" OF THE CITY'S LAND DEVELOPMENT REGULATIONS TO ADD "SELF SERVICE STORAGE FACILITIES WITH A MINIMUM LOT AREA OF 1.5 ACRES" AS A CONDITIONAL USE IN THE DISTRICT; PROVIDING FOR SEVERABILITY; PROVIDING FOR INCLUSION IN THE CODE; PROVIDING FOR AN EFFECTIVE DATE.

A motion for approval was offered by Commissioner Joel, and seconded by Commissioner Weinberg. Mayor Gottlieb opened the public hearing. There being no speakers, the public hearing was closed. The motion for approval passed unanimously by roll call vote.

- B. Mr. Gabriel read the following ordinance by title:

AN ORDINANCE OF THE CITY OF AVENTURA, FLORIDA, AMENDING SECTION 31-238 "ACCESSORY USES" OF THE CITY'S LAND DEVELOPMENT REGULATIONS TO ADD STANDARDS FOR INSTALLATION OF RENEWABLE ENERGY DEVICES AS AN ACCESSORY USE IN ALL ZONING DISTRICTS IN THE CITY; PROVIDING FOR WAIVER PROCEDURE; PROVIDING FOR SEVERABILITY; PROVIDING FOR INCLUSION IN THE CODE; PROVIDING FOR AN EFFECTIVE DATE.

A motion for approval was offered by Commissioner Weinberg and seconded by Commissioner Joel. Mayor Gottlieb opened the public hearing. There being no speakers, the public hearing was closed. The motion for approval passed 6-1 by roll call vote with Mayor Gottlieb voting no.

- C. **CITY COMMISSION, ACTING IN ITS CAPACITY AS THE CITY OF AVENTURA CHARTER SCHOOL BOARD OF DIRECTORS:** Mr. Gabriel read the following ordinance by title:

AN ORDINANCE OF THE CITY COMMISSION OF THE CITY OF AVENTURA, FLORIDA, AMENDING ORDINANCE NO. 2012-05, WHICH ORDINANCE ADOPTED A CHARTER SCHOOL OPERATING AND CAPITAL BUDGET FOR THE AVENTURA CITY OF EXCELLENCE SCHOOL FOR FISCAL YEAR 2012/2013 (JULY 1 – JUNE 30) BY REVISING THE 2012/2013 FISCAL YEAR BUDGET DOCUMENT AS OUTLINED IN EXHIBIT "A" ATTACHED HERETO; AUTHORIZING THE CITY MANAGER TO DO ALL THINGS NECESSARY TO CARRY OUT THE AIMS OF THIS ORDINANCE; PROVIDING FOR AN EFFECTIVE DATE.

A motion for approval was offered by Commissioner Auerbach and seconded by Commissioner Diamond. Mayor Gottlieb opened the public hearing. There being no speakers, the public hearing was closed. The motion for approval passed unanimously by roll call vote.

8. ORDINANCES: SECOND READING/PUBLIC HEARING:

- A. Mr. Gabriel read the following ordinance by title:

AN ORDINANCE OF THE CITY OF AVENTURA, FLORIDA, AMENDING THE COMPREHENSIVE MASTER PLAN BY AMENDING THE FUTURE LAND USE MAP DESIGNATION FOR PROPERTY LOCATED AT 3250 NE 188 STREET, MORE PARTICULARLY DESCRIBED IN EXHIBIT "A", FROM BUSINESS AND OFFICE TO MEDIUM HIGH DENSITY

RESIDENTIAL; PROVIDING FOR TRANSMITTAL TO THE FLORIDA DEPARTMENT OF ECONOMIC OPPORTUNITY UNDER CHAPTER 163, PART II, FLORIDA STATUTES; AND PROVIDING FOR AN EFFECTIVE DATE.

A motion for approval, including the incorporation by reference into this hearing of all amendments and testimony, written and verbal, relative to this item given at the preceding Local Planning Agency meeting, was offered by Vice Mayor Holzberg and seconded by Commissioner Joel. Mayor Gottlieb opened the public hearing. There being no speakers, the public hearing was closed. The motion for approval passed unanimously by roll call vote and **Ordinance No. 2012-07** was enacted.

B. Mr. Gabriel read the following ordinance by title:

AN ORDINANCE OF THE CITY OF AVENTURA, FLORIDA, AMENDING THE OFFICIAL ZONING MAP OF THE CITY OF AVENTURA BY AMENDING THE ZONING DESIGNATION FOR A PARCEL OF LAND LOCATED AT 3250 NE 188 STREET AS MORE PARTICULARLY DESCRIBED IN EXHIBIT A, FROM OP, OFFICE PARK DISTRICT TO RMF3B, MULTIFAMILY MEDIUM DENSITY RESIDENTIAL DISTRICT; PROVIDING FOR SEVERABILITY; PROVIDING FOR INCLUSION IN THE CODE; PROVIDING FOR AN EFFECTIVE DATE.

A motion for approval, including the incorporation by reference into this hearing of all amendments and testimony, written and verbal, relative to this item given at the preceding Local Planning Agency meeting, was offered by Commissioner Auerbach and seconded by Commissioner Diamond. Mayor Gottlieb opened the public hearing. There being no speakers, the public hearing was closed. The motion for approval passed unanimously by roll call vote and **Ordinance No. 2012-08** was enacted.

9. **RESOLUTIONS – PUBLIC HEARING:** Mr. Gabriel read the following resolution by title:

A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF AVENTURA, FLORIDA, ACCEPTING AND ADOPTING IN PRINCIPLE, SUBJECT TO ANNUAL REVISION AND AUTHORIZATION, THE CITY OF AVENTURA CAPITAL IMPROVEMENT PROGRAM DOCUMENT FOR FISCAL YEAR 2012/13 TO 2016/17 AUTHORIZING THE CITY MANAGER TO DO ALL THINGS NECESSARY TO CARRY OUT THE AIMS OF THIS RESOLUTION; AND PROVIDING AN EFFECTIVE DATE.

A motion for approval was offered by Commissioner Auerbach and seconded by Commissioner Diamond. Mayor Gottlieb opened the public hearing. There being

no speakers, the public hearing was closed. The motion for approval passed unanimously and **Resolution No. 2012-34** was adopted.

10. **REPORTS:** As presented.
11. **PUBLIC COMMENTS:** Rosa Naccarato, Admirals Port; Howard Weinberg, Parc Central.
12. **OTHER BUSINESS:** None.
13. **ADJOURNMENT:** There being no further business to come before the Commission at this time, after motion made, seconded and unanimously passed, the meeting adjourned at 7:20 p.m.

Teresa M. Soroka, MMC, City Clerk

Approved by the Commission on _____.

Anyone wishing to appeal any decision made by the City Commission with respect to any matter considered at a meeting or hearing will need a record of the proceedings and, for such purpose, may need to ensure that a verbatim record of the proceedings is made, which record includes the testimony and evidence upon which the appeal is to be based.



**MINUTES
COMMISSION MEETING
JULY 19, 2012 9 AM**

Aventura Government Center
19200 W. Country Club Drive
Aventura, Florida 33180

1. **CALL TO ORDER/ROLL CALL.** The meeting was called to order at 9:00 a.m. by Mayor Susan Gottlieb. Present were Commissioners Bob Diamond, Billy Joel, Michael Stern, Luz Urbáez Weinberg, Vice Mayor Teri Holzberg, Mayor Gottlieb, City Manager Eric M. Soroka, City Clerk Teresa M. Soroka and City Attorney David M. Wolpin. Commissioner Zev Auerbach was absent. As a quorum was determined to be present, the meeting commenced.

2. **OVERVIEW AND REVIEW OF PROPOSED BUDGET:** Mr. Soroka reviewed the highlights of the budget process for the upcoming year as outlined in his budget message. He then reviewed the proposed 2012/2013 budget document, as follows:

A. GENERAL FUND, including Revenues, General Government Departments (City Commission, City Manager, Finance, Information Technology, Legal, City Clerk), Public Safety Department, Community Development Department, Community Services Department, Arts & Cultural Center, Non-Departmental and Capital Outlay.

A motion for approval of the General Fund Budget Revenues was offered by Commissioner Joel, seconded by Commissioner Diamond, and unanimously passed.

A motion for approval of the City Commission budget was offered by Commissioner Weinberg, seconded by Vice Mayor Holzberg, and unanimously passed.

A motion to approve the City Manager budget was offered by Commissioner Stern, seconded by Commissioner Joel, and unanimously passed.

A motion to approve the Legal Department budget was offered by Commissioner Diamond, seconded by Vice Mayor Holzberg, and unanimously passed.

A motion to approve the City Clerk budget was offered by Commissioner Joel, seconded by Commissioner Diamond, and unanimously passed.

A motion to approve the Finance Department budget was offered by Commissioner Weinberg, seconded by Commissioner Stern, and unanimously passed.

A motion to approve the Information Technology budget was offered by Commissioner Stern, seconded by Commissioner Diamond, and unanimously passed.

A motion to approve the Public Safety budget was offered by Commissioner Joel, seconded by Commissioner Weinberg, and unanimously passed.

A motion to approve the Community Development Department budget was offered by Commissioner Diamond, seconded by Vice Mayor Holzberg, and unanimously passed.

A motion to approve the Community Services Department budget was offered by Commissioner Stern, seconded by Commissioner Weinberg, and unanimously passed.

A motion to approve the Arts & Cultural Center Department budget was offered by Commissioner Joel, seconded by Commissioner Diamond, and unanimously passed.

A motion to approve the Non-Departmental budget was offered by Vice Mayor Holzberg, seconded by Commissioner Joel, and unanimously passed.

- A motion to approve the Capital Outlay budget was offered by Commissioner Diamond, seconded by Commissioner Stern, and unanimously passed.

B. Mr. Wolpin read the following resolution by title:

A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF AVENTURA, FLORIDA, ESTABLISHING A PROPOSED MILLAGE RATE FOR THE 2012/2013 FISCAL YEAR; PROVIDING FOR THE DATE, TIME AND PLACE OF THE PUBLIC HEARING TO CONSIDER THE PROPOSED MILLAGE RATE AND TENTATIVE BUDGET; AND PROVIDING FOR AN EFFECTIVE DATE.

A motion for approval of the resolution, which establishes a millage rate for the 2012/13 fiscal year of 1.7261 per \$1,000 of taxable assessed value, was offered by Vice Mayor Holzberg, and seconded by Commissioner Weinberg. The motion unanimously passed and **Resolution No. 2012-35** was adopted.

Mr. Soroka announced the dates of the Budget Hearings as September 11, 2012 and September 19, 2012, both at 6 p.m. in the Commission Chamber of the Aventura Government Center, 19200 West Country Club Drive, Aventura, FL.

C. POLICE EDUCATION FUND: A motion for approval was offered by Commissioner Diamond, seconded by Commissioner Joel, and unanimously passed.

D. TRANSPORTATION AND STREET MAINTENANCE FUND: A motion for approval was offered by Commissioner Joel, seconded by Commissioner Stern, and unanimously passed.

E. POLICE CAPITAL OUTLAY IMPACT FEE FUND: A motion for approval was offered by Vice Mayor Holzberg, seconded by Commissioner Stern, and unanimously passed.

F. PARK DEVELOPMENT FUND: A motion for approval was offered by Commissioner Stern, seconded by Commissioner Joel, and unanimously passed.

G. 911 FUND: A motion for approval was offered by Commissioner Weinberg, seconded by Commissioner Diamond, and unanimously passed.

H. DEBT SERVICE FUND: A motion for approval was offered by Vice Mayor Holzberg, seconded by Commissioner Stern, and unanimously passed.

I. STORMWATER UTILITY FUND: A motion for approval was offered by Commissioner Joel, seconded by Commissioner Diamond, and unanimously passed.

J. POLICE OFF-DUTY SERVICES FUND: A motion for approval was offered by Commissioner Stern, seconded by Commissioner Weinberg, and unanimously passed.

3. ORDINANCE – SECOND READING: PUBLIC HEARING

CITY COMMISSION, ACTING IN ITS CAPACITY AS THE CITY OF AVENTURA CHARTER SCHOOL BOARD OF DIRECTORS: Mr. Wolpin read the following ordinance by title:

AN ORDINANCE OF THE CITY COMMISSION OF THE CITY OF AVENTURA, FLORIDA, AMENDING ORDINANCE NO. 2012-05, WHICH ORDINANCE ADOPTED A CHARTER SCHOOL OPERATING AND CAPITAL BUDGET FOR THE AVENTURA CITY OF EXCELLENCE SCHOOL FOR FISCAL YEAR 2012/2013 (JULY 1 – JUNE 30) BY REVISING THE 2012/2013 FISCAL YEAR BUDGET DOCUMENT AS OUTLINED IN EXHIBIT “A” ATTACHED HERETO; AUTHORIZING THE CITY MANAGER TO DO ALL THINGS NECESSARY TO CARRY OUT THE AIMS OF THIS ORDINANCE; PROVIDING FOR AN EFFECTIVE DATE.

A motion for approval was offered by Vice Mayor Holzberg, and seconded by Commissioner Stern. Mayor Gottlieb opened the public hearing. There being no speakers, the public hearing was closed. The motion for approval passed unanimously by roll call vote and **Ordinance No. 2012-09** was enacted.

4. RESOLUTION: Mr. Wolpin read the following resolution by title:

A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF AVENTURA, FLORIDA AUTHORIZING THE CITY MANAGER TO EXECUTE THE ATTACHED INTERLOCAL AGREEMENT BETWEEN THE CITY OF AVENTURA AND MIAMI-DADE COUNTY AND ALL CO-PERMITTEES NAMED IN NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM PERMIT NO. FLS000003-003 PROVIDING FOR PERFORMANCE OF PROFESSIONAL SERVICES BY MIAMI-DADE COUNTY, AND ALSO BETWEEN ALL CO-PERMITTEES PROVIDING FOR IDENTIFICATION AND CONTROL OF POLLUTANT DISCHARGES IN SHARED MUNICIPAL SEPARATE STORM SEWER SYSTEMS; AUTHORIZING THE CITY MANAGER TO DO ALL THINGS NECESSARY TO CARRY OUT THE AIMS OF THIS RESOLUTION; AND PROVIDING AN EFFECTIVE DATE.

A motion for approval was offered by Commissioner Stern, and seconded by Commissioner Weinberg. The motion for approval passed unanimously by roll call vote and **Resolution No. 2012-36** was adopted.

Mr. Wolpin requested an attorney-client session, to be scheduled in the future, in the matter of Masone v. City of Aventura.

5. ADJOURNMENT: There being no further business to come before the Commission, the meeting adjourned at 9:24 a.m.

This meeting is open to the public. In accordance with the Americans with Disabilities Act of 1990, all persons who are disabled and who need special accommodations to participate in this meeting because of that disability should contact the Office of the City Clerk, 305-466-8901, not later than two days prior to such proceeding. One or more members of the City of Aventura Advisory Boards may be in attendance and may participate at the meeting. Anyone wishing to appeal any decision made by the Aventura City Commission with respect to any matter considered at such meeting or hearing will need a record of the proceedings and, for such purpose, may need to ensure that a verbatim record of the proceedings is made, which record includes the testimony and evidence upon which the appeal is to be based. Agenda items may be viewed at the Office of the City Clerk, City of Aventura Government Center, 19200 W. Country Club Drive, Aventura, Florida, 33180. Anyone wishing to obtain a copy of any agenda item should contact the City Clerk at 305-466-8901.



MINUTES
CITY COMMISSION
WORKSHOP MEETING
JULY 19, 2012
Following 9am Meeting

Aventura Government Center
19200 W. Country Club Drive
Aventura, Florida 33180

CALL TO ORDER/ROLL CALL: The meeting was called to order at 9:24 a.m. by Mayor Susan Gottlieb. Present were Commissioners Zev Auerbach, Bob Diamond, Billy Joel, Michael Stern, Luz Urbacz Weinberg, Vice Mayor Teri Holzberg, Mayor Gottlieb, City Manager Eric M. Soroka, City Clerk M. Teresa Soroka and City Attorney David M. Wolpin. As a quorum was determined to be present, the meeting commenced.

1. **PROPOSED RESOLUTION URGING THE STATE TO TAKE ACTION TO ENSURE RECOMMENDATIONS OF THE EDUCATION TASK FORCE ARE ADOPTED** (Commissioner Weinberg): Commissioner Weinberg provided background to this request and introduced Rosaline Kassel, representing LULAC, who also urged Commission action.
CITY MANAGER SUMMARY: Consensus to proceed with consideration of resolution at September meeting and add to legislative agenda.
2. **PROPOSED TEXT AMENDMENT TO TC1 ZONING DISTRICT TO ADD "LIFESTYLE CENTER" AS PERMITTED USE** (City Manager): Community Development Director Joanne Carr addressed the Commission and explained the proposed amendment. Jeff Bercow, Esq., Michael Marrero, Esq., Tom Ziegenhard and George Redu, representing Turnberry Associates, addressed the Commission
CITY MANAGER SUMMARY: Consensus to proceed with ordinance providing text amendment and include determination of maximum size of anchor store, more specifically define "upscale" and limit drive-thru businesses to outparcels. Place for consideration on September agenda.
3. **PROPOSED GENERAL HOUSEKEEPING UPDATES TO THE CITY CODE** (City Manager): Mrs. Carr reviewed the proposed housekeeping updates to the City Code.
CITY MANAGER SUMMARY: Consensus to proceed as recommended and place for consideration on September agenda.
4. **PROPOSED ORDINANCE CREATING ART IN PUBLIC PLACES ADVISORY BOARD** (City Attorney): Mr. Wolpin reviewed proposed legislation, in accordance with Commission direction, to establish this Advisory Board.
CITY MANAGER SUMMARY: Consensus to proceed as recommended with the following amendments: Sec. 2-205(c) The Board shall meet as needed or determined by the City Manager. Sec. 202-2(B)(i) delete "who have owned or operated art galleries or otherwise". Place for consideration on September agenda.

RESOLUTION NO. 2012-__

A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF AVENTURA, FLORIDA URGING THE GOVERNOR AND THE STATE BOARD OF EDUCATION TO EXERT THEIR LEADERSHIP TO PAVE THE WAY FOR ADOPTION AND IMPLEMENTATION OF THE RECOMMENDATIONS OF THE COMMISSIONER'S TASK FORCE ON INCLUSION AND ACCOUNTABILITY; URGING THE FLORIDA DEPARTMENT OF EDUCATION TO MAINTAIN CURRENT TRAINING STANDARDS FOR READING TEACHERS OF ENGLISH LANGUAGE LEARNERS ("ELLs") IN FLORIDA'S PUBLIC SCHOOLS; DIRECTING THE CITY CLERK TO TRANSMIT A COPY OF THIS RESOLUTION TO THE GOVERNOR, SENATE PRESIDENT, THE SPEAKER OF THE FLORIDA HOUSE, TO THE CHAIR AND MEMBERS OF THE MIAMI-DADE COUNTY LEGISLATIVE DELEGATION, THE CHAIRPERSON OF THE STATE BOARD OF EDUCATION, THE COMMISSIONER OF EDUCATION, AND TO THE EXECUTIVE BOARD OF THE MIAMI-DADE COUNTY LEAGUE OF CITIES; PROVIDING FOR CONFLICTS; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, a Task Force was established by the Commissioner of Education to devise ways to fairly, fully, and accurately include students in Exceptional Student Education programs and English Language Learners in the state accountability system and did so; and

WHEREAS, only part of one recommendation for English Language Learners and only 5 of 35 recommendations overall were brought by the Commissioner to the State Board of Education for action at its May 10, 2012 meeting; and

WHEREAS, the results of the current accountability system rules are not fair or accurate for Special Populations but nonetheless threaten grave consequences for students, schools and communities, such as increased failure rates for students, increased numbers of dropouts, inaccurate results on teacher evaluations, lower School

Report Card grades disproportionately applied to districts with large populations of English Language Learners or students in Special Education programs, school closures, reduced property values, and disincentives for business relocation; and

WHEREAS, the Florida Department of Education maintains the FCAT and current accountability system bring hope to students; yet a child who does not graduate because of inappropriate assessment and accountability procedures has no reason to hope for a successful future; and

WHEREAS, this Commission, like the Florida School Boards Association, is not against accountability, just against the provisions of the current accountability system that are counterproductive when applied to Special Populations; and

WHEREAS, Governor Rick Scott declared that our education system must be able to measure and benchmark students' progress so that clear education goals can be set and Governor Scott called for review of FCAT issues and an action plan; and

WHEREAS, the accountability action plan for Special Populations already exists that will more accurately and fairly benchmark progress but the Task Force recommendations that constitute the action plan have been ignored; and

WHEREAS, according to school district superintendents, the Florida Education Association, and professional education organizations, the Task Force recommendations are more just and would yield more accurate results than the means currently included in the state's rule for school accountability, and

WHEREAS, requests for consideration of the Task Force Recommendations from elected officials, from highly respected community based organizations (such as ASPIRA, the Institute for Mexicans in the Exterior, LULAC Florida, the Florida

Conference of the NAACP, the National Association of Cuban American Educators, SALAD, and Sant La), from parents and concerned citizens, and from educators have been disregarded; and

WHEREAS, without Task Force recommendations as amendments to the current accountability policies, schools are not responsible for their English Language Learners' progress in English Language Acquisition, and schools that have no contact with Special Education students would be held responsible for their academic progress; and

WHEREAS, failure to put the Task Force recommendations into practice would cause great harm to our most vulnerable students, their families, communities, and schools; and

WHEREAS, it is the view of this Commission that moving ahead with the recommendations of the Commissioner's Task Force on Inclusion and Accountability is in the best interests of the citizens and residents of Aventura, Florida; and

WHEREAS, in 1990, the United States District Court for the Southern District of Florida, Miami Division, Case No. 90-1913, issued a Consent Decree in *LULAC v. Florida Board of Education*, calling for equal access to all education programs for ELL students, including a mandate for ESOL Endorsement for all teachers of the English language to ELL students; and

WHEREAS, in 2007 and 2008 legislative efforts to weaken the training requirements for reading teachers of ELL students failed, but a current administrative move by the Florida Department of Education again threatens to reduce training requirements; and

WHEREAS, Section 1003.56, Florida Statutes, entitled "English language

instruction for limited English proficient students”, is designed to develop the student’s mastery of the four language skills, including listening, speaking, reading, and writing, as rapidly as possible; and

WHEREAS, the City Commission of the City of Aventura, Florida (the “City”) desires for all children to read English, wants teachers well prepared to teach them to read, and wants monitoring to ensure compliance with the requirements stated in the Consent Decree, referenced above; and

WHEREAS, it makes no sense to withdraw support from children who are already struggling; and

WHEREAS, not supporting appropriate training would violate the intent of the Consent Decree; and

WHEREAS, at a time when we must strive to be as competitive as possible in the quickly changing global economy and are raising the bar for student performance expectations, we cannot afford to lower the bar of expectations and training for our highly qualified teachers; and

WHEREAS, the City deems the maintenance of the continued training standards for reading teachers of English Language Learners to be in the best interests of the citizens and residents of the City of Aventura.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COMMISSION OF THE CITY OF AVENTURA, FLORIDA AS FOLLOWS:

Section 1. The foregoing “WHEREAS” clauses are confirmed and ratified as being true and correct and are hereby incorporated herein.

Section 2. The City Commission hereby urges Governor Scott and the State

Board of Education to exert their leadership to pave the way for adoption and implementation of the recommendations of the Commissioner's Task Force on Inclusion and Accountability.

Section 3. The City Commission hereby urges the Florida Department to Education to maintain current training standards for reading teachers of English Language Learners in Florida's public schools.

Section 4. The City Clerk is hereby directed to send a copy of this resolution to the Governor, the Senate President, the Speaker of The Florida House, to the Chair and Members of the Miami-Dade County Legislative Delegation, the Chairperson of the State Board of Education, the Commissioner of Education, and to the Executive Board of the Miami-Dade County League of Cities.

Section 5. All resolutions or parts of resolutions in conflict herewith are hereby repealed to the extent of such conflict.

Section 6. If any clause, section, other part or application of this Resolution is held by any court of competent jurisdiction to be unconstitutional or invalid, in part or application, it shall not affect the validity of the remaining portions or applications of this Resolution.

Section 7. This Resolution shall become effective immediately upon its passage and adoption.

The foregoing Resolution was offered by Commissioner _____, who moved its adoption. The motion was seconded by Commissioner _____, and upon being put to a vote, the vote was as follows:

Commissioner Zev Auerbach	_____
Commissioner Bob Diamond	_____
Commissioner Billy Joel	_____
Commissioner Michael Stern	_____
Commissioner Luz Urbaez-Weinberg	_____
Vice Mayor Teri Holzberg	_____
Mayor Susan Gottlieb	_____

PASSED AND ADOPTED this 4th day of September, 2012.

SUSAN GOTTLIEB, MAYOR.

ATTEST:

TERESA M. SOROKA, MMC
CITY CLERK

APPROVED AS TO LEGAL SUFFICIENCY:

CITY ATTORNEY

CITY OF AVENTURA
OFFICE OF THE CITY MANAGER

MEMORANDUM

TO: City Commission

FROM: Eric M. Soroka, ICMA-CM, City Manager 

DATE: July 31, 2012

SUBJECT: **Resolution Declaring Equipment Surplus**

September 4, 2012 Commission Meeting Agenda Item 5C

RECOMMENDATION

It is recommended that the City Commission adopt the attached Resolution declaring certain equipment as surplus to the needs of the City.

BACKGROUND

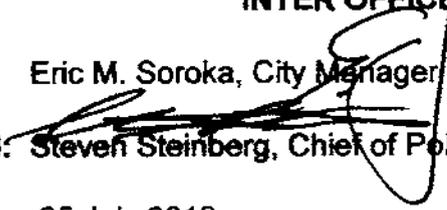
Section 2-258 of the City Code of Ordinances provides that any property owned by the City which has become obsolete or which has outlived its usefulness may be disposed of in accordance with procedures established by the City Manager, so long as the property has been declared surplus by a resolution of the City Commission.

If you have any questions, please feel free to contact me.

EMS/act

Attachment

**CITY OF AVENTURA
POLICE DEPARTMENT
INTER OFFICE MEMORANDUM**

TO: Eric M. Soroka, City Manager
FROM:  Steven Steinberg, Chief of Police
DATE: 25 July 2012
SUBJECT: Surplus Property

I would like to have the below listed items, owned by the City of Aventura, declared Surplus Property as per City of Aventura APDP, Chapter 6, Subsection 5, Page 1, as these items have become inadequate for public purposes:

See attached list; items to be surplused are highlighted in pink.

The items are sections of old modular office furniture removed from the 3rd floor offices of PD employees to make room for the training center build out.

These items are no longer serviceable and/or useful.

RESOLUTION NO. 2012-___

A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF AVENTURA, FLORIDA DECLARING CERTAIN PROPERTY LISTED UNDER THE ASSETS OF THE CITY AS SURPLUS TO THE NEEDS OF THE CITY; DESCRIBING THE MANNER OF DISPOSAL; AUTHORIZING THE CITY MANAGER TO DO ALL THINGS NECESSARY TO CARRY OUT THE AIMS OF THIS RESOLUTION; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the City Manager desires to declare certain property as surplus to the needs of the City; and

WHEREAS, Ordinance No. 2000-09 provides that all City-owned property that has been declared surplus cannot be disposed of prior to the preparation and formal approval of a resolution by the City Commission.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COMMISSION OF THE CITY OF AVENTURA, FLORIDA, THAT:

Section 1. Recitals Adopted. The above recitals are hereby confirmed and adopted herein.

Section 2. The property listed on Exhibit "A" has been declared surplus and is hereby approved for disposal.

Section 3. The City Manager is authorized to dispose of the property listed on Exhibit "A" through a public auction, sale, trade-in, transfer to other governmental agency or, if of no value, discarded.

Section 4. The City Manager is hereby authorized to do all things necessary to carry out the aims of this Resolution.

Section 5. This Resolution shall become effective immediately upon its adoption.

The foregoing Resolution was offered by Commissioner _____, who moved its adoption. The motion was seconded by Commissioner _____, and upon being put to a vote, the vote was as follows:

Commissioner Zev Auerbach	_____
Commissioner Bob Diamond	_____
Commissioner Billy Joel	_____
Commissioner Michael Stern	_____
Commissioner Luz Urbaez-Weinberg	_____
Vice Mayor Teri Holzberg	_____
Mayor Susan Gottlieb	_____

PASSED AND ADOPTED this 4th day of September, 2012.

SUSAN GOTTLIEB, MAYOR

ATTEST:

TERESA M. SOROKA, MMC
CITY CLERK

APPROVED AS TO LEGAL SUFFICIENCY:

CITY ATTORNEY

Project Analysis - City of Aventura Phase I Project Analysis

Part Number	Part Description	Man...	Options	Total Required	New Required	Balance 1	Reuse 1
C2C2736C	Calibre Cabinet, 1 adjustable shelf, with doors, 36Wx27H, with lock	KFS	...	1	0	0	1
EC2OP42	Overhead Cabinet, 42W, painted	KGS	...	0	0	2	0
EC2OP48	Overhead Cabinet, 48W, painted	KGS	...	2	0	2	2
EC2OP60	Overhead Cabinet, 60W, painted	KGG	...	2	2	0	0
EC2OP60	Overhead Cabinet, 60W, painted	KGS	...	2	0	4	2
ED2MPA24	Mobile Pedestal, (6/6/12), 15Wx23Dx27H	KGS	...	0	0	2	0
ED2PA24	Freestanding Pedestal, (6/6/12), 24D	KGS	...	2	0	1	2
ED2PA30	Freestanding Pedestal, (6/6/12), 30D	KGS	...	0	0	2	0
ED2PB24	Freestanding Pedestal, (12/12), 24D	KGS	...	2	0	1	2
EE1BI-8	Base Infeed Module 8-Wire, 54", E Series	KGS	...	4	0	2	4
EE1C108-8	Conduit Jumper, 8-Wire, 101-1/2L, E Series	KGS	...	1	0	0	1
EE1C132-8	Conduit Jumper, 8-Wire, 125-1/2L, E Series	KGS	...	0	0	1	0
EE1C27-8	Conduit Jumper, 8-Wire, 20-1/2L, E Series	KGS	...	0	0	2	0
EE1C33-8	Conduit Jumper, 8-Wire, 26-1/2L, E Series	KGS	...	0	0	4	0
EE1C36-8	Conduit Jumper, 8-Wire, 29-1/2L, E Series	KGS	...	2	0	1	2
EE1C39-8	Conduit Jumper, 8-Wire, 32-1/2L, E Series	KGS	...	2	0	6	2
EE1C42-8	Conduit Jumper, 8-Wire, 35-1/2L, E Series	KGS	...	0	0	2	0
EE1C45-8	Conduit Jumper, 8-Wire, 38-1/2L, E Series	KGS	...	0	0	2	0
EE1C48-8	Conduit Jumper, 8-Wire, 41-1/2L, E Series	KGS	...	2	0	0	2
EE1R1	Duplex Receptacle, Circuit #1, E Series	KGS	...	3	1	0	2
EE1R2	Duplex Receptacle, Circuit #2, E Series	KGS	...	5	0	5	5
EE1R3	Duplex Receptacle, Circuit #3, E Series	KGS	...	0	0	8	0
EE1R3D	Duplex Receptacle, Circuit #3, E Series, Dedicated for 2+2	KGS	...	4	0	7	4
EE1TB-8	Terminal Block, 8-Wire, E Series	KGS	...	11	0	19	11
EP1DL36L	Door Panel, left-handed, 36Wx80H, laminate	KGS	...	0	0	4	0
EP1DP4065	Dual Height Post, 40/65	KGS	...	1	0	1	1
EP1DP4080	Dual Height Post, 40/80	KGS	...	0	0	8	0
EP1FA2465R	Fabric Panel, 24Wx65H	KGS	...	0	0	2	0
EP1FA2480R	Fabric Panel, 24Wx80H	KGS	...	1	0	3	1
EP1FA3040R	Fabric Panel, 30Wx40H	KGS	...	1	0	3	1
EP1FA3065R	Fabric Panel, 30Wx65H	KGS	...	5	0	0	5
EP1FA3080R	Fabric Panel, 30Wx80H	KGS	...	0	0	2	0
EP1FA3640R	Fabric Panel, 36Wx40H	KGS	...	0	0	7	0
EP1FA3665R	Fabric Panel, 36Wx65H	KGS	...	0	0	1	0
EP1FA3680R	Fabric Panel, 36Wx80H	KGS	...	4	0	6	4
EP1FA4265R	Fabric Panel, 42Wx65H	KGS	...	0	0	2	0
EP1FA4280R	Fabric Panel, 42Wx80H	KGS	...	0	0	2	0
EP1FA4840R	Fabric Panel, 48Wx40H	KGS	...	0	0	1	0
EP1FA4865R	Fabric Panel, 48Wx65H	KGS	...	2	0	3	2
EP1FA4880R	Fabric Panel, 48Wx80H	KGS	...	0	0	7	0
EP1FA6040R	Fabric Panel, 60Wx40H	KGS	...	0	0	2	0
EP1FA6065R	Fabric Panel, 60Wx65H	KGS	...	2	0	0	2
EP1FA6080R	Fabric Panel, 60Wx80H	KGS	...	3	0	1	3
EP1P40E	End Post Assembly, 40H	KGS	...	1	1	0	0
EP1P40S	Straight Post Assembly, 40H	KGS	...	0	0	8	0
EP1P65E	End Post Assembly, 65H	KGS	...	5	0	3	5
EP1P65L	Corner (90 Deg) Post Assembly, 65H	KGS	...	1	0	2	1
EP1P65S	Straight Post Assembly, 65H	KGS	...	2	0	2	2
EP1P65T	Three Way ("T") Post Assembly, 65H	KGS	...	2	0	1	2
EP1P80E	End Post Assembly, 80H	KGS	...	4	3	0	1
EP1P80L	Corner (90 Deg) Post Assembly, 80H	KGS	...	2	0	4	2
EP1P80S	Straight Post Assembly, 80H	KGS	...	4	0	14	4
EP1P80T	Three Way ("T") Post Assembly, 80H	KGS	...	0	0	3	0
EP1PCEP	Post Connector, End with Post	KGS	...	1	0	8	1
EP1PCMF	Post Connector, Multi-Height Filler	KGS	...	1	0	11	1
EP1PCT	Post Connector, Three-Way "T"	KGS	...	0	0	1	0
EP1SL	Raceway Shroud, Outside "L"	KGS	...	1	0	6	1
EP1SS	Raceway Shroud, Straight	KGS	...	0	0	3	0
ES2OS24	Shelf, 24Wx12-3/8Dx10-1/4H	KGS	...	0	0	2	0
EW13624	Worksurface, Rectangular, EW1, 36Wx24D	KGS	...	1	0	1	1
EW14830	Worksurface, Rectangular, EW1, 48Wx30D	KGS	...	2	0	2	2

Project Analysis - City of Aventura Phase I Project Analysis

Part Number	Part Description	Man...	Options	Total Required	New Required	Reuse 1	Reuse 1
EW14830	Worksurface, Rectangular, EW1, 48Wx30D	KGS	2	0	2	2
EW16024	Worksurface, Rectangular, EW1, 60Wx24D	KGS	4	0	4	4
EW16030	Worksurface, Rectangular, EW1, 60Wx30D	KGS	0	0	0	0
EW16630	Worksurface, Rectangular, EW1, 66Wx30D	KGS	0	0	0	0
EW17224	Worksurface, Rectangular, EW1, 72Wx24D	KGS	0	0	0	0
EW1C3624C	Cantilevered Corner Worksurface, EW1, 36Wx24D	KGS	2	0	0	2
EW1HR6036N	Half Round Worksurface, 36Dx60W with round notch, EW1	KGS	0	0	0	0

CITY OF AVENTURA

OFFICE OF THE CITY MANAGER

MEMORANDUM

TO: City Commission

FROM: Eric M. Soroka, ICMA-CM,  City Manager

DATE: August 20, 2012

SUBJECT: **Proposed New Agreement for Management, Programming and Operational Support Services for the Aventura Arts and Cultural Center with the Performing Arts Center Authority**

September 4, 2012 City Commission Meeting Agenda Item 5.D

RECOMMENDATION

It is recommended that the City Commission adopt the attached Resolution authorizing the execution of the attached Agreement between the City and Performing Arts Center Authority (PACA) for Management, Programming and Operational Support Services for the Aventura Arts and Cultural Center (AACC). A copy of a redlined version of the Agreement is attached for the ease of review and comparison with the prior Agreement. The current Agreement expires on September 30, 2012.

BACKGROUND

The current Agreement for Startup Services, Management, Programming and Operational Support Services for the AACC with the PACA expires on September 30, 2012. PACA and I have met several times to negotiate a new agreement for consideration by the City Commission, based on the accomplishments of the facility during its first two years and expiration of the Agreement.

Based on the PACA's proven track record, their performance to date and the City's philosophy of privatizing services to provide professional services to our residents in the most economical manner, it is recommended that we continue to utilize PACA to manage the AACC. The Agreement is for a three year period commencing on October 1, 2012.

The following represents the major revisions compared to the prior Agreement:

1. The term is for three years and after that period provides for renewable one year terms not to exceed a total of five one year terms upon mutual agreement by

both parties at the City's discretion. This is recommended to provide continuity in the management of the AACC as we go forward and at the same time provides options to the City in the event we choose not to renew.

2. The fee arrangement has been updated to continue to reflect a performance payment based on reaching specific revenue requirements for each year. In the first year, the cost of the services provided by PACA will be \$11,000 per month as it is under the current Agreement. This is the same fee arrangement currently in effect for 2011/12, reflecting no increase.

The performance payment schedule in the event the net revenues generated by the AACC is as follows:

- October 1, 2012 to September 30, 2013 net revenues equal at least \$200,000.00; PACA shall be paid an additional \$12,000.00 for the period.
- October 1, 2013 to September 30, 2014 net revenues equal at least \$210,000.00; PACA shall be paid an additional \$12,000.00 for the period.
- October 1, 2014 to September 30, 2015 net revenues equal at least \$225,000.00; PACA shall be paid an additional \$12,000.00 for the period.

Net revenues as used in this section shall include ticket sales for AACC Presents performances, box office fees, facility fees, facility rent, service package fees, production service fees, net food & beverage revenues, parking revenue and any other net revenues generated by the operations of the AACC from the users of the AACC.

3. Commencing in the second year of the agreement on October 1, 2013, the fees for services paid to PACA shall be increased by 3% and then on October 1, 2014, the fees for services paid to PACA shall be increased by 3% or the consumer price index for that date, whichever is less. After September 2015, the fees would require negotiation as part of the renewal process.

As was the case with the prior agreement, the City will reimburse PACA for its costs associated with the agreed upon employees to staff the AACC.

If you have any questions please feel free to contact me.

EMS/
Attachment

AGREEMENT

Between

PERFORMING ARTS CENTER AUTHORITY

and

CITY OF AVENTURA

for

MANAGEMENT, PROGRAMMING AND OPERATIONAL SUPPORT SERVICES FOR THE

AVENTURA ARTS & CULTURAL CENTER

AGREEMENT

Between

PERFORMING ARTS CENTER AUTHORITY

and

CITY OF AVENTURA

for

MANAGEMENT, PROGRAMMING AND OPERATIONAL SUPPORT SERVICES FOR THE
AVENTURA ARTS & CULTURAL CENTER

This is an Agreement ("Agreement") between: PERFORMING ARTS CENTER AUTHORITY, an independent special district and a public body, politic and corporate, in Broward County organized in the State of Florida under the laws of Florida (hereinafter "PACA"), which is located at the Broward Center for the Performing Arts in Broward County, Florida.

AND

CITY OF AVENTURA, a Florida municipal corporation, its successors and assigns (hereinafter "AVENTURA").

W I T N E S S E T H, in consideration of the mutual terms and conditions, promises, covenants and payments hereinafter set forth, PACA and AVENTURA agree as follows:

WHEREAS, PACA has been created under Special Act 84-396 of the laws of Florida, as amended and subsequently re-codified in Chapter 2005-335, Laws of Florida ("Act"), for the purposes of planning, promotion, developing, and operating facilities for holding any type of cultural, tourism or promotional event; and

WHEREAS, PACA is the owner and operator of the Broward Center for the Performing Arts in Broward County, Florida, which is used for the holding of all types of cultural, tourism, and promotional events; and

WHEREAS, AVENTURA is the owner of the Aventura Arts & Cultural Center ("AACC") in Miami-Dade County, Florida, which is used for all types of cultural, artistic, musical, educational, and promotional events; and

WHEREAS, PACA may make and enter into contracts relating to its purposes as stated herein in accordance with the Act; and

WHEREAS, PACA and AVENTURA agree to enter into this Agreement wherein PACA agrees to provide management, programming, and operational support services relating to the AACC for the term stated in Article 4 of this Agreement; and

NOW, THEREFORE, in consideration of the mutual promises herein contained, PACA and AVENTURA agree as follows:

ARTICLE 1
DEFINITIONS AND IDENTIFICATIONS

For the purposes of this Agreement and the various covenants, conditions, terms, and provisions which follow, the definitions and identifications set forth below are assumed to be true and correct and are agreed upon by the parties.

- 1.1 Agreement: means this document, Articles 1 through 7, inclusive. Other terms and conditions are included in the exhibits and documents that are expressly incorporated by reference.
- 1.2 Board: The Board of the Performing Arts Center Authority which is the governing body of PACA created by the Act.
- 1.3 Business Day: Business Day shall mean a day where AVENTURA's administrative offices are open to conduct regular business. Where a time period of "one (1) business day" is established, it shall mean a twenty-four (24) hour period beginning on a business day and ending at the same time on the next business day.
- 1.4 Contract Administrator: The ranking managerial employee of PACA or some other employee expressly designated as Contract Administrator in writing by PACA's President/CEO as the representative of PACA concerning this Agreement. In the administration of this Agreement, as contrasted with matters of policy, all parties may rely upon instructions or determinations made by the Contract Administrator; provided, however, that such instructions and determinations do not change the Scope of Services or increase or decrease the amount of compensation provided for under this Agreement. At the time of execution of this Agreement, PACA designates its President/CEO as the Contract Administrator.
- 1.5 Event: For purposes of this Agreement, the term "event" means any uses of the AACC, including, but not limited to musical, educational, cultural, artistic, and promotional events, shows, performances, presentations, commencement exercises, concerts, recitals, public addresses, drama productions, auditions, seminars, and other cultural, commercial, civic instructional or ceremonial functions, regardless of the presenter, producer, or sponsor of such event.
- 1.6 Fiscal Year: PACA and AVENTURA's Fiscal Year, which commences on October 1 and ends on September 30 of the following year.

- 1.7 **Aventura Representative:** The person from time to time designated in advance in writing as the AVENTURA Representative. At the time of execution of this Agreement, AVENTURA designates the City Manager or written designee as Aventura Representative.
- 1.8 **Operating Expenses:** For purposes of this Agreement, "Operating Expenses" shall include all expenses incurred by the parties in providing the services under this Agreement and/or incurred in generating income for the AACC, including, but not limited to, marketing, advertising, management, administration, general custodial care, security, maintenance, cleaning, utilities, life safety, and the hiring, training, retention, supervision and evaluation of various personnel.
- 1.9 **Services:** Management, programming and operational support services for the AACC.
- 1.10 **Programming Expenses:** For the purposes of this Agreement, "Programming Expenses" shall include all those expenses incurred by AVENTURA or PACA in providing, booking, and presenting performances at the AACC.
- 1.11 **Ticket Revenue:** For purposes of this Agreement, the term "Ticket Revenue" shall include all receipts received by PACA in connection with Ticketing Services on behalf of the AACC including, but not limited to, cash, credit card purchases, checks, credits, and receivables relating to the purchase of tickets for admission to the AACC.
- 1.12 **Ticketing Services:** means provision of systems and services for the efficient and effective distribution of tickets to events at the AACC. Such services may utilize PACA and/or AVENTURA's employees, independent contractors, volunteers or agents.
- 1.13 **User:** An entity which has entered into a rental agreement (also referred to as "Licensing Agreement") with AVENTURA for the use of the AACC.
- 1.14 **Licensee:** Any third party who enters into a License Agreement.
- 1.15 **AACC Presents:** Presentations occurring at the AACC for which AVENTURA is the presenter and is responsible for all costs associated with the presentation. PACA will provide services such as contracting with artist on behalf of AVENTURA as provided for in this Agreement.
- 1.16 **PACA Presents:** Presentations occurring at the AACC for which PACA is the presenter and is responsible for all costs associated with the presentation as provided for in this Agreement.

ARTICLE 2
SCOPE OF SERVICES:

- 2.1 PACA's management, programming, and operational support services shall include strategic planning and guidance, staffing, operations, event services, programming, finance and accounting, institutional and show marketing, production and technical services and ticketing services for AACC. PACA shall provide all services as set forth in Article 3 herein including

all necessary, incidental, and related services required by the Scope of Services.

- 2.2 PACA and AVENTURA acknowledge and agree that the Scope of Services does not delineate every detail and minor work task required to be performed by PACA to complete the Agreement. If, during the course of the performance of the services included in this Agreement, PACA determines that work should be performed to complete the services which are in PACA's opinion outside the Scope of Services originally anticipated, whether or not the Scope of Services identifies the work items, PACA shall notify AVENTURA in writing in a timely manner before proceeding with the work. If PACA proceeds with said work without providing written notification, said work shall be deemed to be within the original Scope of Services, whether or not specifically addressed in the Scope of Services. Written notice to AVENTURA does not constitute authorization or approval by AVENTURA to perform the work. Performance of work by PACA outside the originally anticipated Scope of Services without AVENTURA's prior written approval in accordance with Sections 5 and 7.12 is at PACA's sole risk.
- 2.3 PACA and AVENTURA acknowledge that the services stated herein are limited to this Agreement and that additional negotiations will be required for additional services.
- 2.4 PACA and AVENTURA may negotiate additional scopes of services, compensation, time of performance, and other related matters for additional services not provided for herein. Such additional services involving additional compensation shall require a written amendment to this Agreement. Time of performance or scheduling revisions may be agreed to in writing by the City Manager and the PACA President/CEO.
- 2.5 SCOPE OF SERVICES

2.5.1 Engagement, Rights, and Responsibilities: AVENTURA hereby engages PACA to provide management, programming, marketing and operations support services for the AACC located in Miami-Dade County, Florida, as provided in Exhibit "A," attached hereto and incorporated herein, and PACA hereby accepts such engagement. A detailed scope of services is outlined in Exhibit "A."

2.5.2 Non-Exclusive Use:

PACA shall have the non-exclusive, royalty free, worldwide revocable right to use AVENTURA's name, logos, trade names, and other trademarks or service marks of AVENTURA in connection with the marketing, advertising, and promotion of the AACC pursuant to this Agreement; provided, however, that:

(A) In any and all such usages, the AVENTURA logo as it exists at such time shall be used; and

(B) In any and all usages of the AVENTURA's name, AVENTURA shall be referred to as the "City of Aventura," or as AVENTURA's City Manager or his/her written designee requests in writing from time to time, and the AACC shall be referred to as

the "Aventura Arts & Cultural Center." AVENTURA reserves the right, at any time, to revoke such right, in whole or in part, in its sole discretion, during the term of this Agreement, with at least ninety (90) calendar days prior written notice to PACA in accordance with the notices procedures stated in section 7.13 herein.

ARTICLE 3 FOOD AND BEVERAGE SERVICES

- 3.1 PACA agrees to be the primary provider of food and beverage services ("FBS"), to include concessions and catering services, at the AACC. In order to comply with liquor licensing requirements, AVENTURA acknowledges that PACA shall be the exclusive provider of all alcoholic beverage services at the AACC.
- 3.2 PACA shall have the ability to subcontract work at its discretion. In the event of a third party caterer providing services, gross commissions paid to PACA shall be considered as revenues for purposes of calculating monthly net operating results.
- 3.3 The term for the grant of the FBS' provision shall run concurrent with the Agreement for management services in effect between PACA and AVENTURA, including any extensions or renewals effected to the initial agreement. Notwithstanding the above, either party shall have the right to terminate for convenience the provision of primary food and beverage services upon giving ninety (90) calendar days' notice in writing to the other party of the intent to terminate.
- 3.4 PACA shall be primarily responsible for the staffing of food and beverage services at AACC. Both parties acknowledge that direct labor expenses incurred in the delivery of services, to include on-site supervisory and service personnel, shall be considered as operating expenses for the purpose of determining monthly net operating expenses. Full-time PACA management personnel engaged in the periodic oversight of the services shall not be considered as operating expenses.
- 3.5 PACA shall receive all revenues and shall be responsible for all operating expenses associated with the food and beverage services at the AACC. In consideration for this granting of such primary rights, PACA shall remit an amount equal to fifty percent (50%) of net profits, to be calculated on a monthly basis, to AVENTURA. In the event that in a given month FBS revenues do not exceed FBS expenses resulting in net profits ("net profits"), PACA shall not remit any funds to AVENTURA, and AVENTURA shall not be responsible for any portion of the losses incurred as a result of such operations. However, PACA shall be permitted to cross-collateralize months for purposes of recouping losses; therefore, should an operating loss be incurred in any month and incurred by PACA, PACA shall be entitled to retain AVENTURA's portion of future profits up until such time that all prior losses are reimbursed or recouped by PACA ("cross-collateralize"). There shall be no minimum guarantee, nor maximum cap, of net revenues to AVENTURA.
- 3.6 The liquor license shall be in the name of PACA in the name of "Performing Arts Center Authority." PACA shall be responsible for maintaining the license, and AVENTURA shall assist in the process as necessary with any necessary signature or administrative documents to be signed by PACA's President and CEO and AVENTURA's City Manager. The annual

license fees shall be considered an operating expense of the food and beverage services and shall be amortized equally on a monthly basis over each operating year.

ARTICLE 4
TERM AND TIME OF PERFORMANCE

The initial term of this Agreement shall begin on October 1, 2012. ("Effective Date"), and it shall continue in full force and effect for thirty six (36) months through September 30, 2015, unless terminated sooner as provided in Article 7 herein. Thereafter, the Agreement shall be subject to renewable one-year terms not-to-exceed a total of five (5) one-year terms, upon mutual written amendment to this Agreement by PACA and AVENTURA at the City's discretion. If the term of this Agreement extends beyond a single fiscal year of PACA or of AVENTURA, the continuation of this Agreement beyond the end of any fiscal year shall be subject to the appropriation and availability of funds in accordance with Chapter 129, Florida Statutes, as amended, and Florida Statutes Section 166.241, as amended.

ARTICLE 5
COMPENSATION

5.1 The parties further agree as follows:

5.1.1 PAYMENTS TO PACA:

AVENTURA agrees to pay PACA, in the manner specified in Section 5.2.

Such amounts shall be accepted by PACA as full compensation for all such work exclusive of payments AVENTURA shall make to reimburse PACA for costs associated with the agreed upon employees to staff the AACC). It is acknowledged and agreed by PACA that this amount is the maximum payable and constitutes a limitation upon AVENTURA's obligation to compensate PACA for its services related to this Agreement. This maximum amount, however, does not constitute a limitation, of any sort, upon PACA's obligation to perform all items of work required by or which can be reasonably inferred from the Scope of Services. No amount shall be paid to PACA to reimburse its expenses.

The compensation to be paid by AVENTURA to PACA for the performance of its obligations under this Agreement and for its management, programming and operations support services of the AACC is solely limited to the provisions stated in this Agreement.

5.1.2 REVENUES TO AVENTURA:

PACA shall remit any revenues payable to AVENTURA, subject to the Ticketing Fee

Structure in Exhibit "B", attached hereto and incorporated herein. Should PACA modify such fee structure, PACA shall notify AVENTURA in writing of such modification. PACA's fee structure utilized under this Agreement, shall be the same fee structure as PACA utilizes for all other entities for which it performs such ticketing services. In the event that PACA enters into a fee structure agreement with another entity and charges less fees, then PACA shall immediately modify the fee structure, Exhibit "B" accordingly. Such funds shall be made payable to "City of Aventura" and shall be forwarded or wired each month to:

City Manager
Attn: Eric M. Soroka, City Manager
City of Aventura
19200 W. Country Club Drive
Aventura, Florida 33180

AVENTURA may change any of the information provided under Section 5.1.2 herein by providing written notice of such change to Contract Administrator using the notice procedure under Section 7.13 "Notices." AVENTURA shall provide its federal identification number on the form provided by Contract Administrator at the time of AVENTURA's execution of this Agreement.

5.2 METHOD OF BILLING AND PAYMENT FOR AVENTURA'S PAYMENTS TO PACA

5.2.1 The fees for Services as stated in Section 5.1.1 shall be payable by AVENTURA to PACA as follows:

Commencing with the Effective Date of this Agreement, The fees for Services, as stated in section 5.1.1 shall be payable to PACA as follows: Eleven Thousand Dollars (\$11,000.00) is due every thirty (30) calendar day cycle. In the event the net revenues generated by the AACC for the period of October 1, 2012 through September 30, 2013, equal at least Two Hundred Thousand Dollars (\$200,000.00) , PACA shall be paid an additional Twelve Thousand Dollars (\$12,000.00) for the period no later than October 30, 2013. If the gross revenues exceed Two Hundred and Ten Thousand Dollars (\$ 210,000.00) for the period of October 1, 2013 through September 30, 2014, PACA shall be paid an additional \$12,000 for that period no later than October 30, 2014. If the gross revenues exceed Two Hundred Twenty-five Thousand Dollars (\$225,000.00) for the period of October 1, 2014 through September 30, 2015, PACA shall be paid an additional \$12,000 for that period no later than October 30, 2015. Net revenues as used in this section shall include ticket sales for AACC Presents performances, box office fees, facility fees, facility rent, service package fees, production service fees, net food & beverage revenues, parking revenue and any other net revenues generated by the operations of the AACC from the users of the AACC.

Commencing on October 1, 2013, the fees for services paid to PACA shall be

increased by three percent (3%) and then on October 1, 2014, the fees for services paid to PACA shall be increased by three percent (3%) or the consumer price index for that date, whichever is less.

PACA will submit invoices for compensation following the end of each thirty (30) calendar day cycle, after the services for which invoices are submitted have been completed. An original invoice will be submitted by PACA to AVENTURA. Invoices shall designate the nature of the services performed for the period.

- 5.2.2 AVENTURA shall pay PACA within thirty (30) calendar days of the date of PACA's invoice statement. To be deemed proper, all invoices must comply with the requirements set forth in this Agreement.
- 5.2.3 AVENTURA shall make payments to PACA payable to "Performing Arts Center Authority" and forward to:

President/CEO
Attn: Kelley Shanley, President/CEO
Performing Arts Center Authority Broward Center for the Performing Arts
201 Southwest Fifth Avenue
Fort Lauderdale, Florida 33312

PACA may change any of the information provided under Section 5.2.3 herein by providing written notice of such change to Contract Administrator using the notice procedure under Section 7.13, "Notices." PACA shall provide its federal identification number on the form provided by AVENTURA at the time of PACA's execution of this Agreement.

ARTICLE 6 AVENTURA'S RESPONSIBILITIES

- 6.1 AVENTURA shall assist PACA by placing at PACA's disposal all information and documents that AVENTURA has available pertinent to the services stated in this Agreement including previous reports and any other data relative to management, programming and operations support, and usage of the AACC.
- 6.2 AVENTURA shall arrange for access to, and make all provisions for, PACA to enter upon AVENTURA's property at all reasonable times and upon prior reasonable notice, during each term of this Agreement as required for PACA to perform its services.
- 6.3 AVENTURA shall give written notice, within ten (10) calendar days, to PACA whenever AVENTURA becomes aware of any development that affects the scope or timing of the services to be performed by PACA.

- 6.4 Except as herein otherwise set forth, throughout each term of this Agreement, AVENTURA shall maintain full beneficial use and ownership of the AACC and will keep, observe, and perform all payments, terms, covenants, conditions, and obligations under any agreements to which AVENTURA may be bound.
- 6.5 PACA shall assist AVENTURA in securing all applicable licenses including, but not limited to, American Society of Composers, Authors and Publishers' licenses, in order to ensure that performances at the AACC do not violate or infringe any copyright, patent, trademark, right of privacy or other statutory or common law right of any person or entity.
- 6.6 AVENTURA shall be solely responsible for all labor relations relating to AVENTURA's staff, volunteers and independent contractors used at the AACC, and for all labor relations associated with any and all trade or union representation among its employees, and shall negotiate and be responsible for adjusting and resolving any and all disputes between itself and its employees and any union representing such employees in a timely fashion. Whenever AVENTURA has knowledge that any actual or potential labor dispute is delaying or threatens to delay its or PACA's performance obligations under this Agreement or any related agreement for the use of the AACC, AVENTURA shall give written notice within ten (10) calendar days thereof to PACA.
- 6.7 AVENTURA warrants and represents to PACA that it has no knowledge of any material or adverse conditions pertaining to the plans of the AACC, including, without limitation, the condition of the structure, its interior or the exterior, which would materially or adversely affect the ability of PACA to perform its obligations under this Agreement or materially or adversely affect the financial prospects for the AACC. If AVENTURA becomes aware of any material or adverse condition, including, without limitation, the condition of the structure, its interior or the exterior, which would materially or adversely affect the ability of PACA to perform its obligations under this Agreement or materially or adversely affect the financial prospects for the AACC, it shall immediately provide written notice to PACA of such conditions.
- 6.8 AVENTURA shall be solely responsible for all expenses incurred in connection with the management, use, occupancy, and operation of the AACC, subject to the specific financial obligations of third parties under applicable Agreements, except as provided in Section 6.9 below, or as otherwise provided for herein.
- 6.9 PACA may present performances at the AACC and assume the associated financial risk. The assumption of such financial risk shall be at PACA's sole discretion. Such performances shall be subject to approval in writing by AVENTURA, and such approval or denial shall be in its absolute and sole discretion. In such cases, PACA will request in writing, the specific date it is requesting and the purpose of the request. AVENTURA will use its best efforts to confirm or deny the use of the Aventura Arts & Cultural Center in writing within five (5) business days. PACA will be responsible for reimbursing AVENTURA for all direct costs associated with the performance(s) including but not limited to, stage labor, cleaning, outside equipment rental, event staff, and advertising. PACA will be responsible to pay rental fees only if the

ticket revenue from the performance(s) exceeds the costs associated with the performance including but not limited to reimbursements to AVENTURA as listed above, artist fees, artist transportations costs, and advertising costs.

- 6.10 At AVENTURA's request, PACA shall provide Programming and Booking Services, as described in Exhibit "A." PACA will book up to five (5) performances and events per year of this Agreement on behalf of AVENTURA. AVENTURA shall have the right to decrease or increase the annual number of performances booked by PACA on AVENTURA's behalf.
- 6.11 PACA agrees that it will utilize written contracts for all License Agreements at the AACC in a form that is approved by AVENTURA, as may be amended from time to time.
- 6.12 The CITY has established an Arts & Cultural Center Department which reports to the City Manager. PACA shall be accountable to the City Manager. Neither the City Commission nor its members shall give orders to PACA, its employees or employees of the Arts & Cultural Center, either publicly or privately. Recommendations for improvements in the Arts & Cultural Center operations by Commissioners shall be made solely to and through the City Manager.

ARTICLE 7 MISCELLANEOUS

7.1 RIGHTS AND OWNERSHIP OF DOCUMENTS; PUBLIC RECORDS

Both PACA and AVENTURA are public entities organized under the laws of the State of Florida, and notwithstanding anything herein contained to the contrary; PACA and AVENTURA shall comply with the Public Records Law. If a copyright is claimed by either party, as to any work related to this Agreement, the other party grants a non-exclusive license to use the copyrighted item(s) indefinitely, to prepare derivative works, and to make and distribute copies to the public. Except as relating to confidential customer data, confidential ticket data and any other information and materials determined by Florida's laws (as amended) to be confidential as to a public entity, PACA and AVENTURA agree that the information, reports, data, and other documents created by PACA or on behalf of AVENTURA related to this Agreement shall become the jointly owned property of PACA and AVENTURA. Each party, as separate and independent owners, shall have the separate and independent right to use, photocopy and share with third parties, as it determines appropriate in its sole discretion such information, report, data and other documents separately and independently of the ownership rights of the other party, and such party shall not be required to provide any notice or obtain any consent from the other party relating to such use.

7.2 TERMINATION

7.2.1 This Agreement may be terminated for cause by action of PACA's Board or PACA's President/CEO or by AVENTURA's City Commission upon ninety (90) calendar days' prior written notice specifying the default or breach as furnished by the party that elected to terminate, provided that the default or breach is not cured within such

period. Notwithstanding anything to the contrary contained in this Agreement, this Agreement may not be terminated for convenience. This Agreement may be terminated by PACA's President/CEO or the City Manager of AVENTURA upon such notice as such President/CEO or the City Manager deems appropriate under the circumstances in the event that PACA's President/CEO or the City Manager determines that termination is necessary to protect the public health, safety, or welfare.

- 7.2.2 Termination of this Agreement for cause shall include, but not be limited to, failure to suitably perform the work, failure to continuously perform the work in a manner calculated to meet or accomplish the objectives of PACA or AVENTURA as set forth in this Agreement, or breach of any of the provisions of this Agreement notwithstanding whether any such breach was previously waived or cured.
- 7.2.3 Notice of termination shall be provided in accordance with Section 7.13, "NOTICES," by PACA's President/CEO or the City Manager which PACA's President/CEO or the City Manager, respectively deems necessary to protect the public health, safety, or welfare may be verbal notice which shall be promptly confirmed in writing within three (3) business days in accordance with Section 7.13 of this Agreement.
- 7.2.4 In no event shall AVENTURA be liable to PACA for any additional compensation, upon such early termination only as provided for in Section 7.2.1 above, beyond that earned in accordance with the schedule of payments provided in Section 5.2.1 above other than that expressly provided herein, nor shall AVENTURA be liable to PACA for any consequential or incidental damages.
- 7.2.5 Any termination for convenience or without cause shall be considered a breach of this Agreement. Any termination for convenience or without cause shall not relieve PACA or AVENTURA from any of their respective obligations or liabilities incurred by PACA or AVENTURA prior to the effective date of such termination including, without limitation, the payment of all fees owed to PACA or the payment by AVENTURA of all expenses incurred relating to the management, programming and operations support, and use of the AACC. If this Agreement is terminated for convenience, without cause or expires, PACA shall be entitled to use the AACC for all PACA-presented existing, committed events, and PACA shall be charged the applicable rate to meet performance commitments under existing Agreements with AVENTURA for such use.
- 7.2.6 In the event this Agreement is terminated for convenience, PACA shall be paid for any services properly performed under the Agreement through the termination date specified in the written notice of termination subject to the provisions stated herein. Each party acknowledges and agrees that it has received good, valuable and sufficient consideration from the other party, the receipt and adequacy of which are, hereby acknowledged by each party, for the other party's right to terminate this Agreement for convenience.

7.2.7 As applicable, the Agreement may also be terminated for cause if AVENTURA or PACA is placed on the Scrutinized Companies with Activities in Sudan List or the Scrutinized Companies with Activities in the Iran Petroleum Energy Sector List created pursuant to Section 215.473, Florida Statutes, as amended or if PACA or AVENTURA provides a false certification submitted pursuant to Section 287.135, Florida Statutes, as amended.

7.3 AUDIT RIGHT AND RETENTION OF RECORDS

Each party shall have the right to audit the books, records, and accounts of the other party that are related to this Agreement. Each party shall keep such books, records, and accounts as may be necessary in order to record complete and correct entries related to this Agreement.

Each party shall preserve and make available, at reasonable times for examination and audit (including copying) by the other party, all financial records, supporting documents, statistical records, and any other documents pertinent to this Agreement for a period of five (5) years after the termination or expiration of this Agreement provided that any applicable audits have been completed. If any audit has been initiated and audit findings have not been resolved at the end of the five (5) year retention period, the books, records, and accounts shall be retained until resolution of the audit findings. Each party acknowledges and agrees that the records, documents, data, studies, surveys, drawings, maps, models, photographs, and copies of reports which are maintained by the other party, including those records prepared by, provided by or received by either party relating to this Agreement are subject to Florida Public Records, subject to applicable exemptions under the Florida Public Records Law or federal law; however, no confidentiality or non-disclosure requirement of either federal or state law shall be violated by either party. Any incomplete or incorrect entry in party's books, records, and accounts shall be a basis for the other party's disallowance and recovery of any payment upon such entry.

PACA shall permit AVENTURA, at all reasonable times and upon prior written notice, of at least ten (10) calendar days to audit, inspect, examine, and copy, at AVENTURA's sole expense, any and all of PACA's books, journals, ledgers, computer printouts, records, papers, reports, correspondence, memoranda, cash register records, and other documents and records of PACA which are related solely to the performance of services by PACA under this Agreement. Upon prior reasonable notice, AVENTURA shall have the right to make physical inventories of equipment, furnishings, and materials to assure that actual inventories agree with its records or the most current inventory list. PACA shall be notified within ten (10) calendar days in writing of any and all discrepancies, excluding normal wear and tear of inventory items.

7.4 EQUAL EMPLOYMENT OPPORTUNITY, AND AMERICANS WITH DISABILITIES ACT

Neither party shall unlawfully discriminate against any person in its operations and activities relating to this Agreement. Both parties shall affirmatively comply with all applicable provisions of the Americans with Disabilities Act (ADA), including Titles I and II of the ADA (regarding nondiscrimination on the basis of disability), and all applicable regulations, guidelines, and standards. AVENTURA and PACA shall comply with Title I of the Americans with Disabilities Act regarding nondiscrimination on the basis of disability in employment.

AVENTURA and PACA shall not unlawfully discriminate on the basis of race, color, national origin, sex, religion, age, marital status, political affiliation, familial status, disability, sexual orientation, pregnancy, or gender identity and expression in the performance of this Agreement, the solicitation for or purchase of goods or services relating to this Agreement, or in subcontracting work in the performance of this Agreement and shall not otherwise unlawfully discriminate in violation of the Broward County Code, Chapter 16½, as amended. Such actions shall include, but not be limited to, the following: employment, upgrading, demotion, transfer, recruitment or recruitment advertising, layoff, termination, rates of pay, other forms of compensation, terms and conditions of employment, training (including apprenticeship), and accessibility.

AVENTURA and PACA shall not engage in or commit any discriminatory practice in violation of the Broward County Human Rights Act (Broward County Code, Chapter 16½, as amended).

7.5 PUBLIC ENTITY CRIMES ACT

PACA further represents that there has been no determination, based on an audit, that it committed an act defined by Section 287.133, Florida Statutes, as amended, as a "public entity crime" and that it has not been formally charged with committing an act defined as a "public entity crime" regardless of the amount of money involved or regardless of whether PACA has been placed on the convicted vendor list.

7.6 SUBCONSULTANT

PACA may utilize subconsultants for the support services to be performed by PACA for AVENTURA under this Agreement, subject to the Aventura Representative's written approval. In connection therewith, PACA shall provide advanced written notification to AVENTURA of its intent to use any subconsultant. To the extent permitted by Florida law, PACA shall be responsible for the acts or omissions of PACA's sub consultant, subject to applicable State of Florida or federal law and subject to the provisions of any applicable sub consultant's agreement. Furthermore, PACA's agreement with any subconsultant shall provide that the terms and conditions of this Agreement between AVENTURA and PACA shall be incorporated by reference into such subconsultants' agreements applicable to all of PACA's subconsultants. PACA shall notify AVENTURA if it uses any subconsultants for the support services of the AVENTURA Cultural Arts Center and shall provide to AVENTURA copies of all subconsultant agreements.

7.7 ASSIGNMENT AND PERFORMANCE

Neither this Agreement nor any interest herein shall be assigned, transferred, or encumbered by either party, nor shall PACA subcontract any portion of the work required by this Agreement except as stated in Section 7.6. PACA represents that all persons delivering the services required by this Agreement have the knowledge and skills, either by training, experience, education, or a combination thereof, to adequately and competently perform the duties, obligations, and services set forth in the Scope of Services and to provide and perform such services to PACA's and AVENTURA's satisfaction.

PACA shall perform its duties, obligations, and services under this Agreement in a skillful manner. The quality of PACA's performance and all services provided by PACA or on behalf of PACA shall be comparable to the best local and national standards.

7.8 GOVERNMENTAL IMMUNITY

Nothing herein is intended to serve as a waiver of sovereign immunity by any party nor shall anything included herein be construed as consent to be sued by third parties in any matter arising out of this Agreement or any other contract. AVENTURA is a municipality and PACA is an independent special district and public body, a state agency or political subdivision as defined in Chapter 768.28, Florida Statutes, as amended. Each party agrees to be fully responsible for the acts and omissions of its agents or employees to the extent permitted by law.

7.9 INSURANCE

7.9.1 PACA agrees to require from all licensees, users, promoters, exhibitors, concessionaires, or other persons contracting with PACA or AVENTURA (as required by their contracts) for use of the AACC proper insurance certificates and other evidence of insurance (or a self-insurance program acceptable to AVENTURA Representative), indicating sufficient commercial general liability, automobile liability, workers' compensation, employer's liability and umbrella excess liability insurance coverage, as may be appropriate, and with minimum amounts as approved by AVENTURA in writing. Such required insurance shall be furnished and kept in force at all times during the term of the applicable agreement by all licensees, users, promoters, exhibitors, concessionaires, or other persons contracting with PACA or AVENTURA (as required by such contracts) for use of the AACC. All commercial general liability and umbrella excess liability insurance policies shall name the "Performing Arts Center Authority" and "City of Aventura," as additional insureds on such policies. ALL INSURANCE COMPANIES PROVIDED SHALL: Be rated at least A-VII per Best's Key Rating Guide. All policies shall be Occurrence not Claims Made forms.

All of the policies of insurance so required to be purchased and maintained shall contain a provision or endorsement that the coverage afforded shall not be cancelled,

materially changed or renewal refused until at least thirty (30) calendar days written notice has been given to AVENTURA by certified mail.

AVENTURA and PACA shall provide, pay for, and maintain in force at all times during each term of this Agreement, all required insurance designated in 7.9.2.1, 7.9.2.2, 7.9.2.3, and 7.9.2.4.

Such policy or policies shall be issued by companies allowed to do business in the State of Florida and having agents upon whom service of process may be made in the State of Florida. Permission is granted for either AVENTURA or PACA to self-insure workers compensation and employer's liability or to participate in group self-insurance workers compensation and employer's liability program. AVENTURA shall specifically protect PACA and PACA's Board by naming the "Performing Arts Center Authority" and its directors, officers and employees as an additional insured under the AVENTURA Commercial General Liability Insurance policy hereinafter described, except that additional insured status shall not apply for the acts and/or omissions of PACA, and PACA's Board, its officers, employees, agents, contractors, subcontractors, and or volunteers. PACA shall name "City of Aventura." as an additional insured under the PACA Commercial General Liability Insurance policy hereinafter described except that additional insured status shall not apply for the acts and/or omissions of AVENTURA, its City Commission, officers, employees, agents, contractors, subcontractors, and/or volunteers.

7.9.2 AVENTURA and PACA shall have the following insurance:

7.9.2.1 Workers' Compensation Insurance to apply for all employees in compliance with the Workers' Compensation Law of the State of Florida and all applicable federal laws.

7.9.2.2 Employer's Liability Insurance with minimum limits of: \$100,000 each accident; \$100,000 each employee for disease; \$500,000 disease aggregate.

7.9.2.3 Commercial General Liability Insurance with minimum limits of One Million Dollars (\$1,000,000.00) per occurrence combined single limit for bodily injury liability and property damage liability and Two Million Dollars (\$2,000,000.00) annual aggregate. Coverage must be afforded on a form similar to the latest edition of the Commercial General Liability form, as filed by the Insurance Services Office for use in Florida, and must include:

Premises and/or Operations Independent Contractors Products and Completed Operations Broad Form Property Damage Contractual Liability Personal Injury Cross Liability and Severability of Interest Clause Personal and Advertising Injury Liability Coverage with Employee and Contractual Exclusions removed with minimum limits of coverage equal to those required for Bodily Injury Liability and Property

Damage Liability.

7.9.2.4 PACA shall maintain Employee Theft Insurance or a fidelity bond covering, among other things, employee dishonesty or embezzlement. The policy or bond shall have minimum limits of Five Hundred Thousand Dollars (\$500,000.00) per occurrence.

7.9.3 Within ten (10) calendar days after the complete execution of this Agreement, each party shall provide to the other party a Certificate of Insurance or a copy of all insurance policies required by Section 7.9 including all subsections thereunder. All certificates and endorsements required herein shall state that the other party shall be given thirty (30) calendar days written notice prior to expiration or cancellation of the policy. PACA'S liability insurance shall be primary to any liability insurance policies carried by AVENTURA. Each party shall be responsible for all deductibles and self-insured retention's on its insurance policies.

7.10 REPRESENTATIVE OF PACA AND AVENTURA

7.10.1 The parties recognize that questions in the day-to-day performance of the services will arise. The Contract Administrator shall advise AVENTURA in writing of one (1) or more of PACA's employees to whom all communications pertaining to the day-to-day performance of the services shall be addressed.

7.10.2 Within five (5) calendar days of complete execution of this Agreement, AVENTURA shall inform the Contract Administrator in writing of AVENTURA's representative to whom matters involving the performances of the services shall be addressed if such person is different from the AVENTURA's representative listed in Article 1. Such person may be changed in writing from time to time by AVENTURA's City Manager.

7.11 ALL PRIOR AGREEMENTS SUPERSEDED

This document incorporates and includes all prior negotiations, correspondence, conversations, oral agreements or understandings applicable to the matters contained herein; and the parties agree that there are no commitments, oral agreements, or understandings concerning the subject matter of this Agreement that are not contained in this document. Accordingly, the parties agree that no deviation from the terms hereof shall be predicated upon any prior representations or other agreements whether oral or written.

7.12 AMENDMENTS

It is further agreed that no modification, amendment or alteration in the terms or conditions contained herein shall be effective unless contained in a written document executed by both parties' authorized representatives with the same formality and of equal dignity herewith.

7.13 NOTICES

Whenever either party desires to give notice unto the other, such notice must be in writing, sent by certified United States mail, return receipt requested and postage prepaid or by hand delivery with a request for a written receipt of acknowledgment of delivery, or by a nationally recognized overnight delivery service (e.g., Federal Express) addressed to the party for whom it is intended at the place last specified, and the place for giving of notice shall remain such until it shall have been changed by written notice in compliance with the provisions of this paragraph. For the present, the parties designate the following as the respective places for giving of notice:

FOR PACA:

President/CEO
Attn: Kelley Shanley, President/CEO
Performing Arts Center Authority
Broward Center for the Performing Arts
201 Southwest Fifth Avenue
Fort Lauderdale, Florida 33312

FOR AVENTURA:

City Manager
Attn: Eric M. Soroka, City Manager
City of Aventura
19200 W. Country Club Drive
Aventura, Florida 33180

Either party may change its information by providing immediate written notice to the other party using the notices procedures hereunder.

7.14 INTERPRETATION

The language of this Agreement has been agreed to by both parties to express their mutual intent and no rule of strict construction shall be applied against either party hereto. The headings contained in this Agreement are for reference purposes only and shall not affect in any way the meaning or interpretation of this Agreement. All personal pronouns used in this Agreement shall include the other gender, and the singular shall include the plural, and vice versa, unless the context otherwise requires. Terms such as "herein," "hereof," "hereunder," and "hereinafter" refer to this Agreement as a whole and not to any particular sentence, paragraph, or section where they appear, unless the context otherwise requires. Whenever reference is made to a Section or Article of this Agreement, such reference is to the Section or Article as a whole, including all of the subsections of such Section, unless the reference is made to a particular subsection or subparagraph of such Section or Article.

7.15 INDEPENDENT CONTRACTOR

PACA is an independent contractor under this Agreement. Services provided by PACA shall be subject to the supervision of PACA. In providing the services, PACA, its employees, or its agents shall not be acting and shall not be deemed as acting as officers, employees, or agents of AVENTURA. The parties expressly acknowledge that it is not their intent to create any rights or obligations in any third person or entity under this Agreement. PACA may not bind or otherwise obligate AVENTURA without the express prior written consent of AVENTURA. None of the officers, directors, agents, or employees of PACA shall be or shall be deemed to be officers, directors, agents, or employees, of AVENTURA for any purpose whatsoever. None of the officers, directors, agents, or employees of AVENTURA shall be or be deemed to be officers, directors, agents, or employees of PACA for any purpose whatsoever.

By entering into this Agreement, none of the parties hereto intend to create, nor shall this Agreement be deemed or construed as creating, any partnership, joint venture, agency or other legal relationship between AVENTURA and/or PACA, other than that of AVENTURA as owner of the AACC and PACA as independent contractor performing services relating to the management, marketing, programming and operations support of the AACC.

7.16 LIMITATION OF AUTHORITY

PACA has no power or authority to bind or otherwise obligate AVENTURA in any manner without the prior written consent of AVENTURA, except as expressly provided for herein. AVENTURA has no power or authority to bind or otherwise obligate PACA in any manner without the prior written consent of PACA, except as expressly provided for herein.

7.17 THIRD PARTY BENEFICIARIES

Neither AVENTURA nor PACA intends to directly or substantially benefit a third party by this Agreement. Therefore, the parties agree that there are no third party beneficiaries to this Agreement and that no third party shall be entitled to assert a claim against either of them based upon this Agreement.

7.18 CONFLICTS

AVENTURA acknowledges that PACA operates and manages other performing arts centers which may, from time to time, be in competition with the AACC. The parties expressly acknowledge and agree that the operation and management of such competing facility by PACA will not, in and of itself, be deemed to be a conflict of interest or breach of PACA's duties hereunder.

7.19 CONTINGENCY FEE

PACA warrants that it has not employed or retained any company or person, other than a

bona fide employee working solely for PACA, to solicit or secure this Agreement and that it has not paid or agreed to pay any person, company, corporation, individual or firm, other than a bona fide employee working solely for PACA, any fee, commission, percentage, gift, or other consideration contingent upon or resulting from the award or making of this Agreement. For a breach or violation of this provision, AVENTURA shall, at its sole discretion, have the right to terminate this Agreement without liability, or to adjust the Agreement price by, or otherwise recover the full amount of, such fee, commission, percentage, gift or consideration.

7.20 WAIVER OF BREACH AND MATERIALITY

Failure by PACA or AVENTURA to enforce any provision of this Agreement shall not be deemed a waiver of such provision or modification of this Agreement. A waiver of any breach of a provision of this Agreement shall not be deemed a waiver of any subsequent breach and shall not be construed to be a modification of the terms of this Agreement.

PACA and AVENTURA agree that each requirement, duty, and obligation set forth herein is substantial and important to the formation of this Agreement and, therefore, is a material term hereof.

7.21 COMPLIANCE WITH LAWS

PACA and AVENTURA agree that each of them shall comply with all federal, state, and local laws, codes, ordinances, rules, and regulations (as amended from time to time) in performing its duties, responsibilities, and obligations related to this Agreement.

PACA shall not be liable for any violation, or non-observance of, or noncompliance with, any of the aforementioned laws, ordinances, orders, directives, rules, or regulations by any tenant, concessionaire, or other persons at the AACC during any term of this Agreement, except those engaged by PACA, or PACA's subconsultants, in connection with PACA's performance of services or its other obligations under this Agreement. AVENTURA shall not be liable for any violation, or non-observance of, or noncompliance with any of the aforementioned laws, ordinances, orders, directories, rules, or regulations by PACA, its agents, employees, or contractors.

AVENTURA shall be responsible for acquiring any and all ownership and title to all intellectual property rights of whatsoever value, which shall be held in AVENTURA's name and which shall remain in the name of AVENTURA throughout each term of this Agreement.

7.22 SEVERANCE

In the event any provisions of this Agreement are found by a court of competent jurisdiction to be invalid or unenforceable, the remaining provisions shall continue to be effective to the maximum extent permitted by Florida law, unless AVENTURA (through its City Manager) or PACA (through PACA's Board or PACA's President/CEO) elects to terminate this

Agreement. An election to terminate this Agreement based upon this provision shall be made within seven (7) calendar days after the finding by the court becomes final.

7.23 JOINT PREPARATION

Preparation of this Agreement including any amendment(s) thereto have been a joint effort of PACA and AVENTURA, and the resulting document shall not, solely as a matter of judicial construction, be construed more severely against one of the parties than any other.

7.24 PRIORITY OF PROVISIONS

If there is a conflict or inconsistency between any term, statement, requirement, or provision of any exhibit attached hereto, any document or events referred to herein, or any document incorporated into this Agreement by reference and a term, statement, requirement, or provision of this Agreement, the term, statement, requirement, or provision contained in this Agreement shall prevail and be given effect.

7.25 JURISDICTION, VENUE, WAIVER OF JURY TRIAL

This Agreement shall be interpreted and construed in accordance with and governed by the laws of the state of Florida. All parties agree and accept that jurisdiction of any controversies or legal problems arising out of this Agreement, and any action involving the enforcement or interpretation of any rights hereunder, shall be in the state courts of the Eleventh Judicial Circuit in Miami-Dade County, Florida, or the Seventeenth Judicial Circuit in Broward County, Florida, and venue for litigation arising out of this Agreement shall be in such state courts, forsaking any other jurisdiction which either party may claim by virtue of its residency or other jurisdictional device. By entering into this Agreement, AVENTURA and PACA hereby expressly waive any rights either party may have to a trial by jury in any civil litigation which is in any way related to this Agreement.

7.26 DELEGATION OF AUTHORITY

(a) PACA (and/or PACA's President/CEO) and AVENTURA (and/or AVENTURA Representative) may delegate in writing their responsibilities under this Agreement to one or more authorized person(s) employed or retained by AVENTURA or PACA.

(b) PACA delegates to PACA's President/CEO and AVENTURA delegates to the City Manager/AVENTURA representative the authority to amend or revise the form of Licensing Agreement for the use of the AACC, which is referred to herein on behalf of each respective party.

7.27 INCORPORATION BY REFERENCE

The truth and accuracy of each "Whereas" clause set forth above is acknowledged by the parties. The "Whereas" clauses are incorporated into and made a part of this Agreement. The attached Exhibits "A" and "B" are incorporated into and made a part of this Agreement.

7.28 COUNTERPARTS

This Agreement may be executed in three (3) counterparts or more, each of which shall be deemed to be an original.

7.29 EFFECTIVE DATE

The effective date of this Agreement shall be the date of complete execution by the parties.

[THIS SPACE INTENTIONALLY LEFT BLANK.]

IN WITNESS WHEREOF, the parties hereto have made and executed this AGREEMENT on the respective dates under each signature: PERFORMING ARTS CENTER AUTHORITY, signing by and through its Chair or Vice Chair, and CITY OF AVENTURA, signing by and through its City Manager, duly authorized to execute same.

PACA

PERFORMING ARTS CENTER AUTHORITY, an independent special district and a public body politic and corporate

ATTEST:

PACA's Board Secretary

By _____
Chair

(SEAL)

_____ day of _____, 20_____.

Approved as to form by PACA's General Counsel, Joni Armstrong Coffey, Broward County Attorney, in Fort Lauderdale Broward County, Florida

By _____
Andrea S. Froome (Date)
Senior Assistant County Attorney

AGREEMENT BETWEEN PERFORMING ARTS CENTER AUTHORITY AND CITY OF AVENTURA FOR, MANAGEMENT, PROGRAMMING AND OPERATIONAL SUPPORT SERVICES FOR THE AVENTURA ARTS AND CULTURAL CENTER

AVENTURA

CITY OF AVENTURA, a municipality in the State of Florida

By _____
Eric M. Soroka, City Manager
____ day of _____, 20____.

ATTEST:

City Clerk

APPROVED AS TO FORM:

By _____
Weiss Serota Helfman Pastoriza Cole
& Boniske, P.L.
City Attorney

(SEAL)

Exhibit A **Services**

PACA shall provide the following services to AVENTURA for the AACC:

Strategic Planning and Guidance

- Provide continued general guidance on the marketing and operation of AACC.
- Update performance measures, key intended outcomes and related criteria based on changes in overall goals of the CITY OF AVENTURA COA”) and changing conditions.
- Provide general guidance on the marketing and operation of the AACC.

Staffing and Human Resources

- Manage and supervise all staff and volunteers of the AACC.
- Provide ongoing guidance on staffing structure, job descriptions, and recommended pay ranges as needed.
- Assist with search and selection process.
- Provide AVENTURA’s AACC employees on the job training at various locations such as the Broward Center and affiliated venues.
- Advise on employee evaluation criteria and performance measures

Operations

- Provide ongoing guidance related to daily operations, that is, hours of operation, energy management, event staff reporting times/duties, emergency procedures, building security, deliveries, and parking.

Event Services

- Provide complete event services to users of the AACC.
- Provide leads and referrals for rental activity.
- Ongoing guidance on scheduling conflicts and priorities.

Programming

- Ongoing guidance regarding programming strategy and the role of programming in achieving the outcomes listed above.
- Book performances on behalf of COA as needed.
- Update budget and possible scenarios for achieving recommended mix by utilizing rental activity, co-promotion and self-presentation
- Shall survey patrons of the AACC to provide feedback on the performances and events held at the AACC for evaluation purposes and provide results to COA.

Book five (5) performances and events on behalf of AVENTURA of the local, national, and state touring caliber per each one-year term of this Agreement, to the satisfaction of AVENTURA. Such performances and events shall be subject to written approval of AVENTURA Representative.

Finance and Accounting

- Provide all event accounting services.

Education and Community Relations Programs

- Identify opportunities for community engagement, with specific emphasis on education.
- Advise on, and coordinate, educational and community relations programs.

Production and Technical Services

- Provide ongoing guidance on issues related to Technical Production

Ticketing Services

- Telephone sales services
- Internet ticketing fully integrated with the AACC's website
- Group sales services
- Oversee onsite tickets sales (COA to provide related equipment, computer hardware and on-site staff.)
- Provide ongoing guidance on issues related to AACC's Box Office operations

Marketing

- The AACC's web site link will be featured as an affiliated venue on the Broward Center, Parker Playhouse and Miniaci Performing Arts Center web sites in the Tickets and Events sections, subject to agreements with non-owned PACA's entities.
- Ticketed events at the AACC will be included in the Broward Center's monthly calendar of events which shall be e-mailed by PACA to the Broward Center's database.
- Oversight of the design, production, and execution of institutional marketing campaign. Consistent with industry standard agency practices, the direct cost of collateral materials, advertising, graphic design and other direct expenses shall be subject to prior written approval by AVENTURA, and if approved by AVENTURA shall be paid by AVENTURA.
- Provide marketing plans for AVENTURA presents and PACA presents programming.
- Update marketing strategy as needed.
- Provide marketing services that support AVENTURA's Development and Fundraising program for the AACC.
- Coordinate all marketing activities with AVENTURA's Management staff to assure consistency with AVENTURA marketing vision.

Exhibit B

**Aventura Arts and Cultural Center ("AACC")
Ticketing Fee Schedule**

Client/User**	Commercial	Non Profit
AACC Box Office Fee	3.50%	2.50%
Credit Card Transaction Fee	4.00%	4.00%
Group Sales	10.00%	10.00%
Ticket Printing Fee (comps & consignment per ticket)	\$0.50	\$0.25
Ticketmaster Fee*	3.50%	3.50%

Client/User fees will be deducted at settlement.

FL Sales Tax, as applicable, is included in the face value of the ticket and will be deducted from settlement proceeds.

** Subject to Ticketmaster fee changes.*

*** Unless indicated by AACC, all ticketing fees are retained by PACA.*

Ticket Purchaser**	Aventura Based Non-Profits	Education w/ Ticket Prices < \$12	All Other
Processing Fees			
Phone & Web	13.50%	13.50%	13.50%
Walk-Up (per ticket)	\$1.00	\$1.00	\$1.00
Groups (per ticket)	\$1.00	\$1.00	\$1.00
Select Subscription Series (per order)	\$10.00	\$10.00	\$10.00
Entourage (per order)	\$7.00	\$7.00	\$7.00

Ticket Purchaser processing fees as stated on this exhibit will be added to face value of the ticket.

FL Sales Tax, as applicable, is included in the face value of the ticket and will be deducted by PACA from settlement proceeds.

*** Unless indicated by AACC, all ticketing fees are retained by PACA.*

Non-profit groups which utilize their subscription base to distribute tickets will only be responsible for the ticket printing fee.

AGREEMENT

Between

PERFORMING ARTS CENTER AUTHORITY

and

CITY OF AVENTURA

for

MANAGEMENT, PROGRAMMING AND OPERATIONAL SUPPORT SERVICES FOR THE

AVENTURA ARTS AND CCULTURAL CENTER

AGREEMENT

Between

PERFORMING ARTS CENTER AUTHORITY

and

CITY OF AVENTURA

for

MANAGEMENT, PROGRAMMING AND OPERATIONAL SUPPORT SERVICES FOR THE
AVENTURA ARTS AND CCULTURAL CENTER

This is an Agreement ("Agreement") between: PERFORMING ARTS CENTER AUTHORITY, an independent special district and a public body, politic and corporate, in Broward County organized in the State of Florida under the laws of Florida (hereinafter "PACA"), which is located at the Broward Center for the Performing Arts in Broward County, Florida.

AND

CITY OF AVENTURA, a Florida municipal corporation, its successors and assigns, (hereinafter "AVENTURA")".

W I T N E S S E T H, in consideration of the mutual terms and conditions, promises, covenants and payments hereinafter set forth, PACA and AVENTURA agree as follows:

WHEREAS, PACA has been created under Special Act 84-396 of the laws of Florida, as amended and subsequently re-codified in Chapter 2005-335, Laws of Florida ("Act"), for the purposes of planning, promotion, developing, and operating facilities for holding any type of cultural, tourism or promotional event; and

WHEREAS, PACA is the owner and operator of the Broward Center for the Performing Arts in Broward County, Florida, which is used for the holding of all types of cultural, tourism, and promotional events; and

WHEREAS, AVENTURA is the owner of the Aventura Arts and CCultural Center ("AACC") in Miami-Dade County, Florida, which ~~will be is~~ used for all types of cultural, artistic, musical, educational, and promotional events; and

WHEREAS, PACA may make and enter into contracts relating to its purposes as stated herein in accordance with the Act; and

WHEREAS, PACA and AVENTURA agree to enter into this Agreement wherein PACA agrees to provide management, programming, and operational support services relating to the AACC for the term stated in Article 4 of this Agreement; and

NOW, THEREFORE, in consideration of the mutual promises herein contained, PACA and AVENTURA agree as follows:

ARTICLE 1
DEFINITIONS AND IDENTIFICATIONS

For the purposes of this Agreement and the various covenants, conditions, terms, and provisions which follow, the definitions and identifications set forth below are assumed to be true and correct and are agreed upon by the parties.

- 1.1 Agreement: means this document, Articles 1 through ~~87~~, inclusive. Other terms and conditions are included in the exhibits and documents that are expressly incorporated by reference.
- 1.2 Board: The Board of the Performing Arts Center Authority which is the governing body of PACA created by the Act.
- 1.3 Business Day: Business Day shall mean a day where AVENTURA's administrative offices are open to conduct regular business. Where a time period of "one (1) business day" is established, it shall mean a twenty-four (24) hour period beginning on a business day and ending at the same time on the next business day.
- 1.4 Contract Administrator: The ranking managerial employee of PACA or some other employee expressly designated as Contract Administrator in writing by PACA's President/CEO as the representative of PACA concerning this Agreement. In the administration of this Agreement, as contrasted with matters of policy, all parties may rely upon instructions or determinations made by the Contract Administrator; provided, however, that such instructions and determinations do not change the Scope of Services or increase or decrease the amount of compensation provided for under this Agreement. At the time of execution of this Agreement, PACA designates its President/CEO as the Contract Administrator.
- 1.5 Event: For purposes of this Agreement, the term "event" means any uses of the AACC, including, but not limited to musical, educational, cultural, artistic, and promotional events, shows, performances, presentations, commencement exercises, concerts, recitals, public addresses, drama productions, auditions, seminars, and other cultural, commercial, civic instructional or ceremonial functions, regardless of the presenter, producer, or sponsor of such event.
- 1.6 Fiscal Year: PACA and AVENTURA's Fiscal Year, which commences on October 1 and ends on September 30 of the following year.

- 1.7 Aventura Representative: The person from time to time designated in advance in writing as the AVENTURA Representative. At the time of execution of this Agreement, AVENTURA designates the City Manager or written designee as Aventura Representative.
- 1.8 Operating Expenses: For purposes of this Agreement, "Operating Expenses" shall include all expenses incurred by the parties in providing the services under this Agreement and/or incurred in generating income for the AACC, including, but not limited to, marketing, advertising, management, administration, general custodial care, security, maintenance, cleaning, utilities, life safety, and the hiring, training, retention, supervision and evaluation of various personnel.
- 1.9 Services: Management, programming and operational support services for the AACC.
- 1.10 Programming Expenses: For the purposes of this Agreement, "Programming Expenses" shall include all those expenses incurred by AVENTURA or PACA in providing, booking, and presenting performances at the ~~Aventura Cultural Arts Center~~ AACC.
- 1.11 "Ticket Revenue": For purposes of this Agreement, the term "'Ticket Revenue'" shall include all receipts received by PACA in connection with Ticketing Services on behalf of the AACC including, but not limited to, cash, credit card purchases, checks, credits, and receivables relating to the purchase of tickets for admission to the AACC.
- 1.12 Ticketing Services: means provision of systems and services for the efficient and effective distribution of tickets to events at the AACC. Such services may utilize PACA and/or AVENTURA's employees, independent contractors, volunteers or agents.
- 1.13 User: An entity which has entered into a rental agreement (also referred to as "'Licensing Agreement'") with AVENTURA for the use of the AACC.
- 1.14 Licensee: Any third party who enters into a License Agreement.
- 1.15 AACC Presents: Presentations occurring at the AACC for which AVENTURA is the presenter and is responsible for all costs associated with the presentation. PACA will provide services such as contracting with ~~artist~~ artist on behalf of AVENTURA as provided for in this Agreement.
- 1.16 PACA Presents: Presentations occurring at the AACC for which PACA is the presenter and is responsible for all costs associated with the presentation as provided for in this Agreement.

ARTICLE 2
SCOPE OF SERVICES:

- 2.1 PACA's management, programming, and operational support services shall include strategic planning and guidance, staffing, operations, event services, programming, finance and accounting, institutional and show marketing, production and technical services and ticketing

services for AACC. PACA shall provide all services as set forth in Article 3 herein including all necessary, incidental, and related services required by the Scope of Services.

- 2.2 PACA and AVENTURA acknowledge and agree that the Scope of Services does not delineate every detail and minor work task required to be performed by PACA to complete the Agreement. If, during the course of the performance of the services included in this Agreement, PACA determines that work should be performed to complete the services which are in PACA's opinion outside the Scope of Services originally anticipated, whether or not the Scope of Services identifies the work items, PACA shall notify AVENTURA in writing in a timely manner before proceeding with the work. If PACA proceeds with said work without providing written notification, said work shall be deemed to be within the original Scope of Services, whether or not specifically addressed in the Scope of Services. Written notice to AVENTURA does not constitute authorization or approval by AVENTURA to perform the work. Performance of work by PACA outside the originally anticipated Scope of Services without AVENTURA's prior written approval in accordance with Sections 5 and 7.12 is at PACA's sole risk.
- 2.3 PACA and AVENTURA acknowledge that the services stated herein are limited to this Agreement and that additional negotiations will be required for additional services.
- 2.4 PACA and AVENTURA may negotiate additional scopes of services, compensation, time of performance, and other related matters for additional services not provided for herein. Such additional services involving additional compensation shall require a written amendment to this Agreement. Time of performance or scheduling revisions may be agreed to in writing by the City Manager and the PACA President/CEO.

2.5 SCOPE OF SERVICES

2.5.1 Engagement, Rights, and Responsibilities: AVENTURA hereby engages PACA to provide management, programming, marketing and operations support services for the AACC located in Miami-Dade County, Florida, as provided in Exhibit "A," attached hereto and incorporated herein, and PACA hereby accepts such engagement. A detailed scope of services is outlined in Exhibit "A."

2.5.2 Non-Exclusive Use:

PACA shall have the non-exclusive, royalty free, worldwide revocable right to use AVENTURA's name, logos, trade names, and other trademarks or service marks of AVENTURA in connection with the marketing, advertising, and promotion of the AACC pursuant to this Agreement; provided, however, that:

(A) In any and all such usages, the AVENTURA logo as it exists at such time shall be used; and

(B) In any and all usages of the AVENTURA's name, AVENTURA shall be referred to

as the "City of ~~AVENTURA~~Aventura," or as AVENTURA's City Manager or his/her written designee requests in writing from time to time, and the AACC shall be referred to as the "Aventura Arts and & Cultural Center." AVENTURA reserves the right, at any time, to revoke such right, in whole or in part, in its sole discretion, during the term of this Agreement, with at least ninety (90) calendar days prior written notice to PACA in accordance with the notices procedures stated in section 7.13 herein.

ARTICLE 3 FOOD AND BEVERAGE SERVICES

- 3.1 PACA agrees to be the primary provider of food and beverage services ("FBS"), to include concessions and catering services, at the ~~Aventura Arts & Cultural Center~~ "AACC"). In order to comply with liquor licensing requirements, AVENTURA acknowledges that PACA shall be the exclusive provider of all alcoholic beverage services at the AACC.
- 3.2 PACA shall have the ability to ~~sub-contract~~ subcontract work at its discretion. In the event of a third party caterer providing services, gross commissions paid to PACA shall be considered as revenues for purposes of calculating monthly net operating results.
- 3.3 The term for the grant of ~~this the FBS' service~~ provision shall run concurrent with the ~~Management Agreement for management services~~ in effect between PACA and AVENTURA, including any extensions or renewals effected to the initial agreement. Notwithstanding the above, either party shall have the right to terminate for convenience the provision of primary food and beverage services upon giving ninety (90) calendar days' notice in writing to the other party of the intent to terminate.
- 3.4 PACA shall be primarily responsible for the staffing of food and beverage services at AACC. Both parties acknowledge that direct labor expenses incurred in the delivery of services, to include on-site supervisory and service personnel, shall be considered as operating expenses for the purpose of determining monthly net operating expenses. Full-time PACA management personnel engaged in the periodic oversight of the services shall not be considered as operating expenses.
- 3.5 PACA shall receive all revenues and shall be responsible for all operating expenses associated with the food and beverage services ("FBS") at the AACC. In consideration for this granting of such primary rights, PACA shall remit an amount equal to fifty percent (50%) of net profits, to be calculated on a monthly basis, to AVENTURA. In the event that in a given month FBS revenues do not exceed FBS expenses resulting in net profits ("net profits"), PACA shall not remit any funds to AVENTURA, and AVENTURA shall not be responsible for any portion of the losses incurred as a result of such operations. However, PACA shall be permitted to cross-collateralize months for purposes of recouping losses; therefore, should an operating loss be incurred in any month and incurred by PACA, PACA shall be entitled to retain AVENTURA's portion of future profits up until such time ~~as that~~ all prior losses are reimbursed or recouped by PACA ("cross-collateralize"). There shall be no minimum guarantee, nor maximum cap, of net revenues to AVENTURA.
- 3.6 The liquor license shall be in the ~~joint~~ name of PACA in the name of "Performing Arts Center Authority," ~~and the "City of Aventura."~~ PACA shall be responsible for ~~making application~~

for maintaining the license, and AVENTURA shall assist in the process as necessary with any necessary signature or administrative documents to be signed by PACA's President and CEO and AVENTURA's City Manager. ~~The costs for securing the license shall be amortized over the first year of operation, and annual license fees shall be considered an operating expense of the food and beverage services and shall be amortized equally on a monthly basis over each operating year.~~

ARTICLE 4 TERM AND TIME OF PERFORMANCE

The initial term of this Agreement shall begin on October 1, ~~2010-2012~~. ("Effective Date"), and ~~it shall continue in full force and effect for twenty-four thirty six (2436) months ending through September 30, 20122015, unless terminated sooner as provided in Article 7 herein. Thereafter, the Agreement shall be subject to with annual renewable one-year terms not-to-exceed a total of five (5) one-year terms, upon mutual written amendment to this A-agreement by PACA and AVENTURA at the City's discretion. If the term of this Agreement extends beyond a single fiscal year of PACA or of AVENTURA, the continuation of this Agreement beyond the end of any fiscal year shall be subject to the appropriation and availability of funds in accordance with Chapter 129, Florida Statutes, as amended, from time to time and Florida Statutes Section 166.241, as amended from time to time.~~

ARTICLE 5 COMPENSATION

5.1 The parties further agree as follows:

5.1.1 PAYMENTS TO PACA:

AVENTURA agrees to pay PACA, in the manner specified in Section 5.2.

Such amounts shall be accepted by PACA as full compensation for all such work exclusive of payments AVENTURA shall make to reimburse PACA for costs associated with the agreed upon employees to staff the AACC. It is acknowledged and agreed by PACA that this amount is the maximum payable and constitutes a limitation upon AVENTURA's obligation to compensate PACA for its services related to this Agreement. This maximum amount, however, does not constitute a limitation, of any sort, upon PACA's obligation to perform all items of work required by or which can be reasonably inferred from the Scope of Services. No amount shall be paid to PACA to reimburse its expenses.

The compensation to be paid by AVENTURA to PACA for the performance of its obligations under this Agreement and for its management, programming and operations support services of the ~~Aventura Arts and Cultural Center~~ AACC is solely limited to the provisions stated in this Agreement.

5.1.2 _REVENUES TO AVENTURA:

PACA shall remit any payable revenues payable to AVENTURA, subject to the Ticketing Fee Structure in Exhibit G B, attached hereto and incorporated herein. Should PACA modify such fee structure, PACA shall notify AVENTURA in writing of such modification. PACA's fee structure utilized under this Agreement, shall be the same fee structure as PACA utilizes for all other entities for which it performs such ticketing services. In the event that PACA enters into a fee structure agreement with another entity and charges less fees, then PACA shall immediately modify the fee structure, Exhibit "B" accordingly. Such funds shall be made payable to "City of Aventura" and shall be forwarded or wired each month to:

City Manager
Attn: Eric M. Soroka, City Manager
City of Aventura
19200 W. Country Club Drive
Aventura, Florida 33180

AVENTURA may change any of the information provided under Section 5.1.2 herein by providing written notice of such change to Contract Administrator using the notice procedure under Section 7.13 "Notices." AVENTURA shall provide its federal identification number on the form provided by Contract Administrator at the time of AVENTURA's execution of this Agreement.

5.2 METHOD OF BILLING AND PAYMENT FOR AVENTURA'S PAYMENTS TO PACA

5.2.1 The fees for Services as stated in Section 5.1.1 shall be payable by AVENTURA to PACA as follows:

Commencing with the Effective Date of this Agreement, The fees for Services, as stated in section 5.1.1 shall be payable to PACA as follows: Eleven Thousand Dollars (\$11,000.00) is due every thirty (30) calendar day cycle. In the event the gross-net revenues generated by the AACC for the period of October 1, ~~2010-2012~~ through September 30, ~~2011-2013,~~ equal at least Two Hundred Thousand Dollars (\$200,000.00) One Hundred and Seventy-Five Thousand Dollars (\$175,000.00), PACA shall be paid an additional Twelve Thousand Dollars (\$12,000.00) for the period no later than October 30, ~~2014~~2013. If the gross revenues exceed Two Hundred and Ten Thousand Dollars (\$200,000.00 210,000.00) for the period of October 1, ~~2011-2013~~ through September 30, ~~2012~~2014, PACA shall be paid an additional \$12,000 for that period no later than October 30, ~~2012~~2014. If the gross revenues exceed Two Hundred and Twenty-Five Thousand Dollars (\$225,000.00) for the period of October 1, 2014 to through September 30, 2015, PACA shall be paid an additional \$12,000 for that period no later than October 30, 2015. Gross-Net revenues as used in this section shall include all ticket sales for AACC Presents performances, box office fees, facility fees, facility rent, service package fees,

~~production service fees, net food & beverage revenues, parking revenue and any other net revenues generated by the operations of the AACC from the users of the AACC. facility rent, service fees, ticket surcharges, concessions and parking revenue, and any other revenues generated by the operations of the AACC from all users of the AACC.~~

Commencing on October 1, 2013, the fees for services paid to PACA shall be increased by three percent (3%) and then on October 1, 2014, the fees for services paid to PACA shall be increased by three percent (3%) or the consumer prices index for that date, whichever is less.

PACA will submit invoices for compensation following the end of each thirty (30) calendar day cycle, after the services for which invoices are submitted have been completed. An original invoice ~~plus one (1) copy~~ will be submitted by PACA to AVENTURA. Invoices shall designate the nature of the services performed for the period.

5.2.2 AVENTURA shall pay PACA within thirty (30) calendar days of the date of PACA's invoice statement. To be deemed proper, all invoices must comply with the requirements set forth in this Agreement.

5.2.3 AVENTURA shall make payments to PACA payable to "Performing Arts Center Authority" and forward to:

President/CEO
Attn: Kelley Shanley, President/CEO
Performing Arts Center Authority Broward Center for the Performing Arts
201 Southwest Fifth Avenue
Fort Lauderdale, Florida 33312

PACA may change any of the information provided under Section 5.2.3 herein by providing written notice of such change to Contract Administrator using the notice procedure under Section 7.13, "Notices." PACA shall provide its federal identification number on the form provided by AVENTURA at the time of PACA's execution of this Agreement.

ARTICLE 6 AVENTURA'S RESPONSIBILITIES

6.1 AVENTURA shall ~~reasonably assist~~ PACA by placing at PACA's disposal all information and documents that AVENTURA has available pertinent to the services stated in this Agreement including previous reports and any other data relative to management, programming and operations support, and usage of the ~~Aventura Arts and Cultural Center~~ AACC.

- 6.2 AVENTURA shall arrange for access to, and make all provisions for, PACA to enter upon AVENTURA's property at all reasonable times and upon prior reasonable notice, during each term of this Agreement as required for PACA to perform its services.
- 6.3 AVENTURA shall give ~~prompt~~ written notice, within ten (10) calendar days, to PACA whenever AVENTURA becomes aware of any development that affects the scope or timing of the services to be performed by PACA.
- 6.4 Except as herein otherwise set forth, throughout each term of this Agreement, AVENTURA shall maintain full beneficial use and ownership of the ~~Aventura Arts and & Cultural Center~~ AACC and will keep, observe, and perform all payments, terms, covenants, conditions, and obligations under any agreements to which AVENTURA may be bound.
- 6.5 PACA shall assist AVENTURA in securing all applicable licenses including, but not limited to, American Society of Composers, Authors and Publishers' licenses, in order to ensure that performances at the ~~Aventura Arts and & Cultural Center~~ AACC do not violate or infringe any copyright, patent, trademark, right of privacy or other statutory or common law right of any person or entity.
- 6.6 AVENTURA shall be solely responsible for all labor relations relating to AVENTURA's staff, volunteers and independent contractors used at the AACC, and for all labor relations associated with any and all trade or union representation among its employees, and shall negotiate and be responsible for adjusting and resolving any and all disputes between itself and its employees and any union representing such employees in a timely fashion. Whenever AVENTURA has knowledge that any actual or potential labor dispute is delaying or threatens to delay its or PACA's performance obligations under this Agreement or any related agreement for the use of the ~~Aventura Cultural Arts Center~~ AACC, AVENTURA shall promptly give written notice within ten (10) calendar days thereof to PACA.
- 6.7 AVENTURA warrants and represents to PACA that it has no knowledge of any material or adverse conditions pertaining to the plans of the ~~Aventura Arts and & Cultural Center~~ AACC, including, without limitation, the condition of the structure, its interior or the exterior, which would materially or adversely affect the ability of PACA to perform its obligations under this Agreement or materially or adversely affect the financial prospects for the ~~Aventura Cultural Arts Center~~ AACC. If ~~Aventura~~ AVENTURA becomes aware of any material or adverse condition, including, without limitation, the condition of the structure, its interior or the exterior, which would materially or adversely affect the ability of PACA to perform its obligations under this Agreement or materially or adversely affect the financial prospects for the ~~Aventura Arts and & Cultural Center~~ AACC, it shall immediately provide written notice to PACA of such conditions.
- 6.8 AVENTURA shall be solely responsible for all expenses incurred in connection with the management, use, occupancy, and operation of the ~~Aventura Arts and & Cultural Center~~ AACC, subject to the specific financial obligations of third parties under applicable Agreements, except as provided in Section 6.9 below, or as otherwise provided for herein.

- 6.9 PACA may present performances at the ~~Aventura Arts and Cultural Center~~ AACC and assume the associated financial risk. The assumption of such financial risk shall be at PACA's sole discretion. Such performances shall be subject to approval in writing by AVENTURA, and such approval or denial shall be in its absolute and sole discretion. In such cases, PACA will request in writing, the specific date it is requesting and the purpose of the request. AVENTURA will use its best efforts to confirm or deny the use of the ~~Aventura Arts and Cultural Center~~ in writing within five (5) business days. PACA will be responsible for reimbursing AVENTURA for all direct costs associated with the performance(s) including but not limited to, stage labor, cleaning, outside equipment rental, event staff, and advertising. PACA will be responsible to pay rental fees only if the ticket revenue from the performance(s) exceeds the costs associated with the performance including but not limited to reimbursements to AVENTURA as listed above, artist fees, artist transportations costs, and advertising costs.
- 6.10 At AVENTURA's request, PACA shall provide Programming and Booking Services, as described in Exhibit "A." PACA will book up to five (5) performances and events per year of this Agreement on behalf of AVENTURA. AVENTURA shall have the right to decrease or increase the annual number of performances booked by PACA on AVENTURA's behalf.
- 6.11 PACA agrees that it will utilize written contracts for all License Agreements at the AACC in a form that is approved by AVENTURA, as may be amended from time to time.
- 6.12 The CITY has established an Arts ~~and Cultural Center~~ Department which reports to the City Manager. PACA shall be accountable to the City Manager. Neither the City Commission nor its members shall give orders to PACA, its employees or employees of the Arts ~~and Cultural Center~~, either publicly or privately. Recommendations for improvements in the Arts ~~and Cultural Center~~ operations by Commissioners shall be made solely to and through the City Manager.

ARTICLE 7 MISCELLANEOUS

7.1 RIGHTS AND OWNERSHIP OF DOCUMENTS; PUBLIC RECORDS

Both PACA and AVENTURA are public entities organized under the laws of the State of Florida, and notwithstanding anything herein contained to the contrary; PACA and AVENTURA shall comply with the Public Records Law. If a copyright is claimed by either party, as to any work related to this Agreement, the other party grants a non-exclusive license to use the copyrighted item(s) indefinitely, to prepare derivative works, and to make and distribute copies to the public. Except as relating to confidential customer data, and confidential ticket data and any other information and materials determined by Florida's laws (as amended) to be confidential as to a public entity, PACA and AVENTURA agree that the information, reports, data, and other documents created by PACA or on behalf of AVENTURA related to this Agreement shall become the jointly owned property of PACA and

AVENTURA. Each party, as separate and independent owners, shall have the separate and independent right to use, photocopy and share with third parties, as it determines appropriate in its sole discretion such information, report, data and other documents separately and independently of the ownership rights of the other party, and such party shall not be required to provide any notice or obtain any consent from the other party relating to such use.

7.2 TERMINATION

7.2.1 This Agreement may be terminated for cause by action of PACA's Board or PACA's President/CEO or by AVENTURA's City Commission upon ninety (90) calendar days' prior written notice specifying the default or breach as furnished by the party that elected to terminate, provided that the default or breach is not cured within such period. Notwithstanding anything to the contrary contained in this Agreement, this Agreement may not be terminated for convenience. This Agreement may be terminated by PACA's President/CEO or the City Manager of AVENTURA upon such notice as such President/CEO or the City Manager deems appropriate under the circumstances in the event that PACA's President/CEO or the City Manager determines that termination is necessary to protect the public health, safety, or welfare.

7.2.2 Termination of this Agreement for cause shall include, but not be limited to, failure to suitably perform the work, failure to continuously perform the work in a manner calculated to meet or accomplish the objectives of PACA or AVENTURA as set forth in this Agreement, or breach of any of the provisions of this Agreement notwithstanding whether any such breach was previously waived or cured.

7.2.3 Notice of termination shall be provided in accordance with ~~§Section 7.13-~~ "NOTICES," of termination by PACA's President/CEO or the City Manager which PACA's President/CEO or the City Manager, respectively deems necessary to protect the public health, safety, or welfare may be verbal notice which shall be promptly confirmed in writing within three (3) business days in accordance with ~~§Section 7.13~~ of this Agreement.

7.2.4 In no event shall AVENTURA be liable to PACA for any additional compensation, upon such early termination only as provided for in ~~§Section 7.2.1~~ above, beyond that earned in accordance with the schedule of payments provided in ~~§Section 5.2.1~~ above other than that expressly provided herein, nor shall AVENTURA be liable to PACA for any consequential or incidental damages.

7.2.5 Any termination for convenience or without cause shall be considered a breach of this Agreement. Any termination for convenience or without cause shall not relieve PACA or AVENTURA from any of their respective obligations or liabilities incurred by PACA or AVENTURA prior to the effective date of such termination including, without limitation, the payment of all fees owed to PACA or the payment by AVENTURA of all expenses incurred relating to the management, programming and operations support,

and use of the ~~Aventura Arts and Cultural Center AACC~~. If this Agreement is terminated for convenience, without cause or expires, PACA shall be entitled to use the ~~Aventura Arts and Cultural Center AACC~~ for all PACA-presented existing, committed events, and PACA shall be charged the applicable rate to meet performance commitments under existing Agreements with AVENTURA for such use.

7.2.6 In the event this Agreement is terminated for convenience, PACA shall be paid for any services properly performed under the Agreement through the termination date specified in the written notice of termination subject to the provisions stated herein. Each party acknowledges and agrees that it has received good, valuable and sufficient consideration from the other party, the receipt and adequacy of which are, hereby acknowledged by each party, for the other party's right to terminate this Agreement for convenience.

7.2.7 As applicable, the Agreement may also be terminated for cause if AVENTURA or PACA is placed on the Scrutinized Companies with Activities in Sudan List or the Scrutinized Companies with Activities in the Iran Petroleum Energy Sector List created pursuant to Section 215.473, Florida Statutes, as amended or if ~~PACA or~~ AVENTURA provides a false certification submitted pursuant to Section 287.135, Florida Statutes, as amended.

7.3 AUDIT RIGHT AND RETENTION OF RECORDS

Each party shall have the right to audit the books, records, and accounts of the other party that are related to this Agreement. Each party shall keep such books, records, and accounts as may be necessary in order to record complete and correct entries related to this Agreement.

Each party shall preserve and make available, at reasonable times for examination and audit (including copying) by the other party, all financial records, supporting documents, statistical records, and any other documents pertinent to this Agreement for a period of five (5) years after the termination or expiration of this Agreement provided that any applicable audits have been completed. If any audit has been initiated and audit findings have not been resolved at the end of the five (5) year retention period, the books, records, and accounts shall be retained until resolution of the audit findings. Each party acknowledges and agrees that the records, documents, data, studies, surveys, drawings, maps, models, photographs, and copies of reports which are maintained by the other party, including those records prepared by, provided by or received by either party relating to this Agreement are subject to Florida Public Records, subject to applicable exemptions under the Florida Public Records Law or federal law; however, no confidentiality or non-disclosure requirement of either federal or state law shall be violated by either party. Any incomplete or incorrect entry in party's books, records, and accounts shall be a basis for the other party's disallowance and recovery of any payment upon such entry.

PACA shall permit AVENTURA, at all reasonable times and upon prior reasonable written notice, of at least ten (10) calendar days to audit, inspect, examine, and copy, at AVENTURA's sole expense, any and all of PACA's books, journals, ledgers, computer printouts, records, papers, reports, correspondence, memoranda, cash register records, and other documents and records of PACA which are related solely to the performance of services by PACA under this Agreement. Upon prior reasonable notice, AVENTURA shall have the right to make physical inventories of equipment, furnishings, and materials to assure that actual inventories agree with its records or the most current inventory list. PACA shall be promptly notified within ten (10) calendar days in writing of any and all discrepancies, excluding normal wear and tear of inventory items.

7.4 NONDISCRIMINATION, EQUAL EMPLOYMENT OPPORTUNITY, AND AMERICANS WITH DISABILITIES ACT-

Neither party shall unlawfully discriminate against any person in its operations and activities relating to this Agreement. Both parties shall affirmatively comply with all applicable provisions of the Americans with Disabilities Act (ADA), including Titles I and II of the ADA (regarding nondiscrimination on the basis of disability), and all applicable regulations, guidelines, and standards. AVENTURA and PACA shall comply with Title I of the Americans with Disabilities Act regarding nondiscrimination on the basis of disability in employment.

~~AVENTURA and PACA shall take affirmative action to ensure that applicants for employment and employees are treated without regard to race, age, religion, color, gender, sexual orientation (Broward County Code, Chapter 16½, as amended from time to time), national origin, marital status, political affiliation, or physical or mental disability during employment.~~ AVENTURA and PACA shall not unlawfully discriminate on the basis of race, color, national origin, sex, religion, age, marital status, political affiliation, familial status, disability, sexual orientation, pregnancy, or gender identity and expression in the performance of this Agreement, the solicitation for or purchase of goods or services relating to this Agreement, or in subcontracting work in the performance of this Agreement and shall not otherwise unlawfully discriminate in violation of the Broward County Code, Chapter 16½, as amended. Such actions shall include, but not be limited to, the following: employment, upgrading, demotion, transfer, recruitment or recruitment advertising, layoff, termination, rates of pay, other forms of compensation, terms and conditions of employment, training (including apprenticeship), and accessibility.

AVENTURA and PACA shall not engage in or commit any discriminatory practice in violation of the Broward County Human Rights Act (Broward County Code, Chapter 16½, as amended from time to time).

7.5 PUBLIC ENTITY CRIMES ACT

PACA further represents that there has been no determination, based on an audit, that it committed an act defined by Section 287.133, Florida Statutes, as amended, as a "public entity crime" and that it has not been formally charged with committing an act defined as a

“public entity crime” regardless of the amount of money involved or regardless of whether PACA has been placed on the convicted vendor list.

7.6 SUBCONSULTANT

PACA may utilize subconsultants for the support services to be performed by PACA for AVENTURA under this Agreement, subject to the Aventura Representative's written approval. In connection therewith, PACA shall provide advanced written notification to AVENTURA of its intent to use any subconsultant. To the extent permitted by Florida law, PACA shall be responsible for the acts or omissions of PACA's sub consultant, subject to applicable State of Florida or federal law and subject to the provisions of any applicable sub consultant's agreement. Furthermore, PACA's agreement with any ~~sub-consultant~~ subconsultant shall provide that the terms and conditions of this Agreement between AVENTURA and PACA shall be incorporated by reference into such subconsultants' agreements applicable to all of PACA's subconsultants. PACA shall notify AVENTURA if it uses any subconsultants for the support services of the AVENTURA Cultural Arts Center and shall provide to AVENTURA copies of all subconsultant agreements.

7.7 ASSIGNMENT AND PERFORMANCE

Neither this Agreement nor any interest herein shall be assigned, transferred, or encumbered by either party, nor shall PACA subcontract any portion of the work required by this Agreement except as stated in Section 7.6. PACA represents that all persons delivering the services required by this Agreement have the knowledge and skills, either by training, experience, education, or a combination thereof, to adequately and competently perform the duties, obligations, and services set forth in the Scope of Services and to provide and perform such services to PACA's and AVENTURA's satisfaction.

PACA shall perform its duties, obligations, and services under this Agreement in a skillful manner. The quality of PACA's performance and all ~~interim and final~~ services provided by PACA or on behalf of PACA shall be comparable to the best local and national standards.

7.8 GOVERNMENTAL IMMUNITY

Nothing herein is intended to serve as a waiver of sovereign immunity by any party nor shall anything included herein be construed as consent to be sued by third parties in any matter arising out of this Agreement or any other contract. AVENTURA is a municipality and PACA is an independent special district and public body, a state agency or political subdivision as defined in Chapter 768.28, Florida Statutes, as amended. Each party agrees to be fully responsible for the acts and omissions of its agents or employees to the extent permitted by law.

7.9 INSURANCE

7.9.1 PACA agrees to require from all licensees, users, promoters, exhibitors, concessionaires, or other persons contracting with PACA or AVENTURA (as required by their contracts) for use of the ~~Aventura Arts and Cultural Center~~ AACC proper insurance certificates and other evidence of insurance (or a self-insurance program acceptable to AVENTURA Representative), indicating sufficient commercial general liability, automobile liability, workers' compensation, employer's liability and umbrella excess liability insurance coverage, as may be appropriate, and with minimum amounts as approved by AVENTURA in writing. Such required insurance shall be furnished and kept in force at all times during the term of the applicable agreement by all licensees, users, promoters, exhibitors, concessionaires, or other persons contracting with PACA or AVENTURA (as required by such contracts) for use of the ~~Aventura Arts and Cultural Center~~ AACC. All commercial general liability and umbrella excess liability insurance policies shall name the "Performing Arts Center Authority" and "City of Aventura," as additional insureds on such policies. ALL INSURANCE COMPANIES PROVIDED SHALL: Be rated at least A-VII per Best's Key Rating Guide. All policies shall be Occurrence not Claims Made forms.

All of the policies of insurance so required to be purchased and maintained shall contain a provision or endorsement that the coverage afforded shall not be cancelled, materially changed or renewal refused until at least thirty (30) calendar days written notice has been given to AVENTURA by certified mail.

AVENTURA and PACA shall provide, pay for, and maintain in force at all times during each term of this Agreement, all required insurance designated in 7.9.2.1, 7.9.2.2, 7.9.2.3, and 7.9.2.4.

Such policy or policies shall be issued by companies allowed to do business in the State of Florida and having agents upon whom service of process may be made in the State of Florida. Permission is granted for either AVENTURA or PACA to self-insure workers compensation and employer's liability or to participate in group self-insurance workers compensation and employer's liability program. AVENTURA shall specifically protect PACA and PACA's Board by naming the "~~Performing Arts Center Authority~~" and its directors, officers and employees as an additional insured under the AVENTURA Commercial General Liability Insurance policy hereinafter described, except that additional insured status shall not apply for the acts and/or omissions of PACA, and PACA's Board, its officers, employees, agents, contractors, subcontractors, and or volunteers. PACA shall name "City of ~~AVENTURA~~Aventura." as an additional insured under the PACA Commercial General Liability Insurance policy hereinafter described except that additional insured status shall not apply for the acts and/or omissions of AVENTURA, its City Commission, officers, employees, agents, contractors, subcontractors, and/or volunteers.

7.9.2 AVENTURA and PACA shall have the following insurance:

7.9.2.1 Workers' Compensation Insurance to apply for all employees in compliance with the Workers' Compensation Law of the State of Florida

and all applicable federal laws.

7.9.2.2 Employer's Liability Insurance with minimum limits of: \$100,000 each accident; \$100,000 each employee for disease; \$500,000 disease aggregate.

7.9.2.3 Commercial General Liability Insurance with minimum limits of One Million Dollars (\$1,000,000.00) per occurrence combined single limit for bodily injury liability and property damage liability and Two Million Dollars (\$2,000,000.00) annual aggregate. Coverage must be afforded on a form similar to the latest edition of the Commercial General Liability form, as filed by the Insurance Services Office for use in Florida, and must include:

Premises and/or Operations Independent Contractors Products and Completed Operations Broad Form Property Damage Contractual Liability Personal Injury Cross Liability and Severability of Interest Clause Personal and Advertising Injury Liability Coverage with Employee and Contractual Exclusions removed with minimum limits of coverage equal to those required for Bodily Injury Liability and Property Damage Liability.

7.9.2.4 PACA shall maintain Employee Theft Insurance or a fidelity bond covering, among other things, employee dishonesty or embezzlement. The policy or bond shall have minimum limits of Five Hundred Thousand Dollars (\$500,000.00) per occurrence.

7.9.5.3 Within ten (10) calendar days after the complete execution of this Agreement, each party shall provide to the other party a Certificate of Insurance or a copy of all insurance policies required by Section 7.9 including all subsections thereunder. All certificates and endorsements required herein shall state that the other party shall be given thirty (30) calendar days written notice prior to expiration or cancellation of the policy. PACA'S liability insurance shall be primary to any liability insurance policies carried by AVENTURA. PACA Each party shall be responsible for all deductibles and self-insured retention's on ~~their~~its insurance policies.

7.10 REPRESENTATIVE OF PACA AND AVENTURA

7.10.1 The parties recognize that questions in the day-to-day performance of the services will arise. The Contract Administrator shall advise AVENTURA in writing of one (1) or more of PACA's employees to whom all communications pertaining to the day-to-day performance of the services shall be addressed.

7.10.2 Within five (5) calendar days of complete execution of this Agreement, AVENTURA shall inform the Contract Administrator in writing of AVENTURA's representative to whom matters involving the performances of the services shall

be addressed if such person is different from the AVENTURA's representative listed in Article 1. Such person may be changed in writing from time to time by AVENTURA's City Manager.

7.11 ALL PRIOR AGREEMENTS SUPERSEDED

This document incorporates and includes all prior negotiations, correspondence, conversations, oral agreements or understandings applicable to the matters contained herein; and the parties agree that there are no commitments, oral agreements, or understandings concerning the subject matter of this Agreement that are not contained in this document. Accordingly, the parties agree that no deviation from the terms hereof shall be predicated upon any prior representations or other agreements whether oral or written.

7.12 AMENDMENTS

It is further agreed that no modification, amendment or alteration in the terms or conditions contained herein shall be effective unless contained in a written document executed by both parties' authorized representatives with the same formality and of equal dignity herewith.

7.13 NOTICES

Whenever either party desires to give notice unto the other, such notice must be in writing, sent by certified United States mail, return receipt requested and postage prepaid or by hand delivery with a request for a written receipt of acknowledgment of delivery, or by a nationally recognized overnight delivery service (e.g., Federal Express) addressed to the party for whom it is intended at the place last specified, and the place for giving of notice shall remain such until it shall have been changed by written notice in compliance with the provisions of this paragraph. For the present, the parties designate the following as the respective places for giving of notice:

FOR PACA:

President/CEO
Attn: Kelley Shanley, President/CEO
Performing Arts Center Authority
Broward Center for the Performing Arts
201 Southwest Fifth Avenue
Fort Lauderdale, Florida 33312

FOR AVENTURA:

City Manager
Attn: Eric M. Soroka, City Manager
City of Aventura
19200 W. Country Club Drive

Aventura, Florida 33180

Either Party may change its information by providing immediate written notice to the other party using the notices procedures hereunder.

7.14 INTERPRETATION

The language of this Agreement has been agreed to by both parties to express their mutual intent and no rule of strict construction shall be applied against either party hereto. The headings contained in this Agreement are for reference purposes only and shall not affect in any way the meaning or interpretation of this Agreement. All personal pronouns used in this Agreement shall include the other gender, and the singular shall include the plural, and vice versa, unless the context otherwise requires. Terms such as "herein," "hereof," "hereunder," and "hereinafter" refer to this Agreement as a whole and not to any particular sentence, paragraph, or section where they appear, unless the context otherwise requires. Whenever reference is made to a Section or Article of this Agreement, such reference is to the Section or Article as a whole, including all of the subsections of such Section, unless the reference is made to a particular subsection or subparagraph of such Section or Article.

7.15 INDEPENDENT CONTRACTOR

PACA is an independent contractor under this Agreement. Services provided by PACA shall be subject to the supervision of PACA. In providing the services, PACA, its employees, or its agents shall not be acting and shall not be deemed as acting as officers, employees, or agents of AVENTURA. The parties expressly acknowledge that it is not their intent to create any rights or obligations in any third person or entity under this Agreement. PACA may not bind or otherwise obligate AVENTURA without the express prior written consent of AVENTURA. None of the officers, directors, agents, or employees of PACA shall be or shall be deemed to be officers, directors, agents, or employees, of AVENTURA for any purpose whatsoever. None of the officers, directors, agents, or employees of AVENTURA shall be or be deemed to be officers, directors, agents, or employees of PACA for any purpose whatsoever.

By entering into this Agreement, none of the parties hereto intend to create, nor shall this Agreement be deemed or construed as creating, any partnership, joint venture, agency or other legal relationship between AVENTURA and/or PACA, other than that of AVENTURA as owner of the ~~Aventura Cultural Arts Center~~ AACC and PACA as independent contractor performing services relating to the management, marketing, programming and operations support of the ~~Aventura Cultural Arts Center~~ AACC.

7.16 LIMITATION OF AUTHORITY

PACA has no power or authority to bind or otherwise obligate AVENTURA in any manner without the prior written consent of AVENTURA, except as expressly provided for herein. AVENTURA has no power or authority to bind or otherwise obligate PACA in any manner

without the prior written consent of PACA, except as expressly provided for herein.

7.17 THIRD PARTY BENEFICIARIES

Neither AVENTURA nor PACA intends to directly or substantially benefit a third party by this Agreement. Therefore, the parties agree that there are no third party beneficiaries to this Agreement and that no third party shall be entitled to assert a claim against either of them based upon this Agreement.

7.18 CONFLICTS

AVENTURA acknowledges that PACA operates and manages other performing arts centers which may, from time to time, be in competition with the ~~Aventura Arts and Cultural Center~~ AACC. The parties expressly acknowledge and agree that the operation and management of such competing facility by PACA will not, in and of itself, be deemed to be a conflict of interest or breach of PACA's duties hereunder.

7.19 CONTINGENCY FEE

PACA warrants that it has not employed or retained any company or person, other than a bona fide employee working solely for PACA, to solicit or secure this Agreement and that it has not paid or agreed to pay any person, company, corporation, individual or firm, other than a bona fide employee working solely for PACA, any fee, commission, percentage, gift, or other consideration contingent upon or resulting from the award or making of this Agreement. For a breach or violation of this provision, AVENTURA shall, at its sole discretion, have the right to terminate this Agreement without liability, or to adjust the Agreement price by, or otherwise recover the full amount of, such fee, commission, percentage, gift or consideration.

7.20 WAIVER OF BREACH AND MATERIALITY

Failure by PACA or AVENTURA to enforce any provision of this Agreement shall not be deemed a waiver of such provision or modification of this Agreement. A waiver of any breach of a provision of this Agreement shall not be deemed a waiver of any subsequent breach and shall not be construed to be a modification of the terms of this Agreement.

PACA and AVENTURA agree that each requirement, duty, and obligation set forth herein is substantial and important to the formation of this Agreement and, therefore, is a material term hereof.

7.21 COMPLIANCE WITH LAWS

PACA and AVENTURA agree that each of them shall comply with all federal, state, and local laws, codes, ordinances, rules, and regulations (as amended from time to time) in performing its duties, responsibilities, and obligations related to this Agreement.

PACA shall not be liable for any violation, or non-observance of, or noncompliance with, any of the aforementioned laws, ordinances, orders, directives, rules, or regulations by any tenant, concessionaire, or other persons at the ~~Aventura Arts and Cultural Center AACC~~ during any term of this Agreement, except those engaged by PACA, or PACA's ~~sub consultants~~ subconsultants, in connection with PACA's performance of services or its other obligations under this Agreement. AVENTURA shall not be liable for any violation, or non-observance of, or noncompliance with any of the aforementioned laws, ordinances, orders, directories, rules, or regulations by PACA, its agents, employees, or contractors.

AVENTURA shall be responsible for acquiring any and all ownership and title to all intellectual property rights of whatsoever value, which shall be held in AVENTURA's name and which shall remain in the name of AVENTURA throughout each term of this Agreement.

7.22 SEVERANCE

In the event any provisions of this Agreement are found by a court of competent jurisdiction to be invalid or unenforceable, the remaining provisions shall continue to be effective to the maximum extent permitted by Florida law, unless AVENTURA (through its City Manager) or PACA (through PACA's Board or PACA's President/CEO) elects to terminate this Agreement. An election to terminate this Agreement based upon this provision shall be made within seven (7) calendar days after the finding by the court becomes final.

7.23 JOINT PREPARATION

Preparation of this Agreement including any amendment(s) thereto have been a joint effort of PACA and AVENTURA, and the resulting document shall not, solely as a matter of judicial construction, be construed more severely against one of the parties than any other.

7.24 PRIORITY OF PROVISIONS

If there is a conflict or inconsistency between any term, statement, requirement, or provision of any exhibit attached hereto, any document or events referred to herein, or any document incorporated into this Agreement by reference and a term, statement, requirement, or provision of this Agreement, the term, statement, requirement, or provision contained in this Agreement shall prevail and be given effect.

7.25 JURISDICTION, VENUE, WAIVER OF JURY TRIAL

This Agreement shall be interpreted and construed in accordance with and governed by the laws of the state of Florida. All parties agree and accept that jurisdiction of any controversies or legal problems arising out of this Agreement, and any action involving the enforcement or interpretation of any rights hereunder, shall be in the state courts of the Eleventh Judicial Circuit in Miami-Dade County, Florida, or the Seventeenth Judicial Circuit in Broward County, Florida, and venue for litigation arising out of this Agreement shall be in such state courts, forsaking any other jurisdiction which either party may claim by virtue of its residency or other

jurisdictional device. By entering into this Agreement, AVENTURA and PACA hereby expressly waive any rights either party may have to a trial by jury in any civil litigation which is in any way related to this Agreement.

7.26 DELEGATION OF AUTHORITY

(a) PACA (and/or PACA's President/CEO) and AVENTURA (and/or AVENTURA Representative) may delegate in writing their responsibilities under this Agreement to one or more authorized person(s) employed or retained by AVENTURA or PACA.

(b) PACA delegates to PACA's President/CEO and AVENTURA delegates to the City Manager/AVENTURA representative the authority to amend or revise the form of Licensing Agreement for the use of the AACO Union is referred to herein on behalf of each respective party ~~hereinwith~~ ~~herewith~~ the written approval of each party to this Agreement.

7.27 INCORPORATION BY REFERENCE

The truth and accuracy of each "Whereas" clause set forth above is acknowledged by the parties. The "Whereas" clauses are incorporated into and made a part of this Agreement. The attached Exhibits "A" and "B" are incorporated into and made a part of this Agreement.

7.28 COUNTERPARTS

This Agreement may be executed in three (3) counterparts or more, each of which shall be deemed to be an original.

7.29 EFFECTIVE DATE

The effective date of the the parties' original Agreement shall be the date of complete execution by the parties.

[THIS SPACE INTENTIONALLY LEFT BLANK.]

IN WITNESS WHEREOF, the parties hereto have made and executed this AGREEMENT on the respective dates under each signature: PERFORMING ARTS CENTER AUTHORITY, signing by and through its Chair or Vice Chair, and CITY OF AVENTURA, signing by and through its City Manager, duly authorized to execute same.

PACA

PERFORMING ARTS CENTER AUTHORITY, an independent special district and a public body politic and corporate

ATTEST:

PACA's Board Secretary

By _____
Chair

(SEAL)

_____ Day of _____, 20_____.

Approved as to form by PACA's General Counsel, Joni Armstrong Coffey, Broward County Attorney, in Fort Lauderdale Broward County, Florida

By _____
Andrea S. Froome (Date)
Senior Assistant County Attorney

AGREEMENT BETWEEN PERFORMING ARTS CENTER AUTHORITY AND CITY OF AVENTURA FOR, MANAGEMENT, PROGRAMMING AND OPERATIONAL SUPPORT SERVICES FOR THE AVENTURA ARTS AND CULTURAL CENTER SERVICES

AVENTURA

CITY OF AVENTURA, a municipality in the State of Florida

By _____
Eric M. Soroka, City Manager

____ Day of _____, 20____.

ATTEST:

City Clerk

APPROVED AS TO FORM:

By _____
Weiss Serota Helfman Pastoriza Cole
& Boniske, P.L.
City Attorney

(SEAL)

RESOLUTION NO. 2012-__

A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF AVENTURA, FLORIDA AUTHORIZING THE CITY MANAGER TO EXECUTE THE ATTACHED AGREEMENT BETWEEN THE CITY OF AVENTURA AND PERFORMING ARTS CENTER AUTHORITY FOR MANAGEMENT, PROGRAMMING AND OPERATIONAL SUPPORT SERVICES FOR THE AVENTURA ARTS & CULTURAL CENTER; AUTHORIZING THE CITY MANAGER TO DO ALL THINGS NECESSARY TO CARRY OUT THE AIMS OF THIS RESOLUTION; AND PROVIDING AN EFFECTIVE DATE.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COMMISSION OF THE CITY OF AVENTURA, FLORIDA, THAT:

Section 1. The City Manager is hereby authorized to execute the attached Agreement between the City of Aventura and Performing Arts Center Authority for management, programming and operational support services for the Aventura Arts & Cultural Center.

Section 2. The City Manager is hereby authorized to do all things necessary to carry out the aims of this Resolution and the Agreement.

Section 3. This Resolution shall become effective immediately upon its adoption.

The foregoing Resolution was offered by Commissioner ____, who moved its adoption.

The motion was seconded by Commissioner _____, and upon being put to a vote, the vote was as follows:

Commissioner Zev Auerbach	___
Commissioner Bob Diamond	___
Commissioner Billy Joel	___
Commissioner Michael Stern	___
Commissioner Luz Urbaez-Weinberg	___
Vice Mayor Teri Holzberg	___
Mayor Susan Gottlieb	___

PASSED AND ADOPTED this 4th day of September, 2012.

Susan Gottlieb, Mayor

ATTEST:

Teresa M. Soroka, MMC
City Clerk

Approved as to Form and Legal Sufficiency:

City Attorney

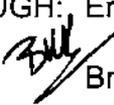
CITY OF AVENTURA

FINANCE DEPARTMENT

MEMORANDUM

TO: City Commission (ACES Board of Directors) 

THROUGH: Eric M. Soroka, City Manager, ICMA-CM

FROM:  Brian K. Raducci, Finance Director

DATE: August 24, 2012

SUBJECT: **Aventura City of Excellence School (the "School")
Special Purpose Financial Report**

Background

As required by State law and our Charter School Contract with the Miami-Dade County Public School District, we have prepared the attached School's financial statements for the fiscal year ended June 30, 2012. These statements encompass the 9th year of the School's operations and were audited by Keefe, McCullough & Co., LLP.

The Report complies with Generally Accepted Accounting Principles (GAAP), which includes Governmental Accounting Standard Board (GASB) Statement No 34. The cover reflects that the Report contains the "Special Purpose Financial Report" for the "Aventura City of Excellence School, a Special Revenue Fund of the City of Aventura, Florida." As a result, the School's financial operations will be reflected in the City's Comprehensive Annual Financial Report for the fiscal year ended September 30, 2012, as well as in this Report.

The key schedules in this Report are – 1.) Statement of Revenues, Expenditures and Change in Fund Balance – Governmental Fund and; 2.) the Statement of Revenues and Expenditures Budget and Actual – Special Revenue Fund, which can be found on pages 12 and 25, respectively. Please note that on page 25, revenue and expenditures (Actual Amounts GAAP Basis), aggregated \$7,342,978 and \$7,471,871 respectively. The negative net difference of \$128,893 when added to the beginning fund balance of \$2,234,312, resulted in an ending fund balance of \$2,105,419 (bottom of page 12). The fund balance decreased from the prior year primarily because of lower than anticipated state revenues including FTE. Of the \$2,105,419 ending fund balance, \$394,279 is being utilized to balance the 2012/13 budget.

Actual Amounts of expenditures, on a budgetary basis, at the end of the 2011/12 school year, totaled \$7,442,541 based on a total budget of \$7,468,441 or 99.65% of budget.

Page (2)
Aventura City of Excellence School
Special Purpose Financial Statements

The balance of the Report contains the School's statements and a narrative on a GASB 34 basis. The purpose of the GASB 34 governmental financial statements is to more closely resemble the financial statements of non-governmental entities. Therefore, page 8 contains a Statement of Net Assets which is reconciled to the Balance Sheet at the bottom of page 11. Similarly, the Statement of Activities (page 9) reflects a change in net assets which is reconciled to the Statement of Revenues, Expenditures and Change in Fund Balance of the Governmental Fund at the bottom of page 13.

Whether you look at the School's operations from either a GASB 34 non-governmental basis (pages 8 – 9) or a traditional governmental basis (pages 10, 12 and 25), the School continues to operate well from both an educational and financial perspective.

The letter dated August 20, 2012 is also required to be distributed to the City Commission by generally accepted auditing standards and was accordingly attached to the September 4, 2012 City Commission Meeting Agenda. The Reports contained on pages 27 – 30 of the Special Purpose Financial Report are required by generally accepted auditing standards and the Rules of the Auditor General of the State of Florida. Please note that none of these documents contain any negative comments about the School's or City's operations.

Future Actions

A motion will be placed on the September 4, 2012 agenda, to satisfy the Auditor General's requirement (Chapter 10.550), that the Financial Reports be filed as an official record at a public meeting.

Upon your review of this memorandum, if you should have any questions, please feel free to contact the City Manager.



Keefe, McCullough & Co., LLP
Certified Public Accountants

August 20, 2012

To the Honorable Mayor,
Members of the City Commission and City Manager
of the City of Aventura, Florida
Aventura City of Excellence School
Aventura, Florida

We have audited the financial statements of the Aventura City of Excellence School (a special revenue fund of the City of Aventura, Florida) (the "School"), as of and for the year ended June 30, 2012. Professional standards require that we provide you with information about our responsibilities under generally accepted auditing standards and *Government Auditing Standards*, as well as certain information related to the planned scope and timing of our audit. We have communicated such information in our engagement letter to you dated May 5, 2010. Professional standards also require that we provide you with the following information related to our audit.

Significant Audit Findings

Qualitative Aspects of Accounting Practices

Management is responsible for the selection and use of appropriate accounting policies. The significant accounting policies used by the School are described in Note 2 to the financial statements. No new accounting policies were adopted and the application of existing policies was not changed during 2012. We noted no transactions entered into by the School during the year for which there is a lack of authoritative guidance or consensus. All significant transactions have been recognized in the financial statements in the proper period.

Accounting estimates are an integral part of the financial statements prepared by management and are based on management's knowledge and experience about past and current events and assumptions about future events. Certain accounting estimates are particularly sensitive because of their significance to the financial statements and because of the possibility that future events affecting them may differ significantly from those expected. The most sensitive accounting estimate affecting the financial statements was:

- *Depreciation of capital assets* – Depreciation is provided on a straight-line basis over the respective estimated useful lives ranging from 3 to 25 years. Management has informed us they used all relevant facts available to them at the time of acquisition to make the best judgments about depreciation methods and estimated useful lives of capital assets.

We evaluated the key factors and assumptions used by management to develop and report the above significant estimate in determining that it is reasonable in relation to the financial statements taken as a whole.

Difficulties Encountered in Performing the Audit

We encountered no difficulties in dealing with management in performing and completing our audit.

Corrected and Uncorrected Misstatements

Professional standards require us to accumulate all known and likely misstatements identified during the audit, other than those that are trivial, and communicate them to the appropriate level of management. We did not identify material misstatements as a result of our audit procedures.

Disagreements with Management

For purposes of this letter, professional standards define a disagreement with management as a financial accounting, reporting, or auditing matter, whether or not resolved to our satisfaction, that could be significant to the financial statements or the auditors' report. We are pleased to report that no such disagreements arose during the course of our audit.

Management Representations

We have requested certain representations from management that are included in the management representation letter dated August 20, 2012.

Management Consultations with Other Independent Accountants

In some cases, management may decide to consult with other accountants about auditing and accounting matters, similar to obtaining a "second opinion" on certain situations. If a consultation involves application of an accounting principle to the School's financial statements or a determination of the type of auditors' opinion that may be expressed on those statements, our professional standards require the consulting accountant to check with us to determine that the consultant has all the relevant facts. To our knowledge, there were no such consultations with other accountants.

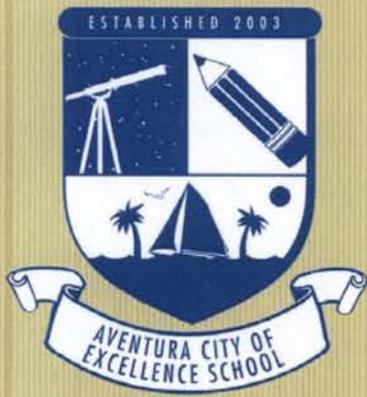
Other Audit Findings or Issues

We are to discuss with the City Commission any major issues discussed with management in connection with our retention as auditors, including the application of accounting principles or auditing standards. There were no issues discussed with management in connection with our retention as auditors.

This information is intended solely for the use of the City Commission and management of the School and is not intended to be and should not be used by anyone other than these specified parties.

We would be pleased to discuss any questions that you may have.

Keefe, McCullough & Co., LLP
KEEFE, McCULLOUGH & CO., LLP



AVENTURA CITY OF EXCELLENCE SCHOOL

A Special Revenue Fund
of the City of Aventura, Florida

Special Purpose Financial Report
For the Fiscal Year Ended
June 30, 2012



AVENTURA CITY OF EXCELLENCE SCHOOL
(A SPECIAL REVENUE FUND OF THE CITY OF AVENTURA, FLORIDA)

**BASIC FINANCIAL STATEMENTS AND
ADDITIONAL INFORMATION**

June 30, 2012

AVENTURA CITY OF EXCELLENCE SCHOOL
BASIC FINANCIAL STATEMENTS AND ADDITIONAL INFORMATION
June 30, 2012

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INDEPENDENT AUDITORS' REPORT

To the Honorable Mayor, City Commissioners and City Manager
of the City of Aventura, Florida
Aventura City of Excellence School
Aventura, Florida

We have audited the accompanying financial statements of the Aventura City of Excellence School a special revenue fund of the City of Aventura, Florida (the "School"), as of and for the year ended June 30, 2012, as listed in the table of contents. These financial statements are the responsibility of the School's management. Our responsibility is to express opinions on these financial statements based on our audit.

We conducted our audit in accordance with auditing standards generally accepted in the United States of America and the standards applicable to financial audits contained in *Government Auditing Standards*, issued by the Comptroller General of the United States. Those standards require that we plan and perform the audit to obtain reasonable assurance about whether the financial statements are free of material misstatement. An audit includes examining, on a test basis, evidence supporting the amounts and disclosures in the financial statements. An audit also includes assessing the accounting principles used and significant estimates made by management, as well as evaluating the overall financial statement presentation. We believe that our audit provides a reasonable basis for our opinions.

As discussed in Note 2, these financial statements present only the Aventura City of Excellence School, a special revenue fund of the City of Aventura, Florida. These financial statements do not purport to, and do not, present fairly the financial position of the City of Aventura, Florida, as of June 30, 2012, and its changes in financial position or budgetary comparisons, where applicable, for the year then ended in conformity with accounting principles generally accepted in the United States of America.

In our opinion, the basic financial statements referred to above present fairly, in all material respects, the financial position of the School, as of June 30, 2012, and the changes in its financial position for the year then ended in conformity with accounting principles generally accepted in the United States of America.

In accordance with *Government Auditing Standards*, we have also issued our report dated August 20, 2012 on our consideration of the School's internal control over financial reporting and our tests of its compliance with certain provisions of laws, regulations, contracts, grant agreements and other matters. The purpose of that report is to describe the scope of our testing of internal control over financial reporting and compliance and the results of that testing, and not to provide an opinion on internal control over financial reporting or on compliance. That report is an integral part of an audit performed in accordance with *Government Auditing Standards* and should be considered in assessing the results of our audit.

Aventura City of Excellence School

Accounting principles generally accepted in the United States of America require that the management's discussion and analysis and the budgetary comparison information as listed in the table of contents, respectively, be presented to supplement the basic financial statements. Such information, although not a part of the basic financial statements, is required by the Governmental Accounting Standards Board, who considers it to be an essential part of financial reporting for placing the basic financial statements in an appropriate operational, economic, or historical context. We have applied certain limited procedures to the required supplementary information in accordance with auditing standards generally accepted in the United States of America, which consisted of inquiries of management about the methods of preparing the information and comparing the information for consistency with management's responses to our inquiries, the basic financial statements, and other knowledge we obtained during our audit of the basic financial statements. We do not express an opinion or provide any assurance on the information because the limited procedures do not provide us with sufficient evidence to express an opinion or provide any assurance.

Keefe, McCullough & Co., LLP

KEEFE, McCULLOUGH & CO., LLP

Fort Lauderdale, Florida
August 20, 2012

MANAGEMENT'S DISCUSSION AND ANALYSIS

AVENTURA CITY OF EXCELLENCE SCHOOL
MANAGEMENT'S DISCUSSION AND ANALYSIS
June 30, 2012

Our discussion and analysis of the Aventura City of Excellence School's (the "School") financial performance provides an overview of the School's financial activities for the fiscal year ended June 30, 2012. Please read it in conjunction with the School's basic financial statements which immediately follow this discussion.

OVERVIEW OF THE BASIC FINANCIAL STATEMENTS

This discussion and analysis is intended to serve as an introduction to the School's basic financial statements. The basic financial statements are comprised of three (3) components: 1) government-wide financial statements, 2) fund financial statements, and 3) notes to the basic financial statements. This report also contains other required supplementary information in addition to the basic financial statements themselves.

Government-Wide Financial Statements

The government-wide financial statements, which consist of the statement of net assets and the statement of activities, are designed to provide readers with a broad overview of the School's finances, in a manner similar to a private-sector business.

The statement of net assets provides information on all the School's assets and liabilities, with the difference between the two (2) reported as net assets. Over time, increases or decreases in net assets may serve as a useful indicator of whether the School's financial position is improving or deteriorating. However, as a governmental entity, the School's activities are not geared toward generating profit as are the activities of commercial entities. Other factors such as the safety at the School and quality of education, must be considered in order to reasonably assess the School's overall performance.

The statement of activities presents information and shows how the School's net assets changed during the year. All changes in net assets are reported as soon as the underlying event giving rise to the change occurs, regardless of the timing of related cash flows. Thus, revenues and expenses are reported in this statement for some items that will only result in cash flows in future fiscal periods.

Fund Financial Statements

A fund is a grouping of related accounts that is used to maintain control over resources that have been segregated for specific activities or objectives. The School has only one (1) category of funds - governmental funds.

Governmental funds are used to account for essentially the same functions reported as governmental activities in the government-wide financial statements. However, unlike the government-wide financial statements, governmental fund financial statements focus on near-term inflows and outflows of spendable resources, as well as balances of spendable resources available at the end of the fiscal year. Such information may be useful in evaluating the School's near-term financing requirements.

Because the focus of governmental funds is narrower than that of the government-wide financial statements, it is useful to compare the information presented for governmental funds with similar information presented for governmental activities in the government-wide financial statements. By doing so, readers may better understand the long-term impact of the School's near-term financing decisions. Both the governmental fund balance sheet and the governmental fund statement of revenues, expenditures and change in fund balance provide a reconciliation to facilitate this comparison between the governmental fund and governmental activities.

**AVENTURA CITY OF EXCELLENCE SCHOOL
MANAGEMENT'S DISCUSSION AND ANALYSIS
June 30, 2012**

Notes to the Basic Financial Statements

The notes provide additional information that is essential to a full understanding of the data provided in the government-wide and fund basic financial statements.

Supplementary Information

In addition to the basic financial statements and accompanying notes, this report also presents certain required supplementary information concerning the School's adopted budget to actual results.

GOVERNMENT-WIDE FINANCIAL ANALYSIS

As noted earlier, net assets may serve over time as a useful indicator of financial position. The following table presents a comparative analysis of the condensed government-wide statements of net assets:

Aventura City of Excellence School Net Assets			
	2012	2011	Variance
ASSETS:			
Current and other assets	\$ 2,834,858	\$ 3,016,188	\$ (181,330)
Capital assets, net of depreciation	1,986,765	2,074,362	(87,597)
Total assets	4,821,623	5,090,550	(268,927)
LIABILITIES:			
Current liabilities	736,761	749,179	(12,418)
Noncurrent liabilities	21,964	31,450	(9,486)
Total liabilities	758,725	780,629	(21,904)
NET ASSETS:			
Invested in capital assets	1,986,765	2,074,362	(87,597)
Unrestricted	2,076,133	2,235,559	(159,426)
Total net assets	\$ 4,062,898	\$ 4,309,921	\$ (247,023)

Current and other assets decreased due to a decrease in pooled cash, cash equivalents and investments along with a reduction in accounts receivable.

Resources that are subject to external restrictions on how they may be used are classified as restricted assets. As of June 30, 2012 and 2011, the School had no restricted assets. The remaining unrestricted balance may be used in any of the School's ongoing operations.

**AVENTURA CITY OF EXCELLENCE SCHOOL
MANAGEMENT'S DISCUSSION AND ANALYSIS
June 30, 2012**

The following table presents comparative information of the condensed government-wide statements of changes in net assets:

Aventura City of Excellence School Changes in Net Assets			
	2012	2011	Variance
REVENUES:			
General revenues and transfers	\$ 5,776,077	\$ 6,418,072	\$ (641,995)
Program revenues:			
Charges for services	589,727	596,570	(6,843)
Operating grants and contributions	449,864	389,267	60,597
Capital grants and contributions	491,119	537,463	(46,344)
Total revenues	7,306,787	7,941,372	(634,585)
EXPENSES:			
Instruction	4,531,449	4,166,489	364,960
Instructional media services	71,358	71,114	244
Operation of facility	1,646,138	1,866,442	(220,304)
School administration	971,876	1,019,985	(48,109)
Pupil transportation services	183,600	184,140	(540)
Community services	149,389	146,996	2,393
Total expenses	7,553,810	7,455,166	98,644
Change in net assets	\$ (247,023)	\$ 486,206	\$ (733,229)

- General revenues decreased primarily due to revenue reductions imposed by the State to balance the State Budget.
- Instructional expenses increased primarily as a result of teacher salary increases based on years of service and new teacher positions added to accommodate the capacity of students. The total number of employees was 90 full-time and 15 part-time compared with 86 full-time and 15 part-time positions included in last year's school year. Included in the full-time positions are teachers, Instructional Counselor, Media Specialist and a Computer Network/Technician.
- Operation of facility decreased primarily as a result of the completion in 2011 of the installation of smart boards in all classrooms and the acquisition of new furniture and computers for the new classrooms.

FINANCIAL ANALYSIS OF THE SCHOOL'S FUNDS

As noted earlier, the School uses fund accounting to maintain control over resources that have been segregated for specific activities or objectives. The focus of the School's governmental funds is to provide information on near-term inflows, outflows and balances of spendable resources. Such information is useful in assessing the School's financing requirements. In particular, assigned fund balance may serve as a useful measure of the School's net resources available for spending at the end of the fiscal year.

**AVENTURA CITY OF EXCELLENCE SCHOOL
MANAGEMENT'S DISCUSSION AND ANALYSIS
June 30, 2012**

As of the end of fiscal year 2011/12 the School's governmental fund reported ending fund balance of \$ 2,105,419. The fund balance assigned and available for spending at the School's discretion is \$ 2,074,660. These funds will be available for the School's future ongoing operations. The fund balance decreased by \$ 128,893 from the prior year primarily because of lower than anticipated state revenues including FTE.

BUDGETARY HIGHLIGHTS

In order to adhere to new Sunshine State Standards adopted by the Florida Department of Education, expand the school's physical fitness classes and at risk reading program the budget included four additional teacher positions. This year we maintained all our present academic programs and focused on our award winning character education initiatives and expanding our cultural programs through our collaboration with the Aventura Arts & Cultural Center.

CAPITAL ASSETS AND DEBT ADMINISTRATION

As of June 30, 2012, the School had an investment in capital assets of \$ 1,986,765. This amount is net of accumulated depreciation of \$ 697,649. This amount represents a net decrease of \$ 87,597 or 4%.

The School has no outstanding debt.

ECONOMIC FACTORS

Facts, decisions or conditions that are expected to have a significant effect on the financial position or results of operations of the School in fiscal year 2012/13 include the following:

- The 2012/13 school year represents the tenth year of operations of the school. Our past has shown that we can continue to operate the school at a high level and provide quality education for our students, within the school-based revenues. We have also been fortunate to have a strong business community and involved parents that participate in fund raising activities for school improvements.
- The past two years the State Legislature has reduced educational funding in order to balance the state budget. This past session the State Legislature increased funding for education. However, it did not offset the reductions that were imposed in the prior year's budgets. Based on the State budget passed earlier this year, the FTE revenues are expected to increase by 2%.
- The 2012/13 budget implements the departmentalization of the fourth grade by adding a teacher position. This also will allow the fourth grade to increase by 12 students in the 2012/13 school year. Over the next five years, as the additional students move up in grade, this will increase each grade by 12 students. The school's capacity enrollment will increase from 972 to 984 students for the 2012/13 school year. Departmentalizing allows teachers to focus on one to two content areas with specialization. This enables them to become experts in their content area rather than generalists teaching all subjects. The Next Generation Sunshine State standards being assessed this year in reading, math and science require an increased depth of knowledge.

**AVENTURA CITY OF EXCELLENCE SCHOOL
MANAGEMENT'S DISCUSSION AND ANALYSIS
June 30, 2012**

The following represents other important highlights:

- The transfer to the General fund in the amount of \$ 30,000 to offset services provided by the Finance Department, to the school will again be deferred this year.
- Revenue in the amount of \$ 100,000 from the Intersection Safety Camera Program is included to assist in funding the contingency line item in the budget.
- Teacher salary increases will reflect a step increase based on the revised pay plan. In addition, returning teachers will be rewarded with a service award based on years of service. The pay plan continues to exceed Miami-Dade County Schools' current plan.
- Funds have been budgeted to provide for computer replacements and expanding the use of iPads in the classroom.
- The budget continues to include revenue in the amount of \$125,000 from the Clear Channel agreement for proceeds from the billboard advertising.

The overall budget increased by 2.9% or \$ 216,455. This is largely due to the addition of a new teacher and employee salary increases. The budget includes funding for lease payments to the Debt Service Fund to pay annual costs associated with the long term debt borrowed for the construction of the elementary school wing.

It is important that we continue to maximize the school dollars as much as possible and maintain efficient use of budgeted funds.

REQUESTS FOR INFORMATION

This financial report is designed to provide a general overview of the Aventura City of Excellence School's finances for all those with an interest. If you should have any questions pertaining to the information presented in this report or would like additional information, please contact the Finance Director at the City of Aventura, 19200 West Country Club Drive, Aventura, Florida 33180.

BASIC FINANCIAL STATEMENTS

AVENTURA CITY OF EXCELLENCE SCHOOL
STATEMENT OF NET ASSETS
June 30, 2012

A S S E T S

	<u>Governmental Activities</u>
CURRENT ASSETS:	
Cash, cash equivalents, and investments	\$ 2,804,099
Prepaid expenses	<u>30,759</u>
Total current assets	<u>2,834,858</u>
 NONCURRENT ASSETS:	
Capital assets, net of accumulated depreciation	<u>1,986,765</u>
Total assets	<u>4,821,623</u>
L I A B I L I T I E S A N D N E T A S S E T S	
 CURRENT LIABILITIES:	
Accounts payable	143,084
Accrued expenses	586,355
Compensated absences	<u>7,322</u>
Total current liabilities	<u>736,761</u>
 NONCURRENT LIABILITIES:	
Compensated absences	<u>21,964</u>
Total noncurrent liabilities	<u>21,964</u>
Total liabilities	<u>758,725</u>
 NET ASSETS:	
Invested in capital assets	1,986,765
Unrestricted	<u>2,076,133</u>
Total net assets	\$ <u><u>4,062,898</u></u>

The accompanying notes to basic financial statements are an integral part of these statements.

AVENTURA CITY OF EXCELLENCE SCHOOL
STATEMENT OF ACTIVITIES
For the Year Ended June 30, 2012

		Program Revenues			Governmental Activities
	Expenses	Charges for Services	Operating Grants and Contributions	Capital Grants and Contributions	Net Revenue (Expense) and Change in Net Assets
FUNCTIONS/PROGRAMS:					
Instruction	\$ 4,531,449	\$ -	\$ 217,443	\$ -	\$ (4,314,006)
Instructional media services	71,358	-	-	-	(71,358)
Operation of facility	1,646,138	398,838	96,428	491,119	(659,753)
School administration	971,876	-	-	-	(971,876)
Pupil transportation services	183,600	-	135,993	-	(47,607)
Community services	149,389	190,889	-	-	41,500
	<u>\$ 7,553,810</u>	<u>\$ 589,727</u>	<u>\$ 449,864</u>	<u>\$ 491,119</u>	<u>(6,023,100)</u>
Total governmental activities					
	<u>\$ 7,553,810</u>	<u>\$ 589,727</u>	<u>\$ 449,864</u>	<u>\$ 491,119</u>	<u>(6,023,100)</u>
General revenues:					
FTE nonspecific revenues					5,480,986
Miscellaneous income					189,640
Investment earnings					5,451
Transfers from other funds of the City					100,000
					<u>5,776,077</u>
					Change in net assets (247,023)
					<u>4,309,921</u>
					Net assets, July 1, 2011
					<u>4,309,921</u>
					Net assets, June 30, 2012
					<u>\$ 4,062,898</u>

The accompanying notes to basic financial statements are an integral part of these statements.

AVENTURA CITY OF EXCELLENCE SCHOOL
 BALANCE SHEET - GOVERNMENTAL FUND
 June 30, 2012

A S S E T S

	<u>Special Revenue Fund</u>
ASSETS:	
Cash, cash equivalents and investments	\$ 2,804,099
Prepaid expenditures	<u>30,759</u>
Total assets	<u>\$ 2,834,858</u>

L I A B I L I T I E S A N D F U N D B A L A N C E

LIABILITIES:	
Accounts payable	\$ 143,084
Accrued expenses	<u>586,355</u>
Total liabilities	<u>729,439</u>
 FUND BALANCE:	
Nonspendable	30,759
Assigned	<u>2,074,660</u>
Total fund balance	<u>2,105,419</u>
Total liabilities and fund balance	<u>\$ 2,834,858</u>

The accompanying notes to basic financial statements are an integral part of these statements.

AVENTURA CITY OF EXCELLENCE SCHOOL
RECONCILIATION OF THE BALANCE SHEET OF GOVERNMENTAL FUND
TO THE STATEMENT OF NET ASSETS
 June 30, 2012

TOTAL FUND BALANCE - GOVERNMENTAL FUND, PAGE 10	\$	2,105,419
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Amounts reported for governmental activities in the Statement of Net Assets are different because:

Capital assets used in governmental activities are not financial resources; and therefore, are not reported in the governmental fund:

Cost of capital assets is	\$	2,684,414	
Accumulated depreciation is		<u>(697,649)</u>	1,986,765

Long-term liability which is not due and payable in the current period; and therefore, is not reported in the governmental fund:

Compensated absences		<u>(29,286)</u>
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NET ASSETS OF GOVERNMENTAL ACTIVITIES, PAGE 8	\$	<u><u>4,062,898</u></u>
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The accompanying notes to basic financial statements are an integral part of these statements.

AVENTURA CITY OF EXCELLENCE SCHOOL
STATEMENT OF REVENUES, EXPENDITURES AND
CHANGE IN FUND BALANCE - GOVERNMENTAL FUND
For the Year Ended June 30, 2012

	<u>Special Revenue Fund</u>
REVENUES:	
Federal sources	\$ 96,428
State sources	6,361,732
Local sources	779,367
Investment earnings	<u>5,451</u>
Total revenues	<u>7,242,978</u>
 EXPENDITURES:	
Current:	
Instruction	4,531,449
Instructional media services	71,358
Operation of facility	1,419,195
School administration	977,534
Pupil transportation services	183,600
Community services	149,389
Capital outlay	<u>139,346</u>
Total expenditures	<u>7,471,871</u>
Excess (deficiency) of revenues over expenditures	<u>(228,893)</u>
 OTHER FINANCING SOURCES:	
Transfers from other funds of the City	<u>100,000</u>
Total other financing sources	<u>100,000</u>
Net change in fund balance	(128,893)
FUND BALANCE, July 1, 2011	<u>2,234,312</u>
FUND BALANCE, June 30, 2012	<u>\$ 2,105,419</u>

The accompanying notes to basic financial statements are an integral part of these statements.

AVENTURA CITY OF EXCELLENCE SCHOOL
RECONCILIATION OF THE STATEMENT OF REVENUES,
EXPENDITURES AND CHANGE IN FUND BALANCE
OF THE GOVERNMENTAL FUND TO THE STATEMENT OF ACTIVITIES
 For the Year Ended June 30, 2012

NET CHANGE IN FUND BALANCE - TOTAL
 GOVERNMENTAL FUND, PAGE 12 \$ (128,893)

Amounts reported for governmental activities in the
 Statement of Activities are different because:

The governmental fund reports capital outlays as
 expenditures; however, in the Statement of Activities
 these costs are allocated over their estimated useful
 lives as provision for depreciation:

Cost of capital assets	28,197
Current year provision for depreciation	(115,794)

Receivables in governmental funds are susceptible to full accrual on the government-wide statements.	(36,191)
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Some revenues and expenses reported in the
 Statement of Activities are not reported in the
 governmental fund because they have no effect on
 current financial resources:

Change in compensated absences payable	5,658
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CHANGE IN NET ASSETS OF GOVERNMENTAL ACTIVITIES, PAGE 9	S <u><u>(247,023)</u></u>
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The accompanying notes to basic financial statements are an integral part of these statements.

AVENTURA CITY OF EXCELLENCE SCHOOL
NOTES TO BASIC FINANCIAL STATEMENTS
June 30, 2012

NOTE 1 - ORGANIZATION AND OPERATIONS

Aventura City of Excellence School (the "School"), is a special revenue fund of the City of Aventura, Florida (the "City"). The School commenced operations in August 2003 in the City and offers classes for kindergarten through eighth grades with an enrollment of 972 for the year ended June 30, 2012. The School is funded from public funds based on enrollment and can also be eligible for grants in accordance with State and Federal guidelines, including food service and capital outlay. The School can accept private donations and the City can incur debt for the operation of the School.

NOTE 2 - SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES

A summary of the School's significant accounting policies is as follows:

Reporting entity:

The School operates under a charter granted by the sponsoring school district, the Miami-Dade County Public School District (the "District"). The current charter is effective until June 30, 2018 but provides for a renewal of up to 15 years by mutual agreement of both parties. In 2005, the School amended the charter to include grades six through eight. At the end of the term of the charter, the District may choose not to renew the charter under grounds specified in the charter in which case the District is required to notify the School in writing at least 90 days prior to the charter's expiration. During the term of the charter, the District may also terminate the charter for good cause as defined.

The School is owned and operated by the City, is part of the City's government and is not a separate legal entity or otherwise organized apart from the City. The City was incorporated in November 1995. The City operates under a Commission-Manager form of government. In accordance with Chapter 10.850, *Rules of the Auditor General of the State of Florida*, the School is required to prepare special purpose financial statements. Section 10.855(4) states that the special purpose financial statements should present the charter school's financial position including the charter school's current and capital assets and current and long-term liabilities, and net assets; and the changes in financial position. The financial statements contained herein present only the operations of the School and do not purport to, and do not, present the financial position and changes in financial position of the City. Only capital assets acquired with School revenues are reported. The facility used by the School is owned by the City and the capital assets and related debt for the facilities are not included in this report.

Basis of presentation:

Based on the guidance provided in the American Institute of Certified Public Accountants, Audit and Accounting Guide – Audits of State and Local Governments and provisions of Section 228.056(10), Florida Statutes, the School is presented as a governmental organization for financial statement reporting purposes.

Government-wide financial statements:

The School's basic financial statements include both government-wide (reporting the School as a whole) and fund financial statements. Both the government-wide and fund financial statements categorize primary activities as either governmental or business-type. All of the School's activities are classified as governmental activities.

AVENTURA CITY OF EXCELLENCE SCHOOL
NOTES TO BASIC FINANCIAL STATEMENTS
June 30, 2012

NOTE 2 - SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES (continued)

In the government-wide statement of net assets, the governmental activities column is reported on a full accrual, economic resource basis, which recognizes all current and noncurrent assets and all current and noncurrent liabilities. The School's net assets are reported in three (3) categories: invested in capital assets; restricted net assets; and unrestricted net assets.

The government-wide statement of activities reports both the gross and net cost of each of the School's functions. The net costs, by function, are supported by general revenues. The statement of activities reduces gross expenses by related program revenues. Program revenues must be directly associated with the function. Operating grants include operating specific and discretionary grants while the capital grants column reflects capital-specific grants.

Fund financial statements:

The School's accounts are organized on the basis of funds. The operations of the fund is accounted for with a separate set of self-balancing accounts that comprise its assets, liabilities, equity, revenues and expenditures.

The Charter School *Special Revenue Fund* is a governmental fund type and is used to account for all of the School's financial transactions.

Measurement focus and basis of accounting:

Basis of accounting refers to the point at which revenues or expenditures/expenses are recognized in the accounts and reported in the basic financial statements. It relates to the timing of the measurements made regardless of the measurement focus applied. Governmental funds use the current financial resources measurement focus and the government-wide statement uses the economic resources measurement focus.

Governmental activity in the government-wide financial statements is presented on the accrual basis of accounting. Revenues are recognized when earned and expenses are recognized when a liability is incurred.

The governmental fund financial statements are presented on the modified accrual basis of accounting under which revenue is recognized in the accounting period in which it becomes susceptible to accrual (i.e., when it becomes both measurable and available). Revenues susceptible to accrual include FTE nonspecific revenue, transportation funds, capital grant funds, operating grants and contributions and investment earnings. Intergovernmental revenues are recognized when all eligibility requirements have been met, if available. "Measurable" means the amount of the transaction can be determined and "available" means collectible within the current period or soon enough thereafter to be used to pay liabilities of the current period. For this purpose, the School considers revenues to be available if they are collected within two (2) months of the end of the current fiscal year. Expenditures generally are recorded when a liability is incurred. However, expenditures related to compensated absences are recorded only when paid from expendable available financial resources.

Capital assets:

Capital assets purchased or acquired with an original cost of \$ 5,000 or more are capitalized at historical cost or estimated historical cost and are reported in the government-wide financial statement. Donated capital assets are valued at the estimated fair market value as of the date received. Additions, improvements and other capital outlays that significantly extend the useful life of an asset are capitalized and depreciated over the remaining useful lives of the related capital assets. Other costs incurred for repairs and maintenance are expensed as incurred.

AVENTURA CITY OF EXCELLENCE SCHOOL
NOTES TO BASIC FINANCIAL STATEMENTS
June 30, 2012

NOTE 2 - SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES (continued)

Capital assets, which include equipment acquired with state shared revenues are reported in the government-wide financial statements.

Depreciation on leasehold improvements and equipment is provided on the straight-line basis over the respective estimated useful lives ranging from 25 years and 3 to 10 years, respectively.

Within governmental funds, amounts incurred for the acquisition of capital assets are reported as fund expenditures. Depreciation expense is not reported within the governmental fund financial statements.

Unearned/deferred revenue:

Resources that do not meet revenue recognition requirements (not earned) are recorded as unearned revenue in the government-wide and deferred revenue in the fund financial statements. In addition, amounts related to governmental fund receivables that are measurable, but not available (not received within 60 days from fiscal year end), are recorded as deferred revenue in the governmental fund financial statements.

Equity classifications:

Government-wide financial statements

Equity is classified as net assets and displayed in three (3) components:

Invested in capital assets, net of related debt - consists of capital assets net of accumulated depreciation and reduced by the outstanding balances of any bonds or other borrowings that are attributable to the acquisition, construction or improvement of those assets.

Restricted net assets - consists of net assets with constraints placed on their use either by: 1) external groups such as creditors, grantors, contributors or laws or regulations of other governments, or 2) law through constitutional provisions or enabling legislation. There are no restricted net assets as of the year-end.

Unrestricted net assets - all other net assets that do not meet the definition of "restricted" or "invested in capital assets, net of related debt."

Fund balance classifications:

Fund financial statements

The School had previously implemented the provisions of Governmental Accounting Standards Board ("GASB") Statement No. 54, *Fund Balance Reporting and Governmental Fund Type Definitions*. This statement requires that governmental fund financial statements present fund balances based on a hierarchy that is based primarily on the extent to which the School is bound to honor constraints on the specific purposes for which amounts in the respective governmental funds can be spent.

AVENTURA CITY OF EXCELLENCE SCHOOL
NOTES TO BASIC FINANCIAL STATEMENTS
June 30, 2012

NOTE 2 - SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES (continued)

The following classifications describe the relative strength of the spending constraints:

- *Nonspendable Fund Balance* – amounts that are not in spendable form (such as prepaid items) or are legally or contractually required to be maintained intact. The School has classified \$ 30,759 of prepaid items as being nonspendable as these items are not expected to be converted to cash.
- *Restricted Fund Balance* – amounts constrained to specific purposes by external providers (such as grantors, creditors, etc.) or imposed by law through constitutional provisions, or by enabling legislation.
- *Committed Fund Balance* – amounts constrained to specific purposes by formal action of the City Commission itself, using its highest level of decision making authority (i.e., the City Commission Members) through resolution or ordinance. To be reported as committed, amounts cannot be used for any other purpose unless the City Commission Members take the same highest level action (i.e., resolution or ordinance) to remove or change the constraint.
- *Assigned Fund Balance* – amounts the School intends to use for a specific purpose but are neither restricted nor committed. Assignments can be made by the City Manager, which the City Commission Members delegated such authority at their direction. The School has a total of \$ 2,074,660 in Assigned Fund Balance, of which \$ 394,279 is being assigned for subsequent year's budget.
- *Unassigned Fund Balance* – amounts that have not been assigned to other funds and that have not been restricted, committed, or assigned to specific purposes within the general fund. Positive amounts are only reported in the General Fund.

The School uses restricted amounts to be spent first when both restricted and unrestricted fund balance is available unless there are legal documents/contracts that prohibit doing this, such as in grant agreements requiring dollar for dollar spending. Additionally, the School would first use committed fund balance, followed by assigned fund balance when expenditures are incurred for purposes for which amounts in any of the unrestricted fund balance classifications could be used.

Encumbrances:

Encumbrances represent commitments relating to unperformed contracts for goods or services. At June 30, 2012, there were no encumbrances outstanding.

Deposits and investments:

The School's cash, cash equivalents, and investments are maintained by the City in a pooled account for all funds. This enables the City to invest large amounts of idle cash for short periods of time and to optimize earnings potential. Cash, cash equivalents, and investments represent the amount owned by the Charter School Special Revenue Fund. The City is responsible for all risks related to the School's cash, cash equivalents, and investments. These risks and the City's related policies are disclosed in the Note 3.

AVENTURA CITY OF EXCELLENCE SCHOOL
NOTES TO BASIC FINANCIAL STATEMENTS
June 30, 2012

NOTE 2 - SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES (continued)

Post-retirement benefits:

The City of Aventura provides post-employment healthcare coverage, including medical and dental benefits, to eligible individuals which consists of an implicit subsidy. The estimated liability is recorded in the financial statements of the City. No amount is allocated to the Charter School Special Revenue fund since the amount is deemed insignificant by management as of June 30, 2012.

Compensated absences:

The School's sick leave policy is to permit employees to accumulate earned but unused sick pay benefits. Upon termination, sick pay is paid out between 0-50% based on length of service.

The School's vacation policy is that earned vacation is cumulative although limited to certain maximums based on length of service.

Accumulated compensated absences are recorded as expenses in the government-wide financial statements when earned. Expenditures for accumulated compensated absences have been recorded in the governmental fund only in connection with terminated employees.

State funding (primary source of revenue):

Student funding is provided by the State of Florida through the School Board of Miami-Dade County, Florida. In accordance with the Charter Agreement, the School Board retains 2% as an administrative fee. This funding is received on a pro rata basis over the twelve-month period and is adjusted for changes in full-time equivalent student population. After review and verification of Full-Time Equivalent ("FTE") reports and supporting documentation, the Florida Department of Education may adjust subsequent fiscal period allocations of FTE funding for prior year's errors disclosed by its review as well as to prevent the statewide allocation from exceeding the amount authorized by the State Legislature. Normally, such adjustments are reported in the year the adjustments are made.

Use of estimates:

The preparation of financial statements in conformity with accounting principles generally accepted in the United States of America requires management to make estimates and assumptions that affect certain reported amounts and disclosures. Accordingly, actual results could differ from those estimates.

Interfund transfers:

Other financing sources include \$ 100,000 in revenue from the Intersection Safety Camera Program, from the City's general fund, to assist in the support of general operations of the School.

Date of management review:

Subsequent events were evaluated by management through August 20, 2012, which is the date the financial statements were available to be issued.

AVENTURA CITY OF EXCELLENCE SCHOOL
NOTES TO BASIC FINANCIAL STATEMENTS
June 30, 2012

NOTE 3 –DEPOSITS AND INVESTMENTS

As discussed in Note 2, the School's cash, cash equivalents, and investments are maintained by the City in a pooled account for all funds.

Deposits:

The City's custodial credit risk policy is in accordance with Florida Statutes. Florida Statutes authorize the deposit of City funds in demand deposits or time deposits of financial institutions approved by the State Treasurer. These are defined as public deposits. All City public deposits are held in qualified public depositories pursuant to Chapter 280, Florida Statutes, "Florida Security for Public Deposits Act." Under the act, all qualified public depositories are required to pledge eligible collateral having a market value equal to or greater than the average daily or monthly balance of all public deposits times the depository's collateral pledging level. The collateral pledging level may range from 50% to 125% depending upon the depository's financial condition and the length of time that the depository has been established. All collateral must be deposited with the State Treasurer. Any losses to public depositors resulting from insolvency are covered by applicable deposit insurance, sale of securities pledged as collateral and, if necessary, assessment against other qualified public depositories of the same type as the depository in default. The City's bank balances were insured either by the federal depository insurance corporation or collateralized in the bank's participation in the Florida Security for Public Deposits Act.

The Florida SBA Pool is not a registrant with the Securities and Exchange Commission ("SEC"); however, its board has adopted operating procedures consistent with the requirements for a 2a-7 fund. The SBA investments are allocated among two funds, Fund A and Fund B (hereinafter referred to as "Florida PRIME" and "LGIP-B"). For the Florida PRIME, a 2a7-like pool, the value of the City's position is the same as the value of the pool shares and is recorded at amortized cost. At June 30, 2012, the School's investment share in the Florida PRIME was that of \$ 1,040,835. The LGIP-B pool is accounted for as a fluctuating net asset value "NAV." The balance of the School's investment share in LGIP-B at year end amounted to \$ 5,590, with a net asset value factor of 0.83481105. The SBA is governed by Chapter 19-7 of the Florida Administrative Code. These rules provide guidance and establish the general operating procedures for the administration of the SBA. Additionally, the Office of the Auditor General of the State of Florida performs the operational audit of the activities and investment of the SBA. The SBA accounts are not subject to custodial credit risk as these investments are not evidenced by securities that exist in physical or bank entry form.

Investments:

On June 2, 2009 and on November 1, 2011, the City adopted and re-adopted, respectively, Chapter 6.6 of the Administrative Policy and Directives and Procedures Manual, entitled "Investments Objective and Parameters," as the City's Investment Policy for the management of Public Funds ("the policy"). The policy was created in accordance with Section 218.415, Florida Statutes. The policy applies to all investments held and controlled by the City, with the exception of a defined benefit pension plan and debt issuance where there are other existing policies or indentures in effect for the investment of related funds.

AVENTURA CITY OF EXCELLENCE SCHOOL
NOTES TO BASIC FINANCIAL STATEMENTS
June 30, 2012

NOTE 3 –DEPOSITS AND INVESTMENTS (continued)

The City's policy for investments other than pension plan and debt issuance is summarized below. The Finance Director has responsibility for the type of investments the City makes. The investment policy establishes permitted investments, asset allocation, issuer limits, credit rating requirements and maturity limits to protect the City's assets. All investment securities are held by a Trust custodian, and are managed by financial advisors. In general, the City's policy allows to invest in the following: (1) securities and obligations of the United States and its agencies; (2) non-negotiable interest bearing time deposits or savings accounts provided that such deposits are secured by collateral as prescribed by the Florida Security for Public Deposits Act, Chapter 280, Florida Statutes; (3) repurchase agreements collateralized by full or general faith and credit obligations of the U. S. Government or Agency securities; (4) the Florida Local Government Surplus Funds Trust Fund "SBA"; (5) intergovernmental investment pools authorized pursuant to the Florida Interlocal Cooperation Act, provided by Section 163.01, Florida Statutes, and provided that such funds contain no derivatives; (6) money market mutual funds - registered investment companies with the highest credit quality rating; (7) commercial paper of any U.S. company; (8) corporate notes; and (9) taxable/tax-exempt municipal bonds.

As of June 30, 2012, the City's cash, cash equivalents and investments consisted of the following:

State Board of Administration -		
SBA, Florida PRIME	\$	1,040,835
Deposits with financial institutions		815,355
U.S. treasury bills		373,502
U.S. Government obligations		324,006
Corporate bonds		94,866
Municipal obligations		59,825
Collateralized mortgage obligations		53,191
Money market funds		29,036
Mortgage-backed securities		7,493
State Board of Administration -		
SBA, Fund B		5,590
Petty cash		400
		400
	\$	2,804,099

Interest rate risk - The City's policy is to limit its exposure to fair value losses arising from changes in interest rates by structuring the investment portfolio so that securities mature to meet cash requirements for ongoing operations, thereby avoiding the need to sell securities on the open market prior to maturity, and investing operating funds primarily in shorter-term securities, money market mutual funds or similar investment pools.

AVENTURA CITY OF EXCELLENCE SCHOOL
NOTES TO BASIC FINANCIAL STATEMENTS
June 30, 2012

NOTE 3 –DEPOSITS AND INVESTMENTS (continued)

This is the risk that changes in market interest rates will adversely affect the fair value of an investment. Generally, the longer the maturity of an investment, the greater the sensitivity of its fair value to changes in market interest rates. The City's policy is that unless matched with specific cash flow, the City will not directly invest in securities maturing more than seven (7) years from the date of purchase. Because of inherent difficulties in accurately forecasting cash flow requirements, a portion of the portfolio should be continuously invested in readily available funds to ensure that proper liquidity is maintained to meet ongoing obligations. Information about the exposure of the City's debt-type investments to this risk using the segmented time distribution model is as follows:

Summary of Investments and Interest Rate Risk	Fair Value	Less Than 1 Year	1-5 Years	6-10 Years
State Board of Administration - SBA, Florida PRIME	\$ 1,040,835	\$ 1,040,835	\$ -	\$ -
U.S. treasury bills	373,502	21,268	352,234	-
U.S. Government obligations	324,006	38,600	285,406	-
Corporate bonds	94,866	9,256	85,610	-
Municipal obligations	59,825	-	59,825	-
Collateralized mortgage obligations	53,191	-	45,216	7,975
Money market funds	29,036	29,036	-	-
Mortgage-backed securities	7,493	-	3,728	3,765
State Board of Administration - SBA, Fund B	5,590	-	-	5,590
	<u>\$ 1,988,344</u>	<u>\$ 1,138,995</u>	<u>\$ 832,019</u>	<u>\$ 17,330</u>

Credit Risk - Generally, credit risk is the risk that an issuer of a debt-type investment will not fulfill its obligation to the holder of the investment. This is measured by assignment of a rating by a nationally-recognized rating organization. The City's investment policy provides strict guidelines and limits investments to highly rated securities with minimum ratings of AAA/Aaa (long term securities), A-1/P-1 (short term securities), and AAAm (money market mutual funds). The Finance Director shall determine the appropriate action for any investment held that is downgraded below the minimum rating by one or more rating agencies.

The School's portfolio is rated by Standard & Poor's as follows:

Rating	Fair Value
AAA	\$ 71,827
AAAm	1,069,871
AA +	759,408
AA	41,701
AA-	10,997
A +	3,816
A-1 +	12,937
Not Rated	17,787
	<u>\$ 1,988,344</u>

AVENTURA CITY OF EXCELLENCE SCHOOL
NOTES TO BASIC FINANCIAL STATEMENTS
 June 30, 2012

NOTE 3 –DEPOSITS AND INVESTMENTS (continued)

Concentration of credit risk - The City's policy is to maintain a diversified portfolio to minimize the risk of loss resulting from concentration of assets in a specific issuer. Specific limits have been established which limit the percentage of portfolio assets that can be invested with a specific issuer. GASB Statement No. 40, *Deposit and Investment Risk Disclosures*, requires disclosure when the percentage is 5% or more in any one issuer. Investments issues or explicitly guaranteed by the U.S. government and investments in mutual funds, external investments pools, or other pooled investments are excluded from this requirement. As of June 30, 2012, there were no investments held that represent 5% or more in any one issuer.

Custodial credit risk - For an investment, custodial credit risk is the risk that, in the event of the failure of the counterparty (e.g., broker-dealer) to a transaction, the owner will not be able to recover the value of its investment or collateral securities that are in the possession of another party. The City's investment policy requires securities, with the exception of certificates of deposit, to be registered in the City's name and held with a third party custodian.

NOTE 4 –CAPITAL ASSETS

A summary of changes in governmental capital assets is as follows:

	Balance July 1, 2011	Additions	Deletions	Balance June 30, 2012
Leasehold improvements	\$ 2,204,862	\$ -	\$ -	\$ 2,204,862
Equipment	451,355	28,197	-	479,552
Less: accumulated depreciation	<u>581,855</u>	<u>115,794</u>	<u>-</u>	<u>697,649</u>
	<u>\$ 2,074,362</u>	<u>\$ (87,597)</u>	<u>\$ -</u>	<u>\$ 1,986,765</u>

The provision for depreciation for the year ended June 30, 2012 amounted to \$ 115,794. The School allocated depreciation to operation of facility.

NOTE 5 – LONG-TERM LIABILITIES

The following is a summary of long-term liabilities for fiscal year ended June 30, 2012:

	Balance July 1, 2011	Increases	Decreases	Balance June 30, 2012	Amount Due Within One Year (Estimate)
Compensated absences	\$ <u>34,944</u>	\$ <u>31,728</u>	\$ <u>(37,386)</u>	\$ <u>29,286</u>	\$ <u>7,322</u>

AVENTURA CITY OF EXCELLENCE SCHOOL
 NOTES TO BASIC FINANCIAL STATEMENTS
 June 30, 2012

NOTE 6 - COMMITMENTS AND CONTINGENCIES

Management contract:

The City has a contract with Charter Schools USA Inc. ("CSUSA") for administrative and educational management services for the operations of the School. All staff of the School, except the principal, assistant principal and custodian, are employees of CSUSA. The contract expires in June 2013 and provides for a fee based on a percentage of certain revenues of the School which is 6% for 2007 through 2013; however, the fees for fiscal year 2011/2012 were negotiated at a flat fee of \$ 27,000 per month. Total fees paid to the management company for fiscal year 2011/12 were approximately \$ 324,000. The majority of the costs reimbursed by the City to CSUSA relate to teachers' salaries and benefits.

Lease agreement:

The School's operations are located at a facility that is owned by the City. In September 2002, the City entered into a bond indenture agreement with the Florida Intergovernmental Finance Commission through an interlocal governmental agreement. As a result, the City issued \$ 12,610,000 in Series 2002 Revenue Bonds to finance the acquisition of land and the construction of a charter school as well as the construction of a community center. Approximately \$ 6,650,000 of the bond issue was related to the acquisition, construction and equipping of the School facility. On June 15, 2012, the City issued \$ 9,885,000 in Series 2012 Revenue Bonds with a rate of 2.18% to refund the outstanding balance of the Series 2002 Revenue Bonds. Approximately \$ 5,213,000 of the Series 2012 Revenue Bonds relates to that portion of the original Series 2002 Revenue Bonds that was utilized for the acquisition, construction and equipping of the School facility. The City refunded the Series 2002 Revenue Bonds to reduce its total debt service payments over the next twenty-one years by approximately \$ 3,810,000.

The School is leasing its premises from the City under an operating lease agreement, which expired June 30, 2012, but was renewed for an additional year. The lease can renew each additional year as long as the School operates pursuant to the Charter issued by the School Board of Miami-Dade County. The rent amount is determined annually and is based on the annual debt service of the Revenue Bonds. Future minimum payments required from the School by the City for the debt service of the Revenue Bonds are approximately as follows:

Year Ending <u>June 30,</u>	
2013	\$ 444,000
2014	439,000
2015	442,000
2016	442,000
2017	443,000
Thereafter	<u>4,394,000</u>
	<u>\$ 6,604,000</u>

AVENTURA CITY OF EXCELLENCE SCHOOL
NOTES TO BASIC FINANCIAL STATEMENTS
June 30, 2012

NOTE 6 - COMMITMENTS AND CONTINGENCIES (continued)

Litigation:

A previous legal action, which arose in the normal course of operations, against the City/School has now been released against the School; however it remains pending against the City. It is management's opinion, based on the advice of the City Attorney, that the outcome of this legal action will not have a material adverse effect on the financial statements of the City. Management also believes that the litigation against the City will be covered by insurance.

Grant Funding:

The School received financial assistance from Federal and local governmental agencies in the form of grants. The disbursement of funds received under these programs generally requires compliance with terms and conditions specified in the grant agreements and may be subject to audit by the grantor agencies. In accordance with OMB Circular A-133 *Audits of States, Local Governments and Non-Profit Organizations*, the School was not required to conduct a "single audit" since the required threshold of Federal money is currently \$ 500,000 and the School did not exceed such threshold.

NOTE 7 - RISK MANAGEMENT

The School is exposed to various risks of loss related to torts, thefts of, damage to and destruction of assets, errors and omissions, employee health, workers' compensation and natural disasters for which the City carried commercial insurance. Settlement amounts have not exceeded insurance coverage for the past three (3) years. In addition, there were no reductions in insurance coverage from those in the prior year.

NOTE 8 - DEFINED CONTRIBUTION PENSION PLANS

The City is a single-employer that contributes to four (4) defined contribution pension plans based on employee classification created in accordance with *Internal Revenue Code Section 401 (a)*. The employees of the School are eligible to participate in three (3) of the City's defined contribution pension plans. The School has three (3) full-time employees who are eligible to participate in these plans. Under these plans, the City contributes 15%, 14% or 7% of employee salary for each of the three School employees. The City contributions for the Principal vest in the year they are contributed. The City's contributions to the other employees vest beginning after one (1) year of service through year five (5) in 20% increments. Participants are not permitted to make contributions during the year. The City made plan contributions for these three employees of approximately \$ 29,100 during the year. Plan provisions and contribution requirements may be amended by the City Commission.

In addition, the City provides to these full-time employees a deferred compensation plan under *Section 457 of the Internal Revenue Code*. Under this program, employees may voluntarily elect to defer a portion of their salary to future years; with no required contributions from the City.

Both programs are administered by ICMA Retirement Corp. The City does not exercise any control or fiduciary responsibility over the Plans' assets.

**SUPPLEMENTARY
INFORMATION**

AVENTURA CITY OF EXCELLENCE SCHOOL
STATEMENT OF REVENUES AND EXPENDITURES
BUDGET AND ACTUAL - SPECIAL REVENUE FUND
For the Year Ended June 30, 2012

	Budgeted Amounts		Actual Amounts, Budgetary Basis	Budget to GAAP Differences Over (Under)	Actual Amounts GAAP Basis	Variance
	Original	Final				
REVENUES AND TRANSFERS:						
FTE nonspecific revenues	\$ 5,933,406	\$ 5,627,406	\$ 5,710,994	\$ 29,330	\$ 5,740,324	\$ 83,588
Capital grant funds	500,000	500,000	485,415	-	485,415	(14,585)
Charges for services	306,100	306,100	386,400	-	386,400	80,300
Miscellaneous income	110,000	115,000	189,640	-	189,640	74,640
Field trip revenue	200,000	200,000	203,327	-	203,327	3,327
Transportation funds	124,000	124,000	135,993	-	135,993	11,993
Transfers from other funds of the City	100,000	100,000	100,000	-	100,000	-
Operating grants and contributions	71,000	71,000	96,428	-	96,428	25,428
Investment earnings	15,000	15,000	5,451	-	5,451	(9,549)
Allocation of fund balance	399,935	409,935	-	-	-	(409,935)
Total revenues and transfers	7,759,441	7,468,441	7,313,648	29,330	7,342,978	(154,793)
EXPENDITURES:						
Salaries	4,068,121	4,055,121	4,233,674	-	4,233,674	(178,553)
Professional services	620,224	608,224	633,934	29,330	663,264	(25,710)
Lease expense - transfers	444,000	444,000	444,000	(444,000)	-	-
Repairs and maintenance	310,500	310,500	244,500	-	244,500	66,000
Payroll taxes	310,961	310,961	316,414	-	316,414	(5,453)
Employee health insurance	497,838	291,838	267,492	-	267,492	24,346
Supplies	308,500	273,500	286,569	-	286,569	(13,069)
Field trips	215,000	215,000	199,194	-	199,194	15,806
Capital outlay	122,500	97,500	139,346	-	139,346	(41,846)
Utilities	181,000	181,000	163,018	-	163,018	17,982
Textbooks	156,000	156,000	120,278	-	120,278	35,722
Bonuses	150,000	150,000	87,946	-	87,946	62,054
Food services	64,000	64,000	64,303	-	64,303	(303)
Workers' compensation insurance	53,364	53,364	83,262	-	83,262	(29,898)
Telephone	53,000	53,000	65,236	-	65,236	(12,236)
Pension contributions	56,101	56,101	46,346	-	46,346	9,755
Insurance	42,000	42,000	21,888	-	21,888	20,112
Travel	26,400	26,400	19,770	-	19,770	6,630
Stipends	70,605	70,605	-	-	-	70,605
Dues and fees	6,327	6,327	5,371	-	5,371	956
Sick day buyout	-	-	-	-	-	-
Advertising	-	-	-	-	-	-
Lease expense	3,000	3,000	-	444,000	444,000	3,000
Total expenditures	7,759,441	7,468,441	7,442,541	29,330	7,471,871	25,900
Net change in fund balance	\$ -	\$ -	\$ (128,893)	\$ -	\$ (128,893)	\$ (128,893)

See Notes to Supplementary Information.

AVENTURA CITY OF EXCELLENCE SCHOOL
NOTES TO SUPPLEMENTARY INFORMATION
June 30, 2012

Note A:

The School formally adopted a budget for the year ended June 30, 2012. Budgeted amounts may be amended by resolution or ordinance by the City Commission. The budget has been prepared in accordance with accounting principles generally accepted in the United States of America with the exception of the items described in Note B. A comparison of the actual results of operations to the budgeted amounts for the Special Revenue Fund is presented as supplementary information.

Note B:

The budget is adopted using the same basis of accounting on which the financial statements are prepared except for a 2% administrative charge that is retained by the School Board of Miami-Dade County. This amount is not reflected on the School's budget basis due to the lack of availability of such funds. For fiscal year 2011/12 this amount was \$ 29,330.

For budgeting purposes, certain amounts are budgeted as transfers out to the City's General Fund. For separate reporting of the Charter School Special Revenue Fund, these amounts are reclassified as follows:

Lease expense for School facility	\$ 444,000
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**OTHER INDEPENDENT
AUDITORS' REPORTS**



INDEPENDENT AUDITORS' REPORT ON INTERNAL CONTROL OVER
FINANCIAL REPORTING AND ON COMPLIANCE AND OTHER
MATTERS BASED ON AN AUDIT OF THE FINANCIAL STATEMENTS PERFORMED
IN ACCORDANCE WITH *GOVERNMENT AUDITING STANDARDS*

To the Honorable Mayor, City Commissioners and City Manager
of the City of Aventura, Florida
Aventura City of Excellence School
Aventura, Florida

We have audited the financial statements of the Aventura City of Excellence School, a special revenue fund of the City of Aventura, Florida (the "School"), as of and for the year ended June 30, 2012, and have issued our report thereon dated August 20, 2012. We conducted our audit in accordance with auditing standards generally accepted in the United States of America and the standards applicable to financial audits contained in *Government Auditing Standards*, issued by the Comptroller General of the United States.

Internal Control Over Financial Reporting

In planning and performing our audit, we considered the School's internal control over financial reporting as a basis for designing our auditing procedures for the purpose of expressing our opinions on the financial statements, but not for the purpose of expressing an opinion on the effectiveness of the School's internal control over financial reporting. Accordingly, we do not express an opinion on the effectiveness of the School's internal control over financial reporting.

A *deficiency in internal control* exists when the design or operation of a control does not allow management or employees, in the normal course of performing their assigned functions, to prevent, or detect and correct misstatements on a timely basis. A *material weakness* is a deficiency, or combination of deficiencies, in internal control, such that there is a reasonable possibility that a material misstatement of the entity's financial statements will not be prevented, or detected and corrected on a timely basis.

Our consideration of the internal control over financial reporting was for the limited purpose described in the first paragraph of this section and was not designed to identify all deficiencies in internal control over financial reporting that might be deficiencies, significant deficiencies, or material weaknesses. We did not identify any deficiencies in internal control over financial reporting that we consider to be material weaknesses, as defined above.

Compliance and Other Matters

As part of obtaining reasonable assurance about whether the School's financial statements are free of material misstatement, we performed tests of its compliance with certain provisions of laws, regulations, contracts, and grant agreements, noncompliance with which could have a direct and material effect on the determination of financial statement amounts. However, providing an opinion on compliance with those provisions was not an objective of our audit and, accordingly, we do not express such an opinion. The results of our tests disclosed no instances of noncompliance or other matters that are required to be reported under *Government Auditing Standards*.

Aventura City of Excellence School

This report is intended solely for the information and use of the School's management, the City Commission, the Auditor General of the State of Florida, and the School Board of Miami-Dade County and is not intended to be and should not be used by anyone other than those specified parties.

Keefe, McCullough & Co., LLP
KEEFE, McCULLOUGH & CO., LLP

Fort Lauderdale, Florida
August 20, 2012



INDEPENDENT AUDITORS' REPORT TO MANAGEMENT

To the Honorable Mayor, City Commissioners and City Manager
of the City of Aventura, Florida
Aventura City of Excellence School
Aventura, Florida

We have audited the financial statements of the Aventura City of Excellence School, a special revenue fund of the City of Aventura, Florida (the "School"), as of and for the fiscal year ended June 30, 2012 and have issued our report thereon dated August 20, 2012.

We conducted our audit in accordance with auditing standards generally accepted in the United States of America; and the standards applicable to financial audits contained in *Government Auditing Standards*, issued by the Comptroller General of the United States. We have issued our Independent Auditors' Report on Internal Control Over Financial Reporting and on Compliance and Other Matters Based on an Audit of the Financial Statements Performed in Accordance with *Government Auditing Standards*. Disclosures in that report, which is dated August 20, 2012, should be considered in conjunction with this management letter.

Additionally, our audit was conducted in accordance with Chapter 10.850, Rules of the Auditor General, which govern the conduct of charter school and similar entity audits performed in the State of Florida. This letter includes the following information, which is not included in the aforementioned auditors' reports:

Section 10.854(1)(e)1., Rules of the Auditor General, requires that we determine whether or not corrective actions have been taken to address findings and recommendations made in the preceding annual financial audit report. There were no findings or recommendations in the preceding annual financial audit report.

Section 10.854(1)(e)3., Rules of the Auditor General, requires that we address in the management letter any recommendations to improve financial management. In connection with our audit, we did not have any such recommendations.

Section 10.854(1)(e)4., Rules of the Auditor General, requires that we address violations of provisions of contracts or grant agreements, or abuse, that have occurred, or are likely to have occurred, that have an effect on the financial statements that is less than material but more than inconsequential. In connection with our audit, we did not have any such findings.

Section 10.854(1)(e)5., Rules of the Auditor General, provides that the auditor may, based on professional judgment, report the following matters that have an inconsequential effect on the financial statements considering both quantitative and qualitative factors: (1) violations of provisions of contracts or grant agreements, fraud, illegal acts, or abuse, and (2) deficiencies in internal control that are not significant deficiencies. In connection with our audit, we did not have any such findings.

Aventura City of Excellence School

Section 10.854(1)(e)6., Rules of the Auditor General, requires the name or official title of the school. The official title of the school is Aventura City of Excellence School.

Section 10.854(1)(e)2., Rules of the Auditor General, requires a statement be included as to whether or not the school has met one or more of the conditions described in Section 218.503(1), Florida Statutes, and identification of the specific condition(s) met. In connection with our audit, we determined that the School did not meet any of the conditions described in Section 218.503(1), Florida Statutes.

Pursuant to Sections 10.854(1)(e)7.a. and 10.855(11), Rules of the Auditor General, we applied financial condition assessment procedures. It is management's responsibility to monitor the School's financial condition, and our financial condition assessment was based in part on representations made by management and the review of financial information provided by same.

Pursuant to Chapter 119, Florida Statutes, this management letter is a public record and its distribution is not limited. Auditing standards generally accepted in the United States of America require us to indicate that this letter is intended solely for the information and use of the School's management, the City Commission, the Auditor General of the State of Florida, and the School Board of Miami-Dade County and is not intended to be and should not be used by anyone other than these specified parties.

Keefe, McCullough & Co., LLP

KEEFE, McCULLOUGH & CO., LLP

Fort Lauderdale, Florida
August 20, 2012

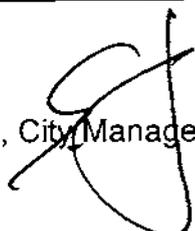


CITY OF AVENTURA

OFFICE OF THE CITY MANAGER

MEMORANDUM

TO: City Commission

FROM: Eric M. Soroka, ICMA-CM, City Manager 

DATE: August 21, 2012

SUBJECT: **Recommendation to Accept Aventura City of Excellence School Out-Of-Field Waivers**

September 4, 2012 City Commission Meeting Agenda Item 5-F

RECOMMENDATION

It is recommended that the City Commission acting in its capacity as the Governing Board of the Aventura City of Excellence School accept the out-of-field waivers list as outlined in this memorandum.

BACKGROUND

The Miami-Dade County School Board requires the Governing Board of each charter school to accept a list of teachers considered out-of-field. Teachers working on additional certification or endorsements for subjects that they are teaching are considered out-of-field until requirements are met. All teachers hold current certification. The additional certification or endorsements are extra credentials. This is a typical practice as teachers expand their professional development.

Below are listings of instructional staff members who are working toward additional certification the following subject areas:

English Speakers of Other Languages (ESOL) Endorsement – This is an add-on to a current certificate to be able to teach English language learners. The following teacher is involved in a five course sequence, allowing six years for completion:

Allison Weiner

Elementary Education – Alyssa Prats

Educational Media Specialist – Isabel Dorta

Memo to City Commission
Page 2

Gifted Endorsement – This is an add-on to a current certificate to be able to teach students who are identified as gifted learners. The teachers involved are involved in a five course sequence allowing five years for completion:

Cristina DiGeronimo, Maura Lopez and Chelsea Slack

Should you have any questions, please feel free to contact me.

EMS/act

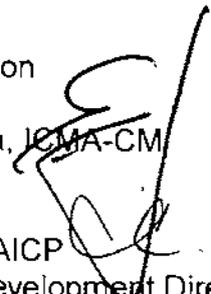
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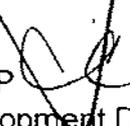
CITY OF AVENTURA

COMMUNITY DEVELOPMENT DEPARTMENT

MEMORANDUM

TO: City Commission

FROM: Eric M. Soroka, ICMA-CM
City Manager 

BY: Joanne Carr, AICP
Community Development Director 

DATE: August 15, 2012

SUBJECT: Application to Amend Section 31-145 (b) of the Land Development Regulations to allow a Lifestyle Center as a permitted use in the Town Center (TC1) District (04-LDR-12)

September 4, 2012
September 4, 2012
October 2, 2012

Local Planning Agency Agenda Item 4A
City Commission Meeting Agenda Item 7A
City Commission Meeting Agenda Item

RECOMMENDATION

It is recommended that the City Commission approve the request for an amendment to Section 31-145 (b), "Town Center (TC1) District" of the Land Development Regulations to add "Lifestyle Center" as a permitted use in the district, to delete certain existing permitted uses, to add prohibited uses in a lifestyle center and to provide design guidelines for a Lifestyle Center.

THE REQUEST

The applicant, Aventura Fashion Island, LP, has made a Public Hearing Application for Amendment to the Text of the Land Development Regulations to request the addition of "Lifestyle Center" as a permitted use in the Town Center (TC1) zoning district. The applicant is the owner of the property known as the "Loehmann's Fashion Island" retail plaza at 2711 NE 187 Street, City of Aventura. (See Exhibit #1 for Letter of Intent)

DESCRIPTION OF THE PROPOSED AMENDMENT

The amendments proposed to Section 31-145 (b) of the Land Development Regulations include the following additions in underlined text and the following deletions in strike-through text:

Section 31-145. Town Center Zoning Districts.

* * *

(a) *Purpose.* The purpose and intent of these districts is to provide suitable sites for the development of ~~structures combining~~ residential and commercial uses in a well planned and compatible manner. The uses within these districts shall be consistent with, but may be more restrictive than, the corresponding Town Center Land Use category permitted uses. Residential densities shall not exceed 25 units per gross acre and nonresidential densities shall not exceed a floor area ratio of 2.0.

(b) *Town Center District (TC1).* The following regulations shall apply to all TC1 Districts:

(1) *Uses permitted.* No building or structure, or part thereof, shall be erected, altered or used, or land used in whole or part for other than one or more of the following specific uses, provided the requirements set forth elsewhere in this section are satisfied:

a. Mixed-use structures. For the purposes of this subsection, mixed-use buildings or structures are those combining residential dwelling units conforming generally with the intent of the RMF3, Multi-Family Medium Density Residential District, with office and/or retail commercial uses allowed in the B1, Neighborhood Business District, where the ratio of total square feet dedicated to residential and non-residential uses is between 3:1 and 1:3.

b. ~~Bookstores up to 25,000 square feet. There shall be no more than one (1) bookstore per shopping center.~~

c. ~~Dancing, theater, art, language arts or tutoring academies limited to 5,000 square feet or less.~~

d. ~~Department stores limited to 50,000 square feet. There shall be no more than one (1) department store per shopping center.~~

e. ~~Dog/pet hospitals with a limitation of 2,500 square feet.~~

f. ~~Furniture stores limited to 10,000 square feet. There shall be no more than two (2) furniture stores per shopping center.~~

g. ~~Grocery stores limited to 50,000 square feet. There shall be no more than one (1) grocery store per shopping center.~~

~~h. Health and exercise clubs limited to 10,000 square feet. There shall be no more than one (1) health and exercise club per shopping center.~~

~~i. Martial arts, dance or exercise studios with a limitation of 2,500 square feet.~~

~~j. Pet shops with a limitation of 5,000 square feet.~~

b. Lifestyle Center. For the purposes of this section, a lifestyle center is a retail-oriented center of superior design quality that serves the retail needs and lifestyle pursuits of consumers in the area. Lifestyle centers shall have an open air configuration and shall include a mix of large, medium and small tenant spaces with at least one, but no more than three, anchor tenants of at least 30,000 square feet of floor area each. A lifestyle center may include restaurants, family-oriented entertainment, apparel stores and other permitted uses in the B1, Neighborhood Business District, without the size limitations of that district, and may also include permitted uses in the B2, Community Business District, except those B2 uses specifically prohibited for a lifestyle center pursuant to Section 31-145(b)(4)g. Lifestyle centers shall include other elements that define their role as a multi-purpose, leisure-oriented, family-friendly destination such as water features, gathering areas, street furniture and well-developed landscaping within and along entrances, pedestrian areas and pathways, all of which are intended to create a town center atmosphere. A lifestyle center shall be within one-half (½) mile of a residential property, but no residential uses shall be included in the lifestyle center itself. A lifestyle center shall encourage multi-modal access by incorporating a mass transit stop, convenient pedestrian crosswalks and bike racks.

* * *

(3) *Conditional Uses.* The following uses may be established if first approved as a conditional use:

- a. Those uses permitted in the RMF3 District, except that residential uses may not be established in a lifestyle center.
- b. Indoor commercial recreation uses including, but not limited to: theatre, bowling center, miniature golf or skating rink.
- c. Wine bars with food service.

* * *

(4) *Uses prohibited.* Except as specifically permitted in this subsection (b), the following uses are expressly prohibited as either principal or accessory uses:

- a. Any use not specifically permitted.
- b. Adult entertainment establishments.
- c. Sale of goods to other than the ultimate consumer.
- d. Sales, purchases, display or storage of used merchandise other than antiques and jewelry.
- e. Sale of fruit or merchandise from trucks, wagons or other vehicles parked on or along public or private streets or from open stands or vacant lots. Such business on private or public property shall be conducted only from within approved permanent substantial buildings.
- f. Any drive-through service facility, except a drive-through service facility may be permitted for outparcel buildings in a lifestyle center.

g. The following B2, Community Business District, permitted uses are prohibited in a lifestyle center:

Auditoriums; Automobile new parts and equipment, sales only; bait and tackle shops; billiard rooms and pool rooms; dry cleaning establishments where dry cleaning is performed on site; lawn mowers, retail, sales and service; mortuaries or funeral homes; motorcycle sales and repair; liquor package stores; bars and lounges that are not part of a restaurant; night clubs; office parks; automatic and hand car washes; and hotels, motels and time share units.

i. Residential uses in a lifestyle center.

* * *

(5) *Site development standards.*

* * *

h. Required open space. A minimum of 35 percent of the total lot area of the site shall be provided as common open space available for use by all residents or consumers; of this common open space a minimum of one-half shall be unencumbered with any structure (except for play equipment for children and associated mounting, fencing and furniture) and shall be landscaped with grass and vegetation approved in a landscape plan. The remaining one-half may be used for recreational facilities, amenities, pedestrian walks, entrance landscaping and features (not including gatehouses and associated vehicle waiting areas), or maintenance facilities.

(6) *Accessibility for Mixed-Use Structures.* All residential units shall be accessible to the outside via a direct exit or an entry lobby that does not require residents to pass through a leasable commercial space.

(7) Allocation of interior space for Mixed-Use Structures. Retail stores, personal services, banks and financial services, indoor commercial recreation uses, restaurants and coffee houses, schools, nursery schools and child care centers are allowed only on the ground floor of mixed-use buildings. Offices and medical offices are allowed only on the ground and second floors. Residential uses are allowed only on the second or higher floors.

* * *

(9) Performance Standards. Any structure parking serving the primary use on the site shall be incorporated into the building envelope and shall be compatibly designed. Structured parking in a lifestyle center is exempted from the foregoing standard. Such parking structure shall comply with all minimum setback and buffer yard requirements. Parking structure ceiling heights shall be seven feet six inches except where greater heights may be required by other regulatory agencies. Pipes, ducts and mechanical equipment installed below the ceiling shall not be lower than seven feet zero inches above finished floor.

(10) Design Standards. All mixed use development in the TC1 Zoning District shall substantially comply with the applicable "Town Center Design Guidelines" as provided by the City Manager. All lifestyle center development in the TC1 Zoning District shall substantially comply with the "Lifestyle Center in Town Center District Design Guidelines dated July, 2012" provided by the City Manager.

ANALYSIS

The Town Center (TC1) zoning district currently permits mixed use structures combining residential and non-residential uses. There was a Master Plan for the Town Center on the Loehmann's Plaza site approved by the City Commission in October of 2002 that conformed to this permitted use. Phase I, the Venture residential building, was constructed. Due to the economic downturn after that time, the balance of the plan, which included office, residential and retail uses, was not built.

The lands within the Town Center zoning district have an underlying future land use of Town Center, according to the Future Land Use Map in the City's Comprehensive Plan. The Town Center future land use category encourages hubs for future urban development intended to serve the City's existing and future residents and businesses with design-unified development providing direct accessibility by mass transit service and high quality urban design. It provides for a design that encourages convenient, internal pedestrian circulation and is intended to create identifiable centers of activity with a distinctive sense of place. The proposed lifestyle center use is compatible with this future land use language.

There are five properties within the TC1 zoning district. Those are: the Loehmann's Fashion Island retail plaza, the Harbour Centre office building, the Northern Trust Bank building, the Concord Plaza retail center and the Concorde Center II office building.

The Town Center zoning district purpose language is ...”to provide suitable sites for the development of structures combining residential and commercial uses in a well-planned and compatible manner”... It does, however, allow residential-only or commercial-only development as a conditional use. The owner of the Loehmann’s plaza property is requesting that a commercial-only development be allowed in the district as a new permitted use to provide certainty for leasing, which will then facilitate redevelopment and improvements. The district’s purpose language is proposed to be revised to be consistent with the proposed new lifestyle center use, that is; to clarify that structures in this zoning category are not required to have a combination of residential and commercial uses.

The owner has advised that current economic market conditions and changes in development trends have not allowed it to go forward with the Master Plan approved in 2002. The owner further advises that the existing limitations on the commercial uses in the district, specifically, the size limitations of the B1 zone, have caused prospective tenants to look elsewhere, leaving its tenant spaces vacant. It is requesting an amendment to the text of the TC1 zoning district to allow retail uses similar to the B1, Neighborhood Business District uses, without the size limitations in floor area, and some neighborhood compatible uses in the B2 district, within a retail center of superior design quality that will cater to the lifestyle pursuits of our residents and that will be designed to create a family-friendly, pedestrian-oriented town center, with no residential component. This will eliminate the opportunity for additional residential units. The owner is also requesting other changes to the TC1 zone, which are: that the permitted uses added in the 2002 amendment be deleted; that a drive-through facility be permitted for an outparcel building in a lifestyle center, where currently prohibited in the TC1 zone, and that any structure parking not be required to be incorporated into the building envelope.

The existing site development criteria of the TC1 zoning district will apply to this proposed use, that is:

- Minimum lot size of 16,000 square feet;
- Minimum lot width of 100 feet;
- Maximum lot coverage of 45%;
- Maximum height of 4 stories or 50 feet;
- Front setback of 25 feet;
- Street side yard setback of 20 feet;
- Rear street yard setback of 20 feet;
- Minimum open space of 35%, where ½ of that space is grass and landscaping and the other ½ is recreational facilities, pedestrian walks, entrance landscaping

Staff is recommending addition of the attached Design Guidelines to be applied to a Lifestyle Center to ensure that upgrades to the façade and improvements to the overall site are required as part of a lifestyle center use. The design guidelines include provision of well landscaped entrances, pedestrian-oriented plazas and walkways, site sidewalks connecting to public sidewalks, water features that are designed as family-friendly gathering areas, a transit stop, installation of bike racks, shade trees, street furniture, and

requires architectural design that enhances the pedestrian experience and creates a sense of place.

The applicant has requested one change to the Design Guidelines presented at the City Commission workshop meeting. The guidelines provided that no outdoor music is permitted so as not to disturb adjacent residential uses. This has been revised to read that no outdoor music is allowed, except as permitted by Special Event Permit approved by the City Manager pursuant to City Code Section 30-34. This change will provide that an outdoor music event at a lifestyle center may be allowed under approved Special Event Permit.

Staff provides the following analysis of the request using the standards for reviewing proposed amendments to the text of the Land Development Regulations contained in Section 31-77 of the City Code.

1. *The proposed amendment is legally required.*

The proposed amendment is legally required to implement the requested revision to the Code.

2. *The proposed amendment is consistent with the goals and objectives of the Comprehensive Plan.*

The proposed amendment is consistent with the goals and objectives of the Comprehensive Plan. The future land use designation for properties zoned Town Center (TC1) District is Town Center. The intent of the Town Center land use designation is described in the Future Land Use Element of the City's Comprehensive Plan. This category encourages hubs for future urban development intended to serve the City's existing and future residents and businesses with design-unified development providing direct accessibility by mass transit service and high quality urban design. It provides for a design that encourages convenient, internal pedestrian circulation and to create identifiable centers of activity with a distinctive sense of place. The proposed lifestyle center use regulations are compatible with this future land use language.

3. *The proposed amendment is consistent with the authority and purpose of the LDRs.*

The proposed amendment is consistent with the authority and purpose of the Land Development Regulations. "The purpose of the LDRs is to implement further the Comprehensive Plan of the City by establishing regulations, procedures and standards for review and approval of all development and uses of land and water in the City. Further, the LDRs are adopted in order to foster and preserve public health, safety and welfare and to aid in the harmonious, orderly and progressive development and redevelopment of the City..." The proposed amendment is consistent with this purpose. The proposed amendment and it accompanying design guidelines along with

the site development standards of the district will aid in the harmonious, orderly and progressive redevelopment of the City.

4. *The proposed amendment furthers the orderly development of the City.*

The proposed amendment furthers the orderly development of the City, for the reasons provided in Paragraph 3 above.

5. *The proposed amendment improves the administration or execution of the development process.*

The proposed amendment improves the administration or execution of the development process in that it provides for a process by which to approve development or redevelopment of a lifestyle center in the Town Center zoning district.



BERCOW RADELL & FERNANDEZ
ZONING, LAND USE AND ENVIRONMENTAL LAW

DIRECT LINE: 305-377-6238
E-MAIL: mmarrero@brzoninglaw.com

VIA FACSIMILE AND E-MAIL

August 10, 2012

Ms. Joanne Carr
Community Development Director
City of Aventura
19200 West Country Club Drive, 4th Floor
Aventura, Florida 33180

Re: Land Development Code Amendment Permitting Lifestyle Centers in TC1

Dear Joanne:

This law firm represents Aventura Fashion Island, LP and Turnberry Associates, Inc. (the "Applicant"), with regard to an application to amend the City of Aventura Land Development Code to permit additional uses in the Town Center (TC1) Zoning District.

The Applicant acquired the area designated Town Center and zoned TC1, in 2006 with plans of redeveloping the existing Loehmann's Plaza. Then, the TC1 zoning district only permitted B1 commercial uses within the center. It had always been the Applicant's intention to work with the City to expand the permitted uses, while still maintaining the Town Center's character. In 2010, the Applicant proposed a limited code amendment to permit a slight expansion of the permitted uses in TC1. The amendment, which was approved by the City Commission, permitted certain uses (including book stores, pet shops dancing and theater academies and furniture stores) at higher square footages than were otherwise permitted in TC1. Unfortunately, these specific changes were never utilized by potential tenants, and the Applicant is now proposing a more global change that will permit a Lifestyle Center at Loehmann's Plaza.

Presently, the Applicant has been working with staff to craft an ordinance that will help revive the center, in addition to being consistent with the objectives of the Town Center. Ultimately, the Lifestyle Center concept arose as something that would achieve the retail commercial goals of the center, while still upholding many of the elements that make a town center unique, including pedestrian walkways, street furniture, water features and gathering areas.

Section 33-77(g) of the City Code provides standards that staff and the City Commission shall consider when reviewing proposed amendments to the text of the City's Land Development Regulations (the "LDRs"). The Applicant's request addresses each of the standards as follows:

(1) The proposed amendment is legally required.

In order for the Town Center to improve as envisioned, the proposed amendment to the LDRs must be approved and is thus required.

(2) The proposed amendment is consistent with the goals and objectives of the Comprehensive Plan.

The proposed changes are consistent with the goals and objectives of the Comprehensive Plan, specifically the Town Center designation.

(3) The proposed amendment is consistent with the authority and purpose of the LDR.

The proposed amendment is consistent with the authority and purpose of the LDRs, as described in Section 31-2 of the City Code.

(4) The proposed amendment furthers the orderly development of the City.

The proposed amendment certainly furthers the orderly development of the City. Currently, the Town Center faces additional issues with tenancies because of the existing limits to permitted uses there. The approval of this proposed amendment will allow for additional appropriate uses that will assist the development of the center, prominently located on Biscayne Boulevard and 187th Street.

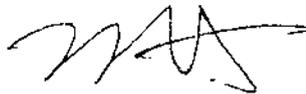
(5) The proposed amendment improves the administration or execution of the development process.

Ms. Joanne Carr
August 10, 2012
Page 3

Since the uses being proposed are consistent with the goals and objectives of the Town Center, the approval of the amendment will improve the administration or execution of the development process. Otherwise, each specific tenancy request would require a variance or conditional use approval, or simply be denied. The delays caused by such approvals would cause additional strain on the administration of the Town Center, and would require a significant increase in public hearing requests.

For all the foregoing reasons, the applicant respectfully requests your department's favorable review and recommendation of this application. Should you have any questions, comments, or require additional information, please do not hesitate to phone my direct line at (305) 377-6238.

Sincerely yours,

A handwritten signature in black ink, appearing to read 'M. J. Marrero', with a long horizontal stroke extending to the right.

Michael J. Marrero



City of Aventura

Lifestyle Center in Town Center District

Design Guidelines

July, 2012

I. Site Concepts

A. The Lifestyle Center Concept

The objective is to create a retail-oriented center of superior design quality that caters to the retail needs and lifestyle pursuits of consumers in the area. The center shall have an open air configuration and include a mix of large, medium and small tenant spaces with at least one, but no more than three, anchor tenants of 30,000 square feet or more of floor area each. A lifestyle center includes restaurants, family-oriented entertainment, apparel stores and other permitted uses in the B1, Neighborhood Business District without the size limitations and also includes neighborhood-compatible permitted uses in the B2, Community Business District. Lifestyle centers have other elements that define their role as a multi-purpose, leisure-oriented, family-friendly destination such as water features, gathering areas, street furniture and well developed landscaping within and along entrances, pedestrian areas and pathways, all of which are all intended to create a town center atmosphere. The center is to be located within ½ mile of residential developments, but no residential uses are included in a lifestyle center itself. The center encourages multi-modal access by incorporating a mass transit stop, convenient pedestrian crosswalks and bike racks. In order to achieve such attributes, the following special site planning and building orientation principles shall be incorporated into the design of a lifestyle center.

- Well-landscaped entrances, pedestrian-oriented plazas and walkways.
- Site sidewalks and crosswalks connecting to the public sidewalks.
- Water features that are designed as family-friendly gathering areas.
- Bike racks located in areas that are convenient and near building entrances or other highly visible areas which are self-policing.
- A transit stop at an appropriate location with sheltered comfortable waiting areas and seating.
- Shade trees to provide additional climate protection and contribute to an attractive pedestrian environment as approved by the City.
- Street furniture consisting of benches, trash collection receptacles, lighting and play equipment as approved by the City.

B. Tenant Mix

A lifestyle center shall have a mix of large, medium and small tenant spaces with one, but no more than three, anchor tenants of 30,000 square feet or more of floor area each.

C. Entrance Features

The entrances to a lifestyle center are to reflect the upscale nature of the center with well-defined entry and exit drives, pedestrian access with abundant landscaping and other decorative features defining the overall design of the center.

D. "Outdoor Rooms"

An "outdoor room" is to be created along the main pedestrian walkways and plazas. This is the place where pedestrians will tend to collect and engage in the activities of standing, waiting, talking and eating. The plazas should include a water feature and integrate amenities such as outdoor seating, shade trees and public art and will require adjacent storefronts that look out on and open into the walkways and plazas. Special attention will be given to the walkways and plazas to create a pleasant, human-scaled environment that is appropriate to adjoining uses.

E. Pedestrian Areas

It is important to pay attention to pedestrian areas by providing a minimum walkway width of 10' in the interior walkways between the stores that is kept free and clear for pedestrian traffic, with the exception of restaurant uses, where minimum walkway areas can be reduced to accommodate outdoor dining areas. Walkways, crosswalks and plaza areas should be made of a decorative paving treatment that provides a comfortable walking surface that is vibration free.

Site sidewalks and crosswalks shall be provided for safe pedestrian connection to the center from the public sidewalks.

F. Climate/Solar Orientation

Due to the strong sun of Southern Florida, solar orientation should play an important role in determining the built form of shopfronts. All elevations should incorporate devices to aid in sun control and provide outdoor shaded areas (i.e. awnings, screening canopies, arcades or recesses). Overhead landscape canopies can serve to filter sunlight and reduce glare, making pedestrian activity more pleasant, and are encouraged.

II. Building Design Concepts

A. Overall Design Intent and Themes

Aventura is the City of Excellence. The architectural character of a lifestyle center should evoke the image of Florida. Unique, individual storefront facades are encouraged to provide a differing aesthetic for each store rather than a unified common storefront to allow for design creativity and individual expression, but when combined contribute to a coherent overall sense of place. Architecture should enhance the pedestrian experience by providing human-scaled details and amenities.

Other design elements that break down scale and provide a high quality pedestrian environment are encouraged, including canopies, building mounted lights, planters, trellises, special tile work, niches with small fountains. The goal is to create an interesting environment of light, shade, color and texture

Clear glass is required in all retail storefronts; smoked, reflective, or black glass is prohibited.

The color palette should take cues from the surrounding buildings in Aventura, integrating the classic base colors including but not limited to warm earth tones.

Roses, pinks, plums, blues and violets should generally be avoided, although vibrant accents may be used in limited quantities at appropriate locations. Accents are to be of high quality materials and are used to promote a vibrant street life in a manner compatible with the lifestyle nature of the center.

Where large amounts of mass are required, the mass should be broken down by changes in plane, reveals or decorative details.

B. Integration of Signage/Lighting/Artwork

Signage and environmental graphics should be conceived as an integral part of the buildings architectural design. A unified signage package shall be prepared and presented to the City as an application for Multi-Tenant Center Sign Approval.

C. Screening of Mechanical Units and Service Areas

All mechanical units shall be screened from public view, preferably with cohesive design elements that contribute to the overall design intent.

All rooftop mechanical units shall be screened from the public right of way and from the view of adjacent developments, as required by Section 31-233 of the City Code.

Service areas shall be screened, gated and be as unobtrusive as possible.

III. Lighting

Lighting sources and fixture types should be carefully selected in order to create a variety of ambient, decorative and accent illumination.

Site lighting shall conform to the requirements of Section 31-234 "Outdoor Lighting Standards" of the Land Development Regulations.

Lighting shall be located, screened or shielded so that adjacent structures and the right of way are not directly illuminated.

A site lighting plan shall be submitted as part of the Site Plan Approval application.

IV. Outdoor Seating Areas for Restaurants/Cafes

Outdoor seating areas shall be designed in a manner to allow appropriate pedestrian circulation on adjacent walkways.

No outdoor music shall be allowed, so as not to disturb adjacent residential uses, except as specifically approved by Special Event Permit pursuant to Section 30-34 of the City Code.



APPLICANT REPRESENTATIVE AFFIDAVIT

Pursuant to Section 31-71(b)(2)(i) of the City of Aventura Land Development Code, this Applicant Representative Affidavit is hereby made and submitted. The undersigned authorized representative of the individual or entity applying for the Development Permit, which is identified in the accompanying application, and the owner of the property subject to the application (if different) hereby lists and identifies all persons representing the individual or entity applying for the Development Permit in connection with the application, as follows:

Name	Relationship (i.e. Attorneys, Architects, Landscape Architects, Engineers, Lobbyists, Etc.)
<u>Michael J. Marro</u>	<u>Attorney</u>
_____	_____
_____	_____
_____	_____

(Attach Additional Sheets If Necessary)

NOTICE: ANY STATEMENT OR REPRESENTATION MADE BY ANY PERSON LISTED ON THE APPLICANT REPRESENTATIVE AFFIDAVIT SHALL BE BINDING UPON THE INDIVIDUAL OR ENTITY APPLYING FOR THE DEVELOPMENT PERMIT AND THE OWNER OF THE SUBJECT PROPERTY. APPLICANTS AND AFFIANTS ARE ADVISED TO TIMELY SUPPLEMENT THIS AFFIDAVIT PURSUANT TO SEC. 31-71(B)(2)(IV) OF THE CITY'S LAND DEVELOPMENT REGULATIONS IN THE CITY CODE, IN THE EVENT THAT PRIOR TO CONSIDERATION OF THE APPLICATION BY THE CITY BOARD OR COMMISSION, THE INFORMATION PROVIDED IN THE AFFIDAVIT BECOMES INCORRECT OR INCOMPLETE.

WITNESS MY HAND THIS 22 DAY OF August 2012

AUTHORIZED REPRESENTATIVE OF APPLICANT:

By: _____
 (Signature)

Name: _____
 (Print)

Title: _____

Address: _____

OWNER

By: _____
 (Signature)

Name: Jacquelyn Soffer
 (Print)

Title: _____

Address: 19950 W. Country Club Dr., 10th Fl
Aventura, FL 33180

STATE OF FLORIDA)
COUNTY OF MIAMI-DADE)

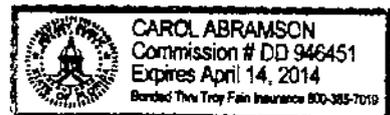
Before me the undersigned authority personally appeared Jacquelyn Soffer as the authorized representative of the Applicant and/or the owner of the property subject to the application, who being first by me duly sworn, did swear or affirm that he/she executed this Affidavit for the purposes stated therein and that it is true and correct.

SWORN TO AND SUBSCRIBED BEFORE ME this 22 day of August 2012

AFFIANT
 2012

Carol Abramson

Notary Public State of Florida At Large
 Printed Name of Notary Carol Abramson
 My commission expires: 4/14/2014





BUSINESS RELATIONSHIP AFFIDAVIT*

This Affidavit is made pursuant to Section 31-71(b)(2)(ii) of the City of Aventura Land Development Code. The undersigned Affiant hereby discloses that (mark with "x" applicable portions only)

1 Affiant does not have a Business Relationship with any member of the City Commission or any City Advisory Board to which the application will be presented

2 Affiant hereby discloses that it does have a Business Relationship with a member of the City Commission or a City Advisory Board to which the application will be presented as follows

_____ (List name of Commissioner or Advisory Board Member) who serves on the _____ (List City Commission or City Advisory Board upon which member serves)

The nature of the Business Relationship is as follows

- i Member of City Commission or Board holds an ownership interest in excess of 1% of total assets or capital stock of Applicant or Representative,
- ii Member of City Commission or Board is a partner co-shareholder (as to shares of a corporation which are not listed on any national or regional stock exchange) or joint venturer with the Applicant or Representative in any business venture
- iii The Applicant or Representative is a Client of a member of the City Commission or Board or a Client of another professional working from the same office or for the same employer as the member of the City Commission or Board,
- iv A City Commissioner or Board member is a Client of the Applicant or Representative,
- v The Applicant or Representative is a Customer of the member of the City Commission or Board (or of his or her employer) and transacts more than \$10,000.00 of the business of the member of the City Commission or Board (or his or her employer) in a given calendar year,
- vi The member of the City Commission or Board is a Customer of the Applicant or Representative and transacts more than \$25,000.00 of the business of the Applicant or Representative in a given calendar year

WITNESS MY HAND THIS 22 DAY OF August, 2012

APPLICANT

By _____ (Signature)
Name _____ (Print)
Title _____ (Print)

WITNESS MY HAND THIS _____ DAY OF _____, 200__

PROPERTY OWNER

By _____ (Signature)
Name Jacquelyn Saffer (Print)
Title _____ (Print)

*The terms "Business Relationship," "Client," "Customer," "Applicant," "Representative" and "Interested Person" are defined in Section 2-395 of the Aventura City Code

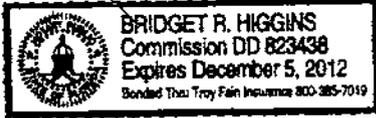
NOTARIZATION PROVISION

STATE OF FLORIDA)
COUNTY OF MIAMI-DADE)

Before me, the undersigned authority, personally appeared JACQUELYN SOFFER the Affiant, who being first by me duly sworn, did swear or affirm that he/she executed this Affidavit for the purposes stated therein and that it is true and correct

AFFIANT

SWORN TO AND SUBSCRIBED before me this 22 day of AUGUST, 2012



Notary Public State of Florida At Large
BRIDGET R. HIGGINS
Printed Name of Notary
My commission expires: 12-5-2012

STATE OF FLORIDA)
COUNTY OF MIAMI-DADE)

Before me, the undersigned authority, personally appeared _____ the Affiant, who being first by me duly sworn, did swear or affirm that he/she executed this Affidavit for the purposes stated therein and that it is true and correct

AFFIANT

SWORN TO AND SUBSCRIBED before me this _____ day of _____, 200__

Notary Public State of Florida At Large

Printed Name of Notary
My commission expires _____

STATE OF FLORIDA)
COUNTY OF MIAMI-DADE)

Before me, the undersigned authority, personally appeared _____ the Affiant, who being first by me duly sworn, did swear or affirm that he/she executed this Affidavit for the purposes stated therein and that it is true and correct

AFFIANT

SWORN TO AND SUBSCRIBED before me this _____ day of _____, 200__

Notary Public State of Florida At Large

Printed Name of Notary
My commission expires _____

STATE OF FLORIDA)
COUNTY OF MIAMI-DADE)

Before me, the undersigned authority, personally appeared _____ the Affiant, who being first by me duly sworn, did swear or affirm that he/she executed this Affidavit for the purposes stated therein and that it is true and correct

AFFIANT

SWORN TO AND SUBSCRIBED before me this _____ day of _____, 200__

Notary Public State of Florida At Large

Printed Name of Notary
My commission expires _____



BUSINESS RELATIONSHIP AFFIDAVIT*

This Affidavit is made pursuant to Section 31-71(o)(2)(i) of the City of Aventura Land Development Code. The undersigned Affiant hereby discloses that: (mark with "x" applicable portions only)

- 1. Affiant does not have a Business Relationship with any member of the City Commission or any City Advisory Board to which the application will be presented.
- 2. Affiant hereby discloses that it does have a Business Relationship with a member of the City Commission or a City Advisory Board to which the application will be presented, as follows:

_____ (List name of Commissioner or Advisory Board Member) who serves on the
 _____ (List City Commission or City Advisory Board upon which member serves)

The nature of the Business Relationship is as follows:

- i. Member of City Commission or Board holds an ownership interest in excess of 1% of total assets or capital stock of Applicant or Representative.
- ii. Member of City Commission or Board is a partner, co-shareholder (as to shares of a corporation which are not listed on any national or regional stock exchange) or joint venturer with the Applicant or Representative in any business venture;
- iii. The Applicant or Representative is a Client of a member of the City Commission or Board or a Client of another professional working from the same office or for the same employer as the member of the City Commission or Board.
- iv. A City Commissioner or Board member is a Client of the Applicant or Representative.
- v. The Applicant or Representative is a Customer of the member of the City Commission or Board (or of his or her employer) and transacts more than \$10,000.00 of the business of the member of the City Commission or Board (or his or her employer) in a given calendar year;
- vi. The member of the City Commission or Board is a Customer of the Applicant or Representative and transacts more than \$25,000.00 of the business of the Applicant or Representative in a given calendar year.

WITNESS MY HAND THIS 22 DAY OF August, 2012

APPLICANT:

By: [Signature] (Signature)
 Name: Michael J. Morcos (Print)
 Title: Attorney (Print)

WITNESS MY HAND THIS _____ DAY OF _____, 200__

PROPERTY OWNER

By: _____ (Signature)
 Name: _____ (Print)
 Title: _____ (Print)

*The terms "Business Relationship," "Client," "Customer," "Applicant," "Representative" and "Interested Person" are defined in Section 2-395 of the Aventura City Code.

WITNESS MY HAND THIS 21 DAY OF August ~~200~~²⁰¹²

REPRESENTATIVE (Listed on Business Relationship Affidavit)

By: [Signature] (Signature)

By: _____ (Signature)

Name: Michael J. Moore (Print)

Name: _____ (Print)

Title: Attorney (Print)

Title: _____ (Print)

By: _____ (Signature)

By: _____ (Signature)

Name: _____ (Print)

Name: _____ (Print)

Title: _____ (Print)

Title: _____ (Print)

By: _____ (Signature)

By: _____ (Signature)

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By: _____ (Signature)

By: _____ (Signature)

Title: _____ (Print)

Title: _____ (Print)

Title: _____ (Print)

Title: _____ (Print)

NOTE: 1) Use duplicate sheets if disclosure information for Representative varies

2) Applicants and Affiants are advised to timely supplement this Affidavit pursuant to Sec. 31-71(b)(2)(iv) of the City's Land Development Regulations in the City Code, in the event that prior to consideration of the application by the City Board or Commission, the information provided in the Affidavit becomes incorrect or incomplete.

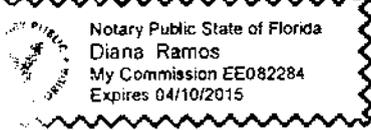
NOTARIZATION PROVISION

STATE OF FLORIDA)
COUNTY OF MIAMI-DADE)

Before me, the undersigned authority, personally appeared Michael Moreno the Affiant, who being first by me duly sworn, did swear or affirm that he/she executed this Affidavit for the purposes stated therein and that it is true and correct.

[Signature]
AFFIANT

SWORN TO AND SUBSCRIBED before me this 22 day of August, 2022



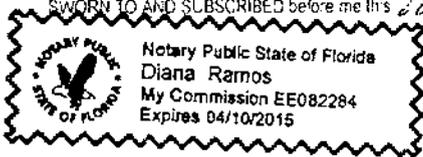
[Signature]
Notary Public State of Florida At Large
Diana Ramos
Printed Name of Notary
My commission expires: _____

STATE OF FLORIDA)
COUNTY OF MIAMI-DADE)

Before me, the undersigned authority, personally appeared Michael Moreno the Affiant, who being first by me duly sworn, did swear or affirm that he/she executed this Affidavit for the purposes stated therein and that it is true and correct.

[Signature]
AFFIANT

SWORN TO AND SUBSCRIBED before me this 22 day of August, 2022



[Signature]
Notary Public State of Florida At Large
Diana Ramos
Printed Name of Notary
My commission expires: _____

STATE OF FLORIDA)
COUNTY OF MIAMI-DADE)

Before me, the undersigned authority, personally appeared _____ the Affiant, who being first by me duly sworn, did swear or affirm that he/she executed this Affidavit for the purposes stated therein and that it is true and correct.

AFFIANT

SWORN TO AND SUBSCRIBED before me this ___ day of _____, 200__

Notary Public State of Florida At Large

Printed Name of Notary
My commission expires: _____

STATE OF FLORIDA)
COUNTY OF MIAMI-DADE)

Before me, the undersigned authority, personally appeared _____ the Affiant, who being first by me duly sworn, did swear or affirm that he/she executed this Affidavit for the purposes stated therein and that it is true and correct.

AFFIANT

SWORN TO AND SUBSCRIBED before me this ___ day of _____, 200__

Notary Public State of Florida At Large

Printed Name of Notary
My commission expires: _____

ORDINANCE NO. 2012-_____

AN ORDINANCE OF THE CITY OF AVENTURA, FLORIDA PERTAINING TO USES PERMITTED AND DEVELOPMENT CRITERIA FOR DEVELOPMENT IN THE TOWN CENTER (TC1) ZONING DISTRICT; AMENDING SECTION 31-145(B) "TOWN CENTER ZONING DISTRICTS" OF ARTICLE VII "USE REGULATIONS" OF CHAPTER 31 "LAND DEVELOPMENT REGULATIONS" TO PERMIT A LIFESTYLE CENTER USE AS A PERMITTED USE IN THE TOWN CENTER (TC1) DISTRICT; PROVIDING FOR USE, DEVELOPMENT AND DESIGN STANDARDS FOR THE LIFESTYLE CENTER USE; PROVIDING FOR AMENDMENTS TO THE USES PERMITTED AND PROHIBITED WITHIN THE TOWN CENTER (TC1) ZONING DISTRICT; PROVIDING FOR SEVERABILITY; PROVIDING FOR INCLUSION IN THE CODE; PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the City Commission of the City of Aventura ("City Commission") is desirous of amending Section 31-145(b) "Town Center Zoning Districts" of Chapter 31 "Land Development Regulations" of the Code of Ordinances ("City Code") to allow a retail-oriented center consisting of a mix of large, medium and small tenant spaces, known as a lifestyle center, as a permitted use in the Town Center (TC1) zoning district; and

WHEREAS, the Town Center future land use category applicable to the Town Center (TC1) zoning district encourages hubs for future urban development intended to serve the City's existing and future residents and businesses with design-unified development providing direct accessibility by mass transit service, and high-quality urban design, and the City Commission finds that the inclusion of a "lifestyle center" within the TC1 zoning district is consistent with the applicable Town Center future land use category; and

WHEREAS, the City Commission has been designated as the Local Planning Agency for the City pursuant to Section 163.3174, Florida Statutes; and

WHEREAS, the Local Planning Agency has reviewed the proposed amendment pursuant to the required public hearing and has recommended approval to the City Commission; and

WHEREAS, the City Commission has reviewed the proposed amendment, and finds that it is in the best interests of the public to amend Section 31-145(b) of Chapter 31 "Land Development Regulations," as set forth in this Ordinance; and

WHEREAS, the City Commission has held the required public hearings, duly noticed in accordance with law; and

WHEREAS, the City Commission has reviewed the action set forth in the Ordinance and has determined that such action is consistent with the Comprehensive Plan.

NOW THEREFORE, BE IT ORDAINED BY THE CITY COMMISSION OF THE CITY OF AVENTURA, FLORIDA, THAT:

Section 1. Recitals. The foregoing whereas clauses are hereby ratified and incorporated within this Ordinance.

Section 2. City Code Amended. That Section 31-145 "Town Center Zoning Districts" of Article VII "Use Regulations" of Chapter 31 "Land Development Regulations" of the City Code is hereby amended to read as follows¹:

* * *

Section 31-145. Town Center Zoning Districts.

* * *

(a) *Purpose.* The purpose and intent of these districts is to provide suitable sites for the development of ~~structures combining~~ residential and commercial uses in a well planned and compatible manner. The uses within these districts shall be consistent with, but may be more restrictive than, the corresponding Town Center Land Use category permitted uses. Residential densities shall not exceed 25 units per gross acre and nonresidential densities shall not exceed a floor area ratio of 2.0.

(b) *Town Center District (TC1).* The following regulations shall apply to all TC1 Districts:

(1) *Uses permitted.* No building or structure, or part thereof, shall be erected, altered or used, or land used in whole or part for other than one or more of the following specific uses, provided the requirements set forth elsewhere in this section are satisfied:

- a. *Mixed-use structures.* For the purposes of this subsection, mixed-use buildings or structures are those combining residential dwelling units conforming generally with the intent of the RMF3, Multi-Family Medium Density Residential District, with office and/or retail commercial uses allowed in the B1, Neighborhood Business District, where the ratio of total

¹ Underlined provisions constitute proposed additions to existing text; ~~Strike-through~~ provisions constitute proposed deletions to existing text; and text without underline or strike-through constitute existing text.

square feet dedicated to residential and non-residential uses is between 3:1 and 1:3.

~~b. — Bookstores up to 25,000 square feet. There shall be no more than one (1) bookstore per shopping center.~~

~~c. — Dancing, theater, art, language arts or tutoring academies limited to 5,000 square feet or less.~~

~~d. — Department stores limited to 50,000 square feet. There shall be no more than one (1) department store per shopping center.~~

~~e. — Dog/pet hospitals with a limitation of 2,500 square feet.~~

~~f. — Furniture stores limited to 10,000 square feet. There shall be no more than two (2) furniture stores per shopping center.~~

~~g. — Grocery stores limited to 50,000 square feet. There shall be no more than one (1) grocery store per shopping center.~~

~~h. — Health and exercise clubs limited to 10,000 square feet. There shall be no more than one (1) health and exercise club per shopping center.~~

~~i. — Martial arts, dance or exercise studios with a limitation of 2,500 square feet.~~

~~j. — Pet shops with a limitation of 5,000 square feet.~~

b. Lifestyle center. For purposes of this section, a lifestyle center is a retail-oriented center of superior design quality that serves the retail needs and lifestyle pursuits of consumers in the area. Lifestyle centers shall have an open air configuration and shall include a mix of large, medium and small tenant spaces with at least one, but no more than three, anchor tenants of at least 30,000 square feet of floor area each. A lifestyle center may include restaurants, family-oriented entertainment, apparel stores and other permitted uses in the B1, Neighborhood Business District, without the size limitations of that district, and may also include permitted uses in the B2, Community Business District, except those B2 uses specifically prohibited for a lifestyle center pursuant to Section 31-145(b)(4)g. Lifestyle centers shall include design elements that define their role as a multi-purpose, leisure-oriented, family-friendly destination such as water features, gathering areas, street furniture and well-developed landscaping within and along entrances, pedestrian areas and pathways, all of which

are intended to create a town center atmosphere. A lifestyle center shall be within one-half (½) mile of a residential property, but no residential uses shall be included in the lifestyle center itself. A lifestyle center shall encourage multi-modal access by incorporating a mass transit stop, convenient pedestrian crosswalks and bike racks.

* * *

(3) *Conditional Uses.* The following uses may be established if first approved as a conditional use:

- a. Those uses permitted in the RMF3 District, except that residential uses may not be established in a lifestyle center.
- b. Indoor commercial recreation uses including, but not limited to: theatre, bowling center, miniature golf or skating rink.
- c. Wine bars with food service.

* * *

(4) *Uses prohibited.* Except as specifically permitted in this subsection (b), the following uses are expressly prohibited as either principal or accessory uses:

- a. Any use not specifically permitted.
- b. Adult entertainment establishments.
- c. Sale of goods to other than the ultimate consumer.
- d. Sales, purchases, display or storage of used merchandise other than antiques and jewelry.
- e. Sale of fruit or merchandise from trucks, wagons or other vehicles parked on or along public or private streets or from open stands or vacant lots. Such business on private or public property shall be conducted only from within approved permanent substantial buildings.
- f. Any drive-through service facility, except a drive-through service facility may be permitted for outparcel buildings in a lifestyle center.
- g. The following B2, Community Business District, permitted uses are prohibited in a lifestyle center:

Auditoriums; Automobile new parts and equipment, sales only; bait and tackle shops; billiard rooms and pool rooms; dry cleaning establishments where dry cleaning is performed on site; lawn mowers, retail, sales and service; mortuaries or funeral homes;

motorcycle sales and repair; liquor package stores; bars and lounges that are not part of a restaurant; nightclubs; office parks; automatic and hand car washes; hotels, motels and time share units.

h. Residential uses in a lifestyle center.

* * *

(5) *Site development standards.*

* * *

h. Required open space. A minimum of 35 percent of the total lot area of the site shall be provided as common open space available for use by all residents or consumers; of this common open space a minimum of one-half shall be unencumbered with any structure (except for play equipment for children and associated mounting, fencing and furniture) and shall be landscaped with grass and vegetation approved in a landscape plan. The remaining one-half may be used for recreational facilities, amenities, pedestrian walks, entrance landscaping and features (not including gatehouses and associated vehicle waiting areas), or maintenance facilities.

(6) *Accessibility for Mixed-Use Structures.* All residential units shall be accessible to the outside via a direct exit or an entry lobby that does not require residents to pass through a leasable commercial space.

(7) *Allocation of interior space for Mixed-Use Structures.* Retail stores, personal services, banks and financial services, indoor commercial recreation uses, restaurants and coffee houses, schools, nursery schools and child care centers are allowed only on the ground floor of mixed-use buildings. Offices and medical offices are allowed only on the ground and second floors. Residential uses are allowed only on the second or higher floors.

* * *

(9) *Performance Standards.* Any structure parking serving the primary use on the site shall be incorporated into the building envelope and shall be compatibly designed. Structured parking in a lifestyle center is exempted from the foregoing standard. Such parking structure shall comply with all minimum setback and buffer yard requirements. Parking structure ceiling heights shall be seven feet six inches except where greater heights may be required by other regulatory agencies. Pipes, ducts and mechanical equipment installed below the ceiling shall not be lower than seven feet zero inches above finished floor.

(10) *Design Standards.* All mixed use development in the TC1 Zoning District shall substantially comply with the applicable "Town Center Design Guidelines" as provided by the City Manager. All lifestyle center development in the TC1 Zoning District shall

substantially comply with the "Lifestyle Center in Town Center District Design Guidelines" dated July, 2012, provided by the City Manager.

* * *

Section 3. Severability. The provisions of this Ordinance are declared to be severable and if any section, sentence, clause or phrase of this Ordinance shall for any reason be held to be invalid or unconstitutional, such decision shall not affect the validity of the remaining sections, sentences, clauses, and phrases of this Ordinance but they shall remain in effect, it being the legislative intent that this Ordinance shall stand notwithstanding the invalidity of any part.

Section 4. Inclusion in the Code. It is the intention of the City Commission, and it is hereby ordained that the provisions of this Ordinance shall become and be made a part of the Code of the City of Aventura; that the sections of this Ordinance may be renumbered or re-lettered to accomplish such intentions; and that the word "Ordinance" shall be changed to "Section" or other appropriate word.

Section 5. Effective Date. This Ordinance shall be effective immediately upon adoption on second reading.

The foregoing Ordinance was offered by _____, who moved its adoption on first reading. This motion was seconded by _____, and upon being put to a vote was as follows:

- Commissioner Zev Auerbach _____
- Commissioner Bob Diamond _____
- Commissioner Michael Stern _____
- Commissioner Billy Joel _____
- Commissioner Luz Urbacz Weinberg _____
- Vice Mayor Teri Holzberg _____
- Mayor Susan Gottlieb _____

The foregoing Ordinance was offered by _____, who moved its adoption on second reading. This motion was seconded by _____, and upon being put to a vote was as follows:

- Commissioner Zev Auerbach _____
- Commissioner Bob Diamond _____
- Commissioner Michael Stern _____
- Commissioner Billy Joel _____
- Commissioner Luz Urbaz Weinberg _____
- Vice Mayor Teri Holzberg _____
- Mayor Susan Gottlieb _____

PASSED on first reading this 4th day of September, 2012.

PASSED AND ADOPTED on second reading this 2nd day of October, 2012.

SUSAN GOTTLIEB, MAYOR

ATTEST:

TERESA M. SOROKA, MMC
CITY CLERK

APPROVED AS TO LEGAL SUFFICIENCY:

CITY ATTORNEY

This Ordinance was filed in the Office of the City Clerk this ____ day of _____, 2012.

CITY OF AVENTURA

COMMUNITY DEVELOPMENT DEPARTMENT

MEMORANDUM

TO: City Commission

FROM: Eric M. Soroka, ICMA-CM
City Manager

BY: Joanne Carr, AICP
Community Development Director

DATE: August 15, 2012

SUBJECT: General Housekeeping Updates to the City Code
(02-LDR-12)

September 4, 2012
September 4, 2012
October 2, 2012

Local Planning Agency Agenda Item 4-B
City Commission Meeting Agenda Item 7-B
City Commission Meeting Agenda Item

RECOMMENDATION

It is recommended that the City Commission approve staff's request for updates to the Code of Ordinances ("City Code") detailed in this report and provided in the accompanying ordinance.

THE REQUEST

City staff is recommending general housekeeping updates to the City Code. These updates are recommended as a result of recent changes in legislation, and for consistency, clarification and for ease of use of the City Code by its readers. The specific proposals are as follows:

1. Building Code References

Section 14-31 of Chapter 14, "Buildings and Building Regulations", of the City Code states that "...the South Florida Building Code, as amended from time to time, is hereby adopted as the uniform building code for the City." The South Florida Building Code has been superseded by the Florida Building Code, consistent with Chapter 553, Florida Statutes, and as most recently updated in March of 2012. There are also references to the South Florida Building Code in other sections of the Code. Staff recommends that all references

in the City Code to the “South Florida Building Code” be updated to “Florida Building Code”.

2. Opinion of Title

Section 31-78, “Subdivision Plat Approval” and Section 31-79, “Administrative Site Plan Review”, refer to a requirement for an “ownership and encumbrance report”, which describes the legal title for the property subject to the application. This language has caused confusion to developers in the past. Staff recommends that this language be updated to refer to the more commonly used reference, “opinion of title”.

3. Flood Prevention Chapter Update for Consistency with LDR Language

Section 30-167 of the City Code contains provisions for flood hazard reduction. Subsection 30-167(b) contains specific standards for A-zone flood hazard areas. It provides that new construction or substantial improvement of any residential or non-residential building shall have the lowest floor elevated *no lower than the base flood elevation*. However, Section 31-232(7)(b)(1), “Subdivision Design Standards”, of the Land Development Regulations, provides that the lowest floor elevation must be *no lower than one foot above base flood elevation or 18 inches above the highest point of the adjacent road crown elevation, whichever is higher*. Although existing Code provisions allow staff to enforce the stricter requirement provided in Section 31-232(7)(b)(1), staff recommends that both sections contain uniform language for consistency.

4. Revision of the Statutory Reference in Section 31-53, “Amendments to the Comprehensive Plan”

Subsection (4) of this section provides that public hearings shall be held in compliance with Section 163.3184(15), Florida Statutes, as amended. This section number was correct when first inserted on adoption of the Land Development Regulations in 1999; however, the state legislation section numbering has changed since that time and the reference should now be revised to Section 163.3184(11), Florida Statutes, to be consistent with the current statutory section numbering.

5. Phasing of Site Development

Section 31-79, “Administrative Site Plan Review”, does not contain any provision for phased development. There have been several developments in the past that requested phasing of the site plan approval and conditions were added to their site development approvals to accommodate their requests. Staff recommends that language be added to

Section 31-79 to provide that phased site plans be constructed within certain time limits. The proposed additions to existing text are shown in underlined text below:

Section 31-79. Administrative Site Plan Review.

...(i) *Approved plans.* An approved site plan shall remain valid for a period of 12 months from the date of approval. If the site plan approval provides for phasing of the development in two or more phases, the subsequent phases shall each remain valid for a period of 12 months from the date of the certificate of occupancy or temporary certificate of occupancy for the development included in the previous phase. If no building permit is issued within a 12 month time period, the site plan approval, including all subsequent phases shall be considered null and void. Additionally, if at any time building permits lapse, the site plan, including all phases thereof, shall be considered null and void. A six month extension of the effective time period for an approved site plan may be granted by the City Manager or his designee if he or she has determined that the applicant shows good cause for the delay in obtaining building permits, provided that the request for extension is filed prior to the date of the expiration of any site plan approval time period."

6. Parking Stall Details

After many reprints, the diagram of the typical parking space and typical stall details at "Figure 31-171(2)" in Section 31-171, "Off-Street Parking and Loading Standards" is not legible. Staff proposes to add a legible drawing, attached as Exhibit #1 to the proposed ordinance.

7. Size of Parallel Parking Space

Section 31-171, "Off-Street Parking and Loading Standards" regulates off-street parking. It does not include a minimum size requirement for parallel parking spaces. There has been site development in the past that provided parallel parking as part of its required parking spaces and the size of the approved space was based on the advice of the City's Traffic Engineer. Staff recommends addition of a minimum parallel parking space size of 9 feet wide by 23 feet long to Section 31-171, "Off-Street Parking and Loading Standards" for clarification for future developments.

8. Landscaping of Parking Lot Interior Islands

This recommendation is based on a suggestion received from a City resident. Section 31-221(i) contains minimum landscape design standards. For interior islands in surface parking lots, this section requires that the islands be planted with one tree and the remainder be landscaped with grass or ground cover. In several developments, the

ground cover is made up of dense, low shrubbery which makes it difficult to open a car door or to maneuver around the vehicle without crushing the shrubs. Staff's recommendation is to add language to provide that landscaping of interior islands shall be designed and maintained so as not to impede movements in and out of vehicles.

9. Water Supply Level of Service Standards

The level of service standards for water supply adopted into the Comprehensive Plan through Ordinance No. 2009-14 should now be incorporated in Section 31-239, "Compliance with Comprehensive Plan", specifically in Section 31-239(f)(1), Potable Water. The proposed additions to existing text are shown in underlined text below:

Section 31-239. Compliance with Comprehensive Plan

...(f) *Level of Service Standards.* The following level of service standards contained in the adopted Comprehensive Plan shall be maintained.

(1) *Potable Water.*

Area Serviced by Miami-Dade Water & Sewer Department

(a) The treatment system shall operate with a rated maximum daily capacity which is no less than 2 percent above the maximum daily flow for the preceding year, and an average daily capacity 2 percent above the average daily per capita system demand for the preceding 5 years.

(b) Water shall be delivered to users at a pressure no less than 20 pounds per square inch (psi) and no greater than 100 psi. Unless otherwise approved by the Miami-Dade Fire Department, minimum fire flow based on the land use served shall be maintained as follows:

<i>Land Use</i>	<i>Min. Fire Flow</i>
Single Family Residential/Estate	500 gal/min
Single Family, Duplex, and Residential on minimum	750 gal/min lots of 7,500 sf2.
Multi-Family Residential	1,500 gal/min
Semiprofessional Offices, Hospitals, Schools	2,000 gal/min
Business and Industry	3,000 gal/min

(c) Water quality shall meet all federal, State and County primary standards for potable water.

(d) System-wide storage capacity for finished water shall equal no less than 15 percent of the system average daily demand.

Area Serviced by North Miami Beach

Potable Water: The City's water system shall provide 144 gallons per person per day at a pressure of 40 pounds per square inch (psi). The City attempts to maintain a water pressure of 40 pounds per square inch (psi) although 20 psi is the legal minimum.

ANALYSIS OF PROPOSED AMENDMENTS

Section 31-77, Land Development Regulations

Standards for reviewing proposed amendments to the text of the LDR:

1. *The proposed amendment is legally required.*

The proposed amendment is legally required to implement the requested revision to the Code.

2. *The proposed amendment is consistent with the goals and objectives of the Comprehensive Plan.*

The proposed amendment is consistent with the goals and objectives of the Comprehensive Plan. The Comprehensive Plan provides that development and redevelopment of the City shall conform to the standards established in the Land Development Regulations.

3. *The proposed amendment is consistent with the authority and purpose of the LDRs.*

The proposed amendment is consistent with the authority and purpose of the Land Development Regulations. "The purpose of the LDRs is to implement further the Comprehensive Plan of the City by establishing regulations, procedures and standards for review and approval of all development and uses of land and water in the City. Further, the LDRs are adopted in order to foster and preserve public health, safety and welfare and to aid in the harmonious, orderly and progressive development and redevelopment of the City..." The proposed amendment is consistent with this purpose. The proposed amendment will establish regulations and standards for review and provide for necessary updates and clarifications to aid in the harmonious, orderly and progressive development and redevelopment of the City.

4. *The proposed amendment furthers the orderly development of the City.*

The proposed amendment furthers the orderly development of the City, for the reasons provided in Paragraph 3 above.

5. *The proposed amendment improves the administration or execution of the development process.*

The proposed amendment improves the administration or execution of the development process in that it provides for an update and clarification of existing Code procedures, regulations and standards and for consistency with applicable statutory standards.

ORDINANCE NO. 2012- _____

AN ORDINANCE OF THE CITY OF AVENTURA, FLORIDA, AMENDING THE CODE OF ORDINANCES BY CHANGING ALL REFERENCES IN THE CODE FROM "SOUTH FLORIDA BUILDING CODE" TO "FLORIDA BUILDING CODE"; AMENDING SECTION 30-165 "GENERAL PROVISIONS" AND SECTION 30-167 "PROVISIONS FOR FLOOD HAZARD REDUCTION" OF ARTICLE IV "FLOODS" OF CHAPTER 30 "ENVIRONMENT" TO PROVIDE FOR INTERNAL CONSISTENCY AND UPDATED CROSS-REFERENCES; AMENDING ALL REFERENCES IN CHAPTER 31 "LAND DEVELOPMENT REGULATIONS" TO CHANGE THE REQUIREMENT OF AN "OWNERSHIP AND ENCUMBRANCE REPORT" TO AN "OPINION OF TITLE"; AMENDING SECTION 31-53 "AMENDMENTS TO THE COMPREHENSIVE PLAN" OF CHAPTER 31 "LAND DEVELOPMENT REGULATIONS" TO UPDATE A REFERENCE TO THE APPLICABLE SECTION OF THE FLORIDA STATUTES; AMENDING SECTION 31-79 "ADMINISTRATIVE SITE PLAN REVIEW" OF CHAPTER 31 "LAND DEVELOPMENT REGULATIONS" TO PROVIDE FOR TIME LIMITS TO COMPLETE THE PHASES OF DEVELOPMENT OF A PHASED SITE PLAN; AMENDING SECTION 31-171 "OFF-STREET PARKING AND LOADING STANDARDS" OF CHAPTER 31 "LAND DEVELOPMENT REGULATIONS" TO UPDATE THE PARKING STALL DIMENSION FIGURE AND TO ADD THE REQUIRED SIZE OF A PARALLEL PARKING SPACE; AMENDING SECTION 31-221, "LANDSCAPING REQUIREMENTS" TO UPDATE MINIMUM LANDSCAPE DESIGN STANDARDS FOR INTERIOR ISLANDS IN PARKING LOTS; AND AMENDING SECTION 31-239, "COMPLIANCE WITH COMPREHENSIVE PLAN" TO UPDATE THE LEVEL OF SERVICE STANDARDS FOR POTABLE WATER; PROVIDING FOR SEVERABILITY; PROVIDING FOR INCLUSION IN THE CODE; PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the City Commission of the City of Aventura ("City Commission") is desirous of amending the Code of Ordinances ("City Code"), to clarify and to update certain sections of the Code for internal consistency and to provide for updated cross-references, and for consistency with updates to the Florida Statutes; and

WHEREAS, the City Commission desires to provide for a minimum size requirement for parallel parking spaces; and

WHEREAS, the City Commission recognizes the need to update the water supply level of service standards within the Land Development Regulations, for consistency with the Comprehensive Plan; and

WHEREAS, the City Commission desires to provide for standards for timing of development, and expiration of phased site plan approvals; and

WHEREAS, the City Commission further desires to provide for revision to the minimum landscape standards applicable to interior landscaped islands in surface parking lots; and

WHEREAS, the City Commission has been designated as the Local Planning Agency for the City pursuant to Section 163.3174, Florida Statutes; and

WHEREAS, the City Commission, in its capacity as the Local Planning Agency, has reviewed the proposed amendments to the City Code pursuant to the required public hearing and has recommended approval to the City Commission; and

WHEREAS, the City Commission has reviewed the proposed amendments, and finds that it is in the best interests of the public to amend the City Code as set forth in this Ordinance; and

WHEREAS, the City Commission has held the required public hearings, duly noticed in accordance with law; and

WHEREAS, the City Commission has reviewed the action set forth in the Ordinance and has determined that such action is consistent with the Comprehensive Plan.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COMMISSION OF THE CITY OF AVENTURA, FLORIDA, THAT¹:

Section 1. Recitals Adopted. That each of the above-stated recitals are hereby adopted and confirmed.

Section 2. City Code Amended. All references in the Code of Ordinances to the "South Florida Building Code" are hereby amended to "Florida Building Code" for consistency with Chapter 553, Florida Statutes.

Section 3. City Code Amended. Section 30-165 "General Provisions" and Section 30-167 "Provisions for Flood Hazard Reduction" of Division 2 "Flood Damage Prevention" of Article IV "Floods" of Chapter 30 "Environment" of the Code of Ordinances is hereby amended to read as follows:

Section 30-165. General Provisions.

* * *

(b) *Basis for establishing the area of special flood hazard.* The areas of special flood hazard identified by the Federal Emergency Management Agency in its Flood Insurance Study and Flood Insurance Rate Maps for ~~Dade County, Florida~~, Miami-Dade County, Florida and incorporated areas, dated ~~March 2, 1994~~, "Revised: September 11, 2009", with accompanying maps and other supporting data, and any revision thereto, are adopted by reference and

¹ Underlined provisions constitute proposed additions to existing text; ~~stricken through~~ provisions indicate proposed deletions from existing text.

declared to be a part of this division. All The majority of lands within the City are within an area of special flood hazard.

* * *

Section 30-167. Provisions for Flood Hazard Reduction.

* * *

(b) *Specific standards for A-zoned flood hazard areas.*

- (1) *Residential construction.* New construction or substantial improvement of any residential building (or manufactured home) shall be the lowest floor, together with all mechanical and electrical equipment, including duct work, and including any basement, elevated no lower than one foot above the base flood elevation or 18 inches above the highest point of the adjacent road crown elevation, whichever is higher. Should solid foundation perimeter walls be used to elevate a structure, openings sufficient to facilitate the unimpeded movements of flood waters shall be provided in accordance with Section 30-167(b)(3). The floor of an attached garage may be placed below the base flood elevation, provided the openings required in Section 30-167(b)(3) are installed and all mechanical and electrical equipment, including laundry facilities and food freezers, are elevated above base flood elevation.
- (2) *Non-residential construction.* New construction or substantial improvement of any commercial, industrial, or non-residential building shall have the lowest floor, together with all mechanical and electrical equipment, including duct work, and including any basement, elevated no lower than one foot above the base flood elevation or 18 inches above the highest point of the adjacent road crown elevation, whichever is higher. The floor of an attached garage or loading dock may be placed below the base flood elevation, provided the openings required in Section 30-167(b)(3) are installed and all mechanical and electrical equipment are elevated above the base flood elevation. Buildings may be floodproofed to an elevation of one foot above the required base flood elevation noted above, or 18 inches above the highest point of the adjacent road crown elevation, whichever is higher, in lieu of being elevated, provided that all areas of the building below the required elevation are water tight with walls substantially impermeable to the passage of water, and use structural components having the capability of resisting hydrostatic and hydrodynamic loads and the effect of buoyancy. A registered professional engineer or architect shall certify that the standards of this subsection are satisfied. Such certification shall be provided to the official as set forth in Section 30-166(c)(4).

* * *

Section 4. City Code Amended. Section 31-53 "Amendments to the Comprehensive Plan" of Article IV "Comprehensive Plan" of Chapter 31 "Land Development Regulations" of the Code of Ordinances is hereby amended to read as follows:

Section 31-53. Amendments.

(4) *Notice of public hearings.* Public hearings shall be held in compliance with F.S. § ~~163.3184(15)~~ 163.3184(11), as amended, and the provisions of this chapter.

Section 5. City Code Amended. Section 31-78 "Subdivision Plat Approval" and Section 31-79 "Administrative Site Plan Review" of Article V "Development Review Procedures" of Chapter 31 "Land Development Regulations" of the Code of Ordinances is hereby amended to read as follows:

Sec. 31-78. Subdivision plat approval.

(2) Additional required information. In addition to the plat and application form, the applicant shall submit the following information:

- a. A complete and current ~~ownership and encumbrances report~~ opinion of title.

(3) Additional information to be provided at option of director. In addition to the information required with all tentative plat applications, the Community Development Director may request the following information if it is determined necessary to ascertain the adequacy of public facilities and consistency with the Comprehensive Plan or LDRs:

- a. A sealed current topographic survey ("plat survey"). The plat survey shall cover the entire area being platted and extend a minimum of 100 feet beyond the plat limits. The surveyor shall certify that the survey meets the requirements of this section. The plat survey shall contain at a minimum the following information:

- 5. All encumbrances and restrictions specified within the ~~owner and encumbrance report~~ opinion of title.

* * *

Sec. 31-79. Administrative site plan review.

* * *

(e) *Preliminary site plan submission requirements.* An application for preliminary site plan review shall include 12 sets of folded and collated plans containing the following:

(1) On-site sealed current (within 30 days) survey prepared by a Florida registered land surveyor, certified as to meeting the requirements of Chapter 21HH-6, Florida Administrative Code. At a minimum the survey shall show the property's topography, water bodies, easements, rights-of-way, existing structures and paved areas. This survey shall be based upon the ownership and encumbrance report opinion of title and shall so be stated on the survey itself.

* * *

(i) *Approved plans.* An approved site plan shall remain valid for a period of 12 months from the date of approval. If the site plan approval provides for phasing of the development in two or more phases, the subsequent phases shall each remain valid for a period of 12 months from the date of the certificate of occupancy or temporary certificate of occupancy for the development included in the previous phase. If no building permit is issued within a 12 month time period, the site plan approval, including all subsequent phases shall be considered null and void. Additionally, if at any time building permits lapse, the site plan, including all phases thereof, shall be considered null and void. A six month extension of the effective time period for an approved site plan may be granted by the City Manager or his designee if he or she has determined that the applicant shows good cause for the delay in obtaining building permits, provided that the request for extension is filed prior to the date of the expiration of any site plan approval time period.

Section 6. City Code Amended. Section 31-171 "Off-Street Parking and Loading Standards" of Article VIII "Off-Street Parking, Loading and Driveway Standards" of Chapter 31 "Land Development Regulations" is hereby amended to insert a legible copy of Figure 31-171(2), attached as Exhibit #1 to this Ordinance, illustrating existing required dimensions of a parking stall, and also to read as follows:

Section 31-171. Off-Street Parking and Loading Standards.

* * *

(a) *General.* Every building, use or structure, instituted or erected after the effective date of this chapter shall be provided with off-street parking facilities in accordance with the provisions of this section for the use of occupants, employees, visitors or patrons. Such off-street parking facilities shall be maintained and continued as an accessory use as long as the main use is continued.

* * *

(6) *Size and character of required parking.* The following design requirements shall be observed for off-street parking:

- a. *Size; parking stalls.* Each parking space required and provided pursuant to the provisions of this article shall be not less than nine feet in width and 18 feet in length, except as noted in subsection 31-171(a)(6)i. Where parallel parking spaces are used, each parallel parking space shall be not less than nine feet in width and 23 feet in length.

* * *

Section 7. City Code Amended. Section 31-221 "Landscaping Requirements" of Article X "Landscaping Requirements" of Chapter 31 "Land Development Regulations" is hereby amended to read as follows:

Section 31-221. Landscape Requirements.

* * *

(i) *Minimum Design Standards.* The following shall apply to all developments requiring site plan or permit approval except for single and two-family dwellings

(3) Interior landscape requirements. Within the interior of any vehicular use area (total area less required perimeter buffer strips), the following shall be required:

(a) When the interior of any vehicular use area is designed for off-street parking purposes, the following shall be provided:

* * *

2. *Interior Islands.* Landscaped interior island shall be seven feet in width (excluding curbing) and not less than 90 square feet each in area and shall be placed within individual rows of contiguous parking spaces so that there is not less than one island for every nine parking spaces, or portion thereof and shall continue for the full length of the contiguous parking space. At least one tree shall be planted in every interior island and the remainder of the island shall be landscaped with grass or ground cover. Ground cover in interior islands

shall be designed and maintained so as not to impede movements in and out of vehicles. Interior islands should not be placed directly opposite each other when in abutting parking rows. Any arrangement which creates a non-regimented appearance, relieves monotony, increases tree canopy and fulfills the requirements of this article may be approved by the Director or designee.

Section 8. City Code Amended. Section 31-239 "Compliance with Comprehensive Plan" of Article XI "Development Standards of General Applicability" of Chapter 31 "Land Development Regulations" is hereby amended to read as follows:

Section 31-239. Compliance with Comprehensive Plan

(f) *Level of Service Standards.* The following level of service standards contained in the adopted Comprehensive Plan shall be maintained.

(1) *Potable Water.*

Area Serviced by Miami-Dade Water & Sewer Department

(a) The treatment system shall operate with a rated maximum daily capacity which is no less than 2 percent above the maximum daily flow for the preceding year, and an average daily capacity 2 percent above the average daily per capita system demand for the preceding 5 years.

(b) Water shall be delivered to users at a pressure no less than 20 pounds per square inch (psi) and no greater than 100 psi. Unless otherwise approved by the Miami-Dade Fire Department, minimum fire flow based on the land use served shall be maintained as follows:

<i>Land Use</i>	<i>Min. Fire Flow</i>
Single Family Residential/Estate	500 gal/min
Single Family, Duplex, and Residential on minimum	750 gal/min lots of 7,500 sf2.
Multi-Family Residential	1,500 gal/min
Semiprofessional Offices, Hospitals, Schools	2,000 gal/min
Business and Industry	3,000 gal/min

(c) Water quality shall meet all federal, State and County primary standards for potable water.

(d) System-wide storage capacity for finished water shall equal no less than 15 percent of the system average daily demand.

Area Serviced by North Miami Beach

Potable Water: The City's water system shall provide 144 gallons per person per day at a pressure of 40 pounds per square inch (psi). The City attempts to maintain a water pressure of 40 pounds per square inch (psi) although 20 psi is the legal minimum.

Section 9. Severability. The provisions of this Ordinance are declared to be severable and if any section, sentence, clause or phrase of this Ordinance shall for any reason be held to be invalid or unconstitutional, such decision shall not affect the validity of the remaining sections, sentences, clauses, and phrases of this Ordinance but they shall remain in effect, it being the legislative intent that this Ordinance shall stand notwithstanding the invalidity of any part.

Section 10. Inclusion in the Code. It is the intention of the City Commission, and it is hereby ordained that the provisions of this Ordinance shall become and be made a part of the Code of the City of Aventura; that the sections of this Ordinance may be re-numbered or re-lettered to accomplish such intentions; and that the word "Ordinance" shall be changed to "Section" or other appropriate word.

Section 11. Effective Date. This Ordinance shall be effective immediately upon adoption on second reading.

The foregoing Ordinance was offered by Commissioner _____, who moved its adoption on first reading. This motion was seconded by Commissioner _____ and upon being put to a vote, the vote was as follows:

Commissioner Zev Auerbach	___
Commissioner Bob Diamond	___
Commissioner Michael Stern	___
Commissioner Billy Joel	___
Commissioner Luz Urbacz Weinberg	___
Vice Mayor Teri Holzberg	___
Mayor Susan Gottlieb	___

The foregoing Ordinance was offered by Commissioner _____, who moved its adoption on second reading. This motion was seconded by Commissioner _____ and upon being put to a vote, the vote was as follows:

Commissioner Zev Auerbach	___
Commissioner Bob Diamond	___
Commissioner Michael Stern	___
Commissioner Billy Joel	___
Commissioner Luz Urbacz Weinberg	___
Vice Mayor Teri Holzberg	___
Mayor Susan Gottlieb	___

PASSED on first reading this 4th day of September, 2012.

PASSED AND ADOPTED on second reading this 2nd day of October, 2012.

SUSAN GOTTLIEB, MAYOR

ATTEST:

TERESA M. SOROKA, MMC
CITY CLERK

APPROVED AS TO LEGAL SUFFICIENCY:

CITY ATTORNEY

This Ordinance was filed in the Office of the City Clerk this ____ day of October, 2012.

CITY CLERK

TYPICAL STALL DETAILS

FIGURE 31-171 (2)

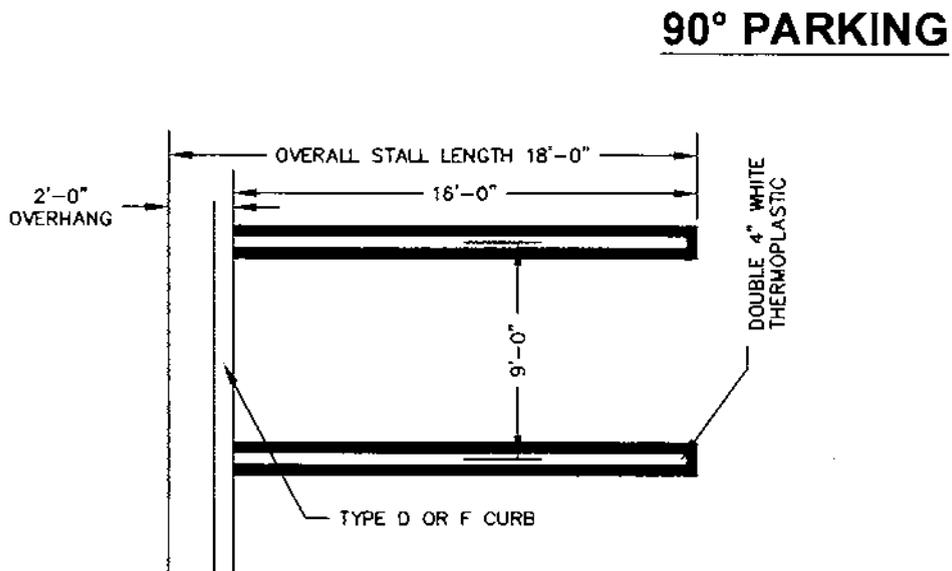
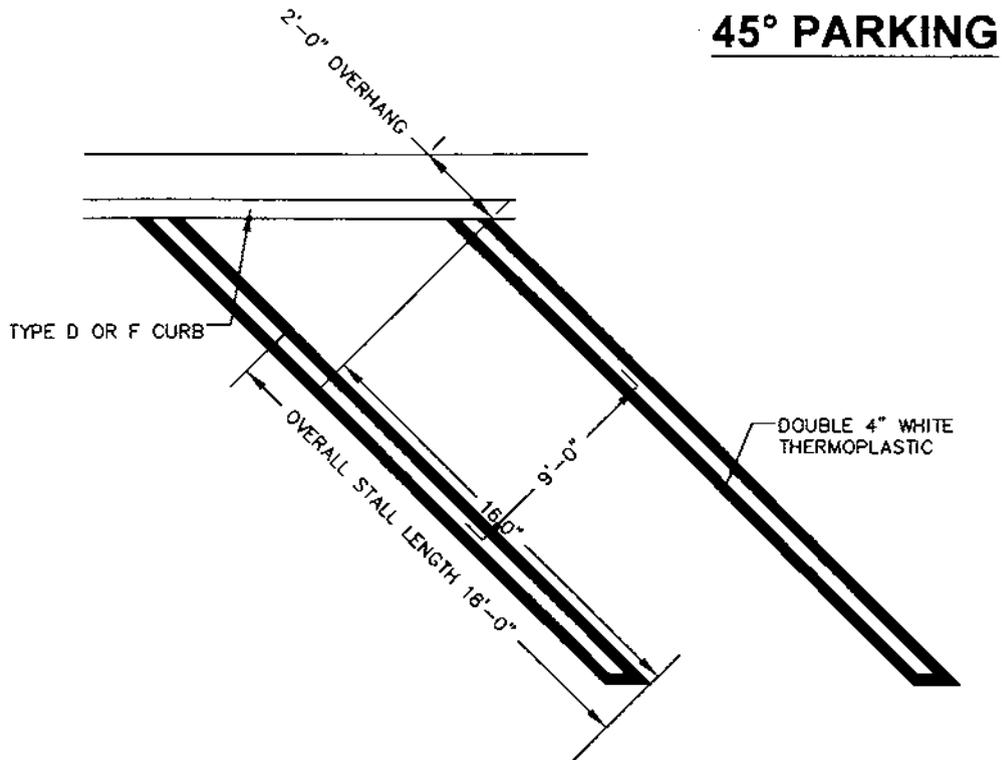


EXHIBIT #1 TO ORDINANCE NO. 2012-___

TYPICAL PARKING SPACE

CITY OF AVENTURA
OFFICE OF THE CITY MANAGER

MEMORANDUM

TO: City Commission

FROM: Eric M. Soroka, ICMA-CM, City Manager 

DATE: August 2, 2012

SUBJECT: **Ordinance Establishing Arts in Public Places Advisory Board**

1st Reading September 4, 2012 City Commission Meeting Agenda Item 7-C
2nd Reading October 2, 2012 City Commission Meeting Agenda Item _____

Attached hereto, please find the subject Ordinance which contains the amendments discussed at the July Workshop Meeting.

If you have any questions, please feel free to contact me.

EMS/act

Attachment

CCO1781-12

ORDINANCE NO. 2012-__

AN ORDINANCE OF THE CITY OF AVENTURA, FLORIDA CREATING DIVISION 6 "ART IN PUBLIC PLACES ADVISORY BOARD" OF ARTICLE III "ADVISORY BOARDS" OF CHAPTER 2 "ADMINISTRATION" OF THE CITY CODE OF THE CITY OF AVENTURA, FLORIDA ; ESTABLISHING ADVISORY BOARD AND PROVIDING FOR ITS DUTIES AND RESPONSIBILITIES; PROVIDING FOR SEVERABILITY; PROVIDING FOR INCLUSION IN CODE; PROVIDING FOR AN EFFECTIVE DATE

WHEREAS, the City Commission desires to create an advisory board to assist the City in facilitating the placement of works of art at City owned and/or operated parks, buildings and facilities.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COMMISSION OF THE CITY OF AVENTURA, FLORIDA , AS FOLLOWS:

Section 1. City Code Amended . That Division 6 "Art in Public Places Advisory Board" of Article 3 " Advisory Boards" of Chapter 2 " Administration" of the City Code, is hereby created , to read, as follows:

DIVISION 6. - ARTS IN PUBLIC PLACES ADVISORY BOARD

Sec. 2-201. - Creation, composition and qualifications.

A. There is hereby created and established the City of Aventura Art in Public Places Advisory Board (the "Board") consisting of five (5) members who shall be appointed by the Mayor, subject to the approval of the City Commission. A majority of the members of the Board shall be residents of the City. Members of the Board shall be appointed in accordance with procedures established herein and shall hold office at the pleasure of the City Commission. Members of the Board shall serve without compensation and shall not be reimbursed for travel, mileage, or per diem expenses. Members shall serve for a two-year term and may be reappointed in accordance with the process outlined herein.

B. In the event of the resignation or removal of any member of the Board, the Mayor shall appoint a person to fill the vacancy on such Board for the unexpired portion of the term of the member vacating such office, subject to approval of the City Commission in accordance with procedures established herein.

C. In the event that a member of the Board shall be absent and unexcused from a duly-called meeting of the Board for three consecutive meetings, then, in that event, such member shall automatically be removed as a member of the Board by the City Manager. An excused absence shall be requested in writing via email, fax or letter prior to the Board meeting.

D. The City Manager or his designee shall provide necessary staff support for the Board.

Sec. 2-202. – Process of Appointment of Board Members.

A. Individuals wishing to be a member of the Board shall make application to the City Manager on the forms provided by the City. The City Manager shall interview all applicants and make recommendation to the Mayor. The Mayor shall appoint to the Board members from the list of applicants recommended by

the City Manager, subject to the approval of the City Commission.

B. In recommending members of the Board, the following guidelines shall be considered:

- (i) The membership of the Board should consist of persons who have demonstrated a strong commitment to arts, including painting, photography, sculpture and other art forms.
- (ii) Reasonable efforts should be made for the membership of the Board to be representative of a range of comprehensive adult age groups.

Sec. 2-203. - Advisory capacity.

The powers and duties of the Board shall be solely of an advisory nature to the City Manager and Mayor and City Commission. The City Manager shall be responsible for communicating to the City Commission the actions of the Board.

Sec. 2-204. - Rules of procedure; quorum.

A. The Board shall adopt rules of procedure not inconsistent with the ordinances of the City and the laws of the State of Florida and shall utilize Robert's Rules of Order recently revised 1990 Edition for the rules of procedure for the conduct of meetings of the Board. The Board may create additional rules for the conduct of its internal proceedings.

B. During the first meeting of the Board and annually thereafter, the members shall elect one of their members to act as Chairperson and may elect a Vice-Chairperson, both of whom shall serve for one year and may be re-elected.

C. Three (3) members shall constitute a quorum for the transaction of business of the Board. Official action shall be taken by the Board only upon the concurring vote of a majority of the members present at an official meeting of the Board, except that at least three (3) affirmative votes shall be required for official action.

Sec. 2-205. - Mission; jurisdiction and duties.

A. The mission of the Board is to assist the City in identifying, selecting and obtaining works of art for display in City owned and/ or operated parks, buildings and facilities, in order to further enhance the diverse array of cultural and educational opportunities which are available within the City. The Board shall develop proposed protocols and guidelines for achieving that mission, subject to approval by the City Commission. Further, the final decision on the acceptance, placement and display of specific works of art at City owned and/ or operated parks, buildings and facilities shall be subject to the approval of the City Commission.

B. Action of the Board shall be in the form of a written recommendation of advice to the City Manager and Mayor, who shall confer as to the presentation of the recommendation of the Board to the City Commission.

C. The Board shall meet as needed as determined by the City Manager.

Sec. 2-206. - Standards of conduct for members.

All members of the Board shall be subject to the Standards of Conduct for Public Officers and Employees, as set by Federal, State, County, City or other applicable law pursuant to City Charter

Section 7.03 and must file the appropriate financial disclosure forms.

Section 2. Severability. That the provisions of this Ordinance are declared to be severable and if any section, sentence, clause or phrase of this Ordinance shall for any reason be held to be invalid or unconstitutional such decision shall not affect the validity of the remaining sections, sentences, clauses and phrases of this Ordinance, but they shall remain in effect it being the legislative intent that this Ordinance shall stand notwithstanding the invalidity of any part.

Section 3. Inclusion in the Code. That it is the intention of the City Commission and it is hereby ordained that the provisions of this Ordinance shall become and be made a part of the Code of the City of Aventura, that the sections of this Ordinance may be renumbered or relettered to accomplish such intentions, and that the word Ordinance shall be changed to Section or other appropriate word.

Section 4. Effective Date. That this Ordinance shall be effective immediately upon adoption on second reading.

The foregoing Ordinance was offered by Commissioner _____ who moved its adoption on first reading. This motion was seconded by Commissioner _____ and upon being put to a vote, the vote was as follows:

Commissioner Zev Auerbach	_____
Commissioner Bob Diamond	_____
Commissioner Billy Joel	_____
Commissioner Michael Stern	_____
Commissioner Luz Urbàez Weinberg	_____
Vice Mayor Teri Holzberg	_____
Mayor Susan Gottlieb	_____

The foregoing Ordinance was offered by Commissioner _____ who moved its adoption on second reading. This motion was seconded by Commissioner _____ and upon being put to a vote, the vote was as follows:

Commissioner Zev Auerbach	_____
Commissioner Bob Diamond	_____
Commissioner Billy Joel	_____
Commissioner Michael Stern	_____
Commissioner Luz Urbàez Weinberg	_____
Vice Mayor Teri Holzberg	_____
Mayor Susan Gottlieb	_____

PASSED AND ADOPTED on first reading this 4th day of September, 2012.

PASSED AND ADOPTED on second reading this 2nd day of October, 2012.

Susan Gottlieb, Mayor

ATTEST:

Teresa M. Soroka, MMC
City Clerk

Approved as to Form and Legal Sufficiency:

City Attorney

CITY OF AVENTURA

COMMUNITY DEVELOPMENT DEPARTMENT

MEMORANDUM

TO: City Commission

FROM: Eric M. Soroka, ICMA-CM
City Manager

BY: Joanne Carr, AICP
Community Development Director

DATE: June 6, 2012

SUBJECT: Application to Amend Section 31-144(f) of the Land Development Regulations to add a conditional use to the Medical Office (MO) District (03-LDR-12)

July 10, 2012 Local Planning Agency Agenda Item 4-A
July 10, 2012 City Commission Meeting Agenda Item 7-A
September 4, 2012 City Commission Meeting Agenda Item 8-A

RECOMMENDATION

It is recommended that the City Commission approve the request for an amendment to Section 31-144 (f), "Medical Office (MO) District" of the Land Development Regulations to add "self service storage facilities with a minimum lot area of 1.5 acres" as a conditional use in the district.

THE REQUEST

The applicant, Public Storage, Inc., has made a Public Hearing Application for Amendment to the Text of the Land Development Regulations to request the addition of "self service storage facilities with a minimum lot area of 1.5 acres" as a conditional use in the Medical Office (MO) zoning district. (See Exhibit #1 for Letter of Intent)

DESCRIPTION OF THE PROPOSED AMENDMENT

The amendment proposed to Section 31-144 (f) of the Land Development Regulations is the following addition in underlined text:

"Sec. 31-144. Business Zoning Districts. ...

(f) Medical Office (MO) District. This district is intended to provide for medical offices and other uses supporting the medical profession associated with the hospital. This zoning district may be applied to land designated Business and Office on the City's Future Land Use Map, however the uses within this district shall be consistent with, but may be more restrictive than, the corresponding Business and Office category permitted uses. ...

(1) *Uses Permitted.* No building or structure, or part thereof, shall be erected, altered or used, or land used in whole or part for other than one or more of the following specific uses: ...

(2) *Conditional Use.* The following uses if first approved as a conditional use:

- a. Business-related schools.
- b. Multi-family residential uses with a maximum density of 35 dwelling units per gross acre and within a minimum lot area of two acres.
- c. Uses that exceed the height limitations.
- d. Retail uses with a minimum lot area of two gross acres.
- e. Drive-through facility.
- f. Heliport landing site.
- g. Automobile parking garages, exceeding two stories but not over six stories in height, as a stand-alone use.
- h. All uses permitted in the CF District.
- i. For those properties lying between NE 206 Street to the south, NE 209 Street to the north, NE 28 Avenue to the east and East Dixie Highway to the west, the following additional uses may be permitted if first approved as a conditional use:
 1. Uses that exceed the maximum floor area ratio.
 2. Uses that do not meet the open space requirements of the district, upon payment of a fee-in-lieu of open space to be used for public park improvements. The amount of such fee shall be determined by the City Manager based on the appraised value of the land and the amount of reduction in open space requested, provided, however, that the amount of open space shall not be reduced below 15 percent of the total lot area and that the development complies with the Streetscape Design Standards of this section.
- j. Self service storage facilities with a minimum lot area of 1.5 acres. ...

ANALYSIS

The Medical Office (MO) zoning district is intended to provide for medical offices and other uses supporting the medical profession associated with the hospital. The uses in the district shall be consistent with, but may be more restrictive than, the corresponding Business and Office future land use category permitted uses. That Business and Office future land use category is comprehensive and accommodates the full range of sales and services activities. A self service storage facility is a service that may be contemplated in this category.

The applicant has an existing "first generation" style self storage facility on its land on Biscayne Boulevard, which was constructed prior to incorporation of the City. It seeks to upgrade that facility to modern public storage standards; however, the self storage use is not currently a permitted or conditional use in the Medical Office zoning district. The applicant advises that its current facility has a number of tenants related to medical use including medical suppliers, hospitals and physicians and may therefore be considered as compatible with the intent of the Medical Office zoning district, as it supports the storage needs of the medical profession and related business and office uses..

The existing site development standards for the properties in the north portion of the Medical Office (MO) zoning district require a minimum lot size of 1.5 acres. The proposed amendment will provide that same minimum lot size to be consistent with development of other lots in the area.

Section 31-77, Land Development Regulations Standards for reviewing proposed amendments to the text of the LDR:

1. *The proposed amendment is legally required.*

The proposed amendment is legally required to implement the requested revision to the Code.

2. *The proposed amendment is consistent with the goals and objectives of the Comprehensive Plan.*

The proposed amendment is consistent with the goals and objectives of the Comprehensive Plan. The future land use designation for properties zoned Medical Office (MO) District is Business and Office. The intent of the Business and Office land use designation is described in the Future Use Element of the City's Comprehensive Plan. This category is intended to accommodate the full range of sales and service activities in our City. A self service storage facility is a service that may be contemplated by this land use category.

3. *The proposed amendment is consistent with the authority and purpose of the LDRs.*

The proposed amendment is consistent with the authority and purpose of the Land Development Regulations. "The purpose of the LDRs is to implement further the Comprehensive Plan of the City by establishing regulations, procedures and standards for review and approval of all development and uses of land and water in the City. Further, the LDRs are adopted in order to foster and preserve public health, safety and welfare and to aid in the harmonious, orderly and progressive development and redevelopment of the City..." The proposed amendment is consistent with this purpose. The standards in the City's Land Development Regulations for the conditional use approval process will provide for review, through public hearing, of any proposed development or redevelopment of self service storage facilities to assure that the use will be compatible with surrounding businesses and medical office uses and will be a complementary use in the Medical Office zoning district.

4. *The proposed amendment furthers the orderly development of the City.*

The proposed amendment furthers the orderly development of the City, for the reasons provided in Paragraph 3 above.

5. *The proposed amendment improves the administration or execution of the development process.*

The proposed amendment improves the administration or execution of the development process in that it provides for a process by which to approve development or redevelopment of self service storage facilities in the Medical Office (MO) District through the conditional use approval standards of the Land Development Regulations.



BERCOW RADELL & FERNANDEZ
ZONING, LAND USE AND ENVIRONMENTAL LAW

Exhibit #1
03-LDR-12

Direct: 305-377-6230
E-Mail MRadell@brzoninglaw.com

May 25, 2012

COMMUNITY DEVELOPMENT
CITY OF AVENTURA

VIA U.S. MAIL

Ms. Joanne Carr
Community Development Director
City of Aventura
19200 West Country Club Drive
Aventura, FL 33180

MAY 29 2012

INITIAL

JM

RE: Proposed Amendment Concerning Storage Facilities in the
Medical Office Zoning District

Dear Joanne:

This will follow up the City Commission Workshop meeting on May 22, 2012 which included informal discussion concerning a proposed amendment to the Medical Office zoning district regulations to include storage facilities as a conditional use. This shall serve as the letter of intent that accompanies an application by Public Storage, Inc. to amend the City's Land Development Regulations as provided herein. Public Storage has existing "first generation" self storage facilities which it seeks to upgrade that are located at 21235 Biscayne Boulevard. As we discussed, the existing facilities are grandfathered as legal non-conforming uses as a result of the rezoning of all of the property in this area to the Medical Office zoning district shortly after the City of Aventura was incorporated. In order to proceed with a full evaluation of Public Storage's redevelopment plan, we hereby propose that the Medical Office zoning district regulations be amended to include a conditional use as follows: "self storage facilities on a minimum of 1.5 acre."

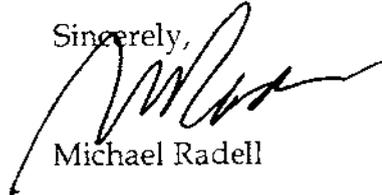
We believe that the inclusion of self storage facilities as a conditional use in the Medical Office district is reasonable and appropriate. The conditional use process will allow Public Storage's architects to collaborate with the City's professional staff in order to develop a site plan that will be an asset to the community and compatible with streetscape along this section of Biscayne Boulevard. In addition, the existing storage facility operated by Public Storage

Ms. Joanne Carr
May 25, 2012
Page 2

includes a number of tenants related to medical use including medical suppliers, hospitals and physicians. Public Storage's existing tenants also include many businesses and residents of the City of Aventura. In fact, the City of Aventura is, itself, a tenant of Public Storage at this facility. Accordingly, we believe that storage facilities are an appropriate use in this location subject to conditional use approval by the City Commission. This will allow both staff and the City Commission to review any proposed redevelopment plan to assure that it will be compatible with the surrounding business and medical office uses, and will be a complementary use in the Medical Office zoning district.

We look forward to working with you through this code amendment process. Please do not hesitate to call me if you have any questions or need additional information.

Sincerely,



Michael Radell

MR/ah

cc: Jim Fitzpatrick, Public Storage
Gus Carbonell



APPLICANT REPRESENTATIVE AFFIDAVIT

Pursuant to Section 31-71(b)(2)(i) of the City of Aventura Land Development Code, this Applicant Representative Affidavit is hereby made and submitted. The undersigned authorized representative of the individual or entity applying for the Development Permit, which is identified in the accompanying application, and the owner of the property subject to the application (if different) hereby lists and identifies all persons representing the individual or entity applying for the Development Permit in connection with the application, as follows

Table with 2 columns: Name, Relationship (i.e. Attorneys, Architects, Landscape Architects, Engineers, Lobbyists, Etc.)

(Attach Additional Sheets If Necessary)

NOTICE: ANY STATEMENT OR REPRESENTATION MADE BY ANY PERSON LISTED ON THE APPLICANT REPRESENTATIVE AFFIDAVIT SHALL BE BINDING UPON THE INDIVIDUAL OR ENTITY APPLYING FOR THE DEVELOPMENT PERMIT AND THE OWNER OF THE SUBJECT PROPERTY. APPLICANTS AND AFFIANTS ARE ADVISED TO TIMELY SUPPLEMENT THIS AFFIDAVIT PURSUANT TO SEC. 31-71(B)(2)(IV) OF THE CITY'S LAND DEVELOPMENT REGULATIONS IN THE CITY CODE, IN THE EVENT THAT PRIOR TO CONSIDERATION OF THE APPLICATION BY THE CITY BOARD OR COMMISSION, THE INFORMATION PROVIDED IN THE AFFIDAVIT BECOMES INCORRECT OR INCOMPLETE.

WITNESS MY HAND THIS 13th DAY OF June 2012

AUTHORIZED REPRESENTATIVE OF APPLICANT.

By: (Signature)
Name: (Print)
Title:
Address:

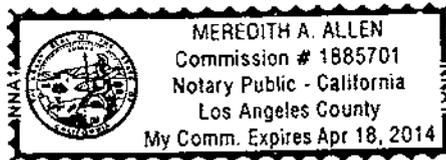
OWNER
By: (Signature) X
Name: JIM FITZPATRICK (Print)
Title: SR V-P, DGI, REAL ESTATE DIV.
Address: PUBLIC STORAGE, 701 WESTERN AVE, GLENDALE, CA.

STATE OF CALIFORNIA
COUNTY OF MIAMI DADE

Before me the undersigned authority personally appeared JIM FITZPATRICK as the authorized representative of the Applicant and/or the owner of the property subject to the application, who being first by me duly sworn, did swear or affirm that he/she executed this Affidavit for the purposes stated therein and that it is true and correct.

SWORN TO AND SUBSCRIBED BEFORE ME this 13th day of June 2012

(Signature) X
AFFIANT



Notary Public State of Florida At Large California
Printed Name of Notary MEREDITH A. ALLEN
My commission expires APRIL 18, 2014



BUSINESS RELATIONSHIP AFFIDAVIT*

This Affidavit is made pursuant to Section 31-71(b)(2)(ii) of the City of Aventura Land Development Code. The undersigned Affiant hereby discloses that: (mark with "x" applicable portions only)

Mark
Affiant
for
H.E.M.S.

X1
112

Affiant does not have a Business Relationship with any member of the City Commission or any City Advisory Board to which the application will be presented.

Affiant hereby discloses that it does have a Business Relationship with a member of the City Commission or a City Advisory Board to which the application will be presented, as follows:

_____ (List name of Commissioner or Advisory Board Member) who serves on the _____ (List City Commission or City Advisory Board upon which member serves).

The nature of the Business Relationship is as follows:

- i. Member of City Commission or Board holds an ownership interest in excess of 1% of total assets or capital stock of Applicant or Representative.
- ii. Member of City Commission or Board is a partner, co-shareholder (as to shares of a corporation which are not listed on any national or regional stock exchange) or joint venturer with the Applicant or Representative in any business venture.
- iii. The Applicant or Representative is a Client of a member of the City Commission or Board or a Client of another professional working from the same office or for the same employer as the member of the City Commission or Board.
- iv. A City Commissioner or Board member is a Client of the Applicant or Representative.
- v. The Applicant or Representative is a Customer of the member of the City Commission or Board (or of his or her employer) and transacts more than \$10,000.00 of the business of the member of the City Commission or Board (or his or her employer) in a given calendar year.
- vi. The member of the City Commission or Board is a Customer of the Applicant or Representative and transacts more than \$25,000.00 of the business of the Applicant or Representative in a given calendar year.

WITNESS MY HAND THIS 13th DAY OF JUNE, 2002

APPLICANT:

By: [Signature] (Signature) X
Name: JIM FITZPATRICK (Print)
Title: SR VP, DEVELOPMENT (Print)

WITNESS MY HAND THIS _____ DAY OF _____, 200__

PROPERTY OWNER:

By: _____ (Signature)
Name: _____ (Print)
Title: _____ (Print)

*The terms "Business Relationship," "Client," "Customer," "Applicant," "Representative" and "Interested Person" are defined in Section 2-395 of the Aventura City Code.

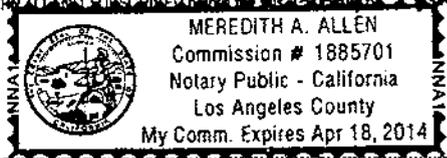
NOTARIZATION PROVISION

CALIFORNIA
STATE OF FLORIDA)
COUNTY OF MIAMI-DADE) LOS ANGELES

Before me, the undersigned authority, personally appeared JIM FITZPATRICK the Affiant, who being first by me duly sworn, did swear or affirm that he/she executed this Affidavit for the purposes stated therein and that it is true and correct.

[Signature]
AFFIANT

SWORN TO AND SUBSCRIBED before me this 12th day of June, 2012.



[Signature]
Notary Public State of Florida At Large CALIFORNIA
MEREDITH A. ALLEN
Printed Name of Notary
My commission expires APRIL 18, 2014

STATE OF FLORIDA)
COUNTY OF MIAMI-DADE)

Before me, the undersigned authority, personally appeared _____ the Affiant, who being first by me duly sworn, did swear or affirm that he/she executed this Affidavit for the purposes stated therein and that it is true and correct.

AFFIANT

SWORN TO AND SUBSCRIBED before me this ___ day of _____, 200__.

Notary Public State of Florida At Large
Printed Name of Notary
My commission expires: _____

STATE OF FLORIDA)
COUNTY OF MIAMI-DADE)

Before me, the undersigned authority, personally appeared _____ the Affiant, who being first by me duly sworn, did swear or affirm that he/she executed this Affidavit for the purposes stated therein and that it is true and correct.

AFFIANT

SWORN TO AND SUBSCRIBED before me this ___ day of _____, 200__.

Notary Public State of Florida At Large
Printed Name of Notary
My commission expires: _____

STATE OF FLORIDA)
COUNTY OF MIAMI-DADE)

Before me, the undersigned authority, personally appeared _____ the Affiant, who being first by me duly sworn, did swear or affirm that he/she executed this Affidavit for the purposes stated therein and that it is true and correct.

AFFIANT

SWORN TO AND SUBSCRIBED before me this ___ day of _____, 200__.

Notary Public State of Florida At Large
Printed Name of Notary
My commission expires: _____



BUSINESS RELATIONSHIP AFFIDAVIT*

This Affidavit is made pursuant to Section 31-71(b)(2)(ii) of the City of Aventura Land Development Code. The undersigned Affiant hereby discloses that: (mark with "x" applicable portions only)

MARK
AFFIDAVIT
FOR

1
2

1. Affiant does not have a Business Relationship with any member of the City Commission or any City Advisory Board to which the application will be presented.

2. Affiant hereby discloses that it does have a Business Relationship with a member of the City Commission or a City Advisory Board to which the application will be presented as follows:

_____ (List name of Commissioner or Advisory Board Member) who serves on the
_____ (List City Commission or City Advisory Board upon which member serves).

The nature of the Business Relationship is as follows

- i. Member of City Commission or Board holds an ownership interest in excess of 1% of total assets or capital stock of Applicant or Representative.
- ii. Member of City Commission or Board is a partner, co-shareholder (as to shares of a corporation which are not listed on any national or regional stock exchange) or joint venturer with the Applicant or Representative in any business venture.
- iii. The Applicant or Representative is a Client of a member of the City Commission or Board or a Client of another professional working from the same office or for the same employer as the member of the City Commission or Board.
- iv. A City Commissioner or Board member is a Client of the Applicant or Representative.
- v. The Applicant or Representative is a Customer of the member of the City Commission or Board (or of his or her employer) and transacts more than \$10,000.00 of the business of the member of the City Commission or Board (or his or her employer) in a given calendar year.
- vi. The member of the City Commission or Board is a Customer of the Applicant or Representative and transacts more than \$25,000.00 of the business of the Applicant or Representative in a given calendar year.

WITNESS MY HAND THIS ____ DAY OF _____, 200__.

APPLICANT

By: _____ (Signature)
Name: _____ (Print)
Title: _____ (Print)

WITNESS MY HAND THIS ____ DAY OF _____, 200__.

PROPERTY OWNER

By: _____ (Signature)
Name: _____ (Print)
Title: _____ (Print)

*The terms "Business Relationship," "Client," "Customer," "Applicant," "Representative" and "Interested Person" are defined in Section 2-395 of the Aventura City Code.

WITNESS MY HAND THIS 14 DAY OF JUNE 2002

REPRESENTATIVE (Listed on Business Relationship Affidavit)

By: [Signature] (Signature) X

Name: MICHAEL RAYH (Print)

Title: ATTORNEY (Print)

By: _____ (Signature)

Name: _____ (Print)

Title: _____ (Print)

By: _____ (Signature)

Name: _____ (Print)

Title: _____ (Print)

By: _____ (Signature)

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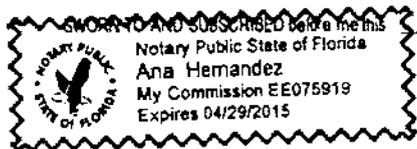
NOTE: 1) Use duplicate sheets if disclosure information for Representative varies

2) Applicants and Affiants are advised to timely supplement this Affidavit pursuant to Sec. 31-71(b)(2)(iv) of the City's Land Development Regulations in the City Code, in the event that prior to consideration of the application by the City Board or Commission, the information provided in the Affidavit becomes incorrect or incomplete.

NOTARIZATION PROVISION

STATE OF FLORIDA)
COUNTY OF MIAMI-DADE)

Before me, the undersigned authority, personally appeared Hector Roca the Affiant, who being first by me duly sworn, did swear or affirm that he/she executed this Affidavit for the purposes stated therein and that it is true and correct.



day of June, 2012

[Handwritten Signature]
AFFIANT
[Handwritten Signature]
Notary Public State of Florida At Large
Printed Name of Notary Ana Hernandez
My commission expires: _____

STATE OF FLORIDA)
COUNTY OF MIAMI-DADE)

Before me, the undersigned authority, personally appeared _____ the Affiant, who being first by me duly sworn, did swear or affirm that he/she executed this Affidavit for the purposes stated therein and that it is true and correct.

AFFIANT

SWORN TO AND SUBSCRIBED before me this _____ day of _____, 200__

Notary Public State of Florida At Large
Printed Name of Notary _____
My commission expires: _____

STATE OF FLORIDA)
COUNTY OF MIAMI-DADE)

Before me, the undersigned authority, personally appeared _____ the Affiant, who being first by me duly sworn, did swear or affirm that he/she executed this Affidavit for the purposes stated therein and that it is true and correct.

AFFIANT

SWORN TO AND SUBSCRIBED before me this _____ day of _____, 200__

Notary Public State of Florida At Large
Printed Name of Notary _____
My commission expires: _____

STATE OF FLORIDA)
COUNTY OF MIAMI-DADE)

Before me, the undersigned authority, personally appeared _____ the Affiant, who being first by me duly sworn, did swear or affirm that he/she executed this Affidavit for the purposes stated therein and that it is true and correct.

AFFIANT

SWORN TO AND SUBSCRIBED before me this _____ day of _____, 200__

Notary Public State of Florida At Large
Printed Name of Notary _____
My commission expires: _____

ORDINANCE NO. 2012-_____

AN ORDINANCE OF THE CITY OF AVENTURA, FLORIDA, AMENDING SECTION 31-144(f) "MEDICAL OFFICE (MO) DISTRICT" OF THE CITY'S LAND DEVELOPMENT REGULATIONS TO ADD "SELF SERVICE STORAGE FACILITIES WITH A MINIMUM LOT AREA OF 1.5 ACRES" AS A CONDITIONAL USE IN THE DISTRICT; PROVIDING FOR SEVERABILITY; PROVIDING FOR INCLUSION IN THE CODE; PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the City of Aventura is desirous of amending Section 31-144(f) of the City's Land Development Regulations to permit self service storage facilities with a minimum lot area of 1.5 acres as a conditional use in the Medical Office (MO) zoning district; and

WHEREAS, the City Commission has been designated as the Local Planning Agency for the City pursuant to Section 163.3174, Florida Statutes; and

WHEREAS, the Local Planning Agency has reviewed the proposed amendment pursuant to the required public hearing and has recommended approval to the City Commission; and

WHEREAS, the City Commission has reviewed the proposed amendment, and finds that it is in the best interests of the public to amend Section 31-144(f) of the City's Land Development Regulations, as set forth in this Ordinance; and

WHEREAS, the City Commission has held the required public hearings, duly noticed in accordance with law; and

WHEREAS, the City Commission has reviewed the action set forth in the Ordinance and has determined that such action is consistent with the Comprehensive Plan.

NOW THEREFORE, BE IT ORDAINED BY THE CITY COMMISSION OF THE CITY OF AVENTURA, FLORIDA, THAT:

Section 1. Recitals. The foregoing whereas clauses are hereby ratified and incorporated within this Ordinance.

Section 2. Section 31-144 (f), "Medical Office (MO) District" of the Land Development Regulations is hereby amended as follows¹:

¹ Underlined provisions constitute proposed additions to existing text; text without underline or strike-through constitute existing text.

Sec. 31-144. Business Zoning Districts.

(f) Medical Office (MO) District. This district is intended to provide for medical offices and other uses supporting the medical profession associated with the hospital. This zoning district may be applied to land designated Business and Office on the City's Future Land Use Map, however the uses within this district shall be consistent with, but may be more restrictive than, the corresponding Business and Office category permitted uses.

(1) *Uses Permitted.* No building or structure, or part thereof, shall be erected, altered or used, or land used in whole or part for other than one or more of the following specific uses:

(2) *Conditional Use.* The following uses if first approved as a conditional use:

- a. Business-related schools.
 - b. Multi-family residential uses with a maximum density of 35 dwelling units per gross acre and within a minimum lot area of two acres.
 - c. Uses that exceed the height limitations.
 - d. Retail uses with a minimum lot area of two gross acres.
 - e. Drive-through facility.
 - f. Heliport landing site.
 - g. Automobile parking garages, exceeding two stories but not over six stories in height, as a stand-alone use.
 - h. All uses permitted in the CF District.
 - i. For those properties lying between NE 206 Street to the south, NE 209 Street to the north, NE 28 Avenue to the east and East Dixie Highway to the west, the following additional uses may be permitted if first approved as a conditional use:
 1. Uses that exceed the maximum floor area ratio.
-

2. Uses that do not meet the open space requirements of the district, upon payment of a fee-in-lieu of open space to be used for public park improvements. The amount of such fee shall be determined by the City Manager based on the appraised value of the land and the amount of reduction in open space requested, provided, however, that the amount of open space shall not be reduced below 15 percent of the total lot area and that the development complies with the Streetscape Design Standards of this section.

j. Self service storage facilities with a minimum lot area of 1.5 acres.

~~j-~~ k. For buildings that attain LEED® Gold or Platinum certification as provided in Article VI of Chapter 14 of the City Code, increased lot coverage, provided that a green roof and/or green rooftop amenities are provided and maintained for the common benefit of building occupants; and; that increased Florida-Friendly tree canopy and Florida-Friendly plantings designed to calm the heat island effect are located on site, all in an amount equal to the requested increased lot coverage.

~~k-~~ l. For buildings that attain LEED® Gold or Platinum certification as provided in Article VI of Chapter 14 of the City Code, increased floor area ratio, not to exceed a floor area ratio of 2.0.

Section 3. Severability. The provisions of this Ordinance are declared to be severable and if any section, sentence, clause or phrase of this Ordinance shall for any reason be held to be invalid or unconstitutional, such decision shall not affect the validity of the remaining sections, sentences, clauses, and phrases of this Ordinance but they shall remain in effect, it being the legislative intent that this Ordinance shall stand notwithstanding the invalidity of any part.

Section 4. Inclusion in the Code. It is the intention of the City Commission, and it is hereby ordained that the provisions of this Ordinance shall become and be made a part of the Code of the City of Aventura; that the sections of this Ordinance may be renumbered or re-lettered to accomplish such intentions; and that the word "Ordinance" shall be changed to "Section" or other appropriate word.

ORDINANCE NO. 2012-_____

AN ORDINANCE OF THE CITY OF AVENTURA, FLORIDA, AMENDING SECTION 31-144(f) "MEDICAL OFFICE (MO) DISTRICT" OF THE CITY'S LAND DEVELOPMENT REGULATIONS TO ADD "SELF SERVICE STORAGE FACILITIES WITH A MINIMUM LOT AREA OF 1.5 ACRES" AS A CONDITIONAL USE IN THE DISTRICT; PROVIDING FOR SEVERABILITY; PROVIDING FOR INCLUSION IN THE CODE; PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the City of Aventura is desirous of amending Section 31-144(f) of the City's Land Development Regulations to permit self service storage facilities with a minimum lot area of 1.5 acres as a conditional use in the Medical Office (MO) zoning district; and

WHEREAS, the City Commission has been designated as the Local Planning Agency for the City pursuant to Section 163.3174, Florida Statutes; and

WHEREAS, the Local Planning Agency has reviewed the proposed amendment pursuant to the required public hearing and has recommended approval to the City Commission; and

WHEREAS, the City Commission has reviewed the proposed amendment, and finds that it is in the best interests of the public to amend Section 31-144(f) of the City's Land Development Regulations, as set forth in this Ordinance; and

WHEREAS, the City Commission has held the required public hearings, duly noticed in accordance with law; and

WHEREAS, the City Commission has reviewed the action set forth in the Ordinance and has determined that such action is consistent with the Comprehensive Plan.

NOW THEREFORE, BE IT ORDAINED BY THE CITY COMMISSION OF THE CITY OF AVENTURA, FLORIDA, THAT:

Section 1. Recitals. The foregoing whereas clauses are hereby ratified and incorporated within this Ordinance.

Section 2. Section 31-144 (f), "Medical Office (MO) District" of the Land Development Regulations is hereby amended as follows¹:

¹ Underlined provisions constitute proposed additions to existing text; text without underline or strike-through constitute existing text.

Sec. 31-144. Business Zoning Districts.

(f) Medical Office (MO) District. This district is intended to provide for medical offices and other uses supporting the medical profession associated with the hospital. This zoning district may be applied to land designated Business and Office on the City's Future Land Use Map, however the uses within this district shall be consistent with, but may be more restrictive than, the corresponding Business and Office category permitted uses.

(1) *Uses Permitted.* No building or structure, or part thereof, shall be erected, altered or used, or land used in whole or part for other than one or more of the following specific uses:

(2) *Conditional Use.* The following uses if first approved as a conditional use:

- a. Business-related schools.
 - b. Multi-family residential uses with a maximum density of 35 dwelling units per gross acre and within a minimum lot area of two acres.
 - c. Uses that exceed the height limitations.
 - d. Retail uses with a minimum lot area of two gross acres.
 - e. Drive-through facility.
 - f. Heliport landing site.
 - g. Automobile parking garages, exceeding two stories but not over six stories in height, as a stand-alone use.
 - h. All uses permitted in the CF District.
 - i. For those properties lying between NE 206 Street to the south, NE 209 Street to the north, NE 28 Avenue to the east and East Dixie Highway to the west, the following additional uses may be permitted if first approved as a conditional use:
 1. Uses that exceed the maximum floor area ratio.
-

2. Uses that do not meet the open space requirements of the district, upon payment of a fee-in-lieu of open space to be used for public park improvements. The amount of such fee shall be determined by the City Manager based on the appraised value of the land and the amount of reduction in open space requested, provided, however, that the amount of open space shall not be reduced below 15 percent of the total lot area and that the development complies with the Streetscape Design Standards of this section.

j. Self service storage facilities with a minimum lot area of 1.5 acres.

~~j-~~ k. For buildings that attain LEED® Gold or Platinum certification as provided in Article VI of Chapter 14 of the City Code, increased lot coverage, provided that a green roof and/or green rooftop amenities are provided and maintained for the common benefit of building occupants; and; that increased Florida-Friendly tree canopy and Florida-Friendly plantings designed to calm the heat island effect are located on site, all in an amount equal to the requested increased lot coverage.

~~k-~~ l. For buildings that attain LEED® Gold or Platinum certification as provided in Article VI of Chapter 14 of the City Code, increased floor area ratio, not to exceed a floor area ratio of 2.0.

Section 3. Severability. The provisions of this Ordinance are declared to be severable and if any section, sentence, clause or phrase of this Ordinance shall for any reason be held to be invalid or unconstitutional, such decision shall not affect the validity of the remaining sections, sentences, clauses, and phrases of this Ordinance but they shall remain in effect, it being the legislative intent that this Ordinance shall stand notwithstanding the invalidity of any part.

Section 4. Inclusion in the Code. It is the intention of the City Commission, and it is hereby ordained that the provisions of this Ordinance shall become and be made a part of the Code of the City of Aventura; that the sections of this Ordinance may be renumbered or re-lettered to accomplish such intentions; and that the word "Ordinance" shall be changed to "Section" or other appropriate word.

Section 5. Effective Date. This Ordinance shall be effective immediately upon adoption on second reading.

The foregoing Ordinance was offered by Commissioner Joel, who moved its adoption on first reading. This motion was seconded by Commissioner Weinberg, and upon being put to a vote was as follows:

Commissioner Zev Auerbach	yes
Commissioner Bob Diamond	yes
Commissioner Billy Joel	yes
Commissioner Michael Stern	yes
Commissioner Luz Urbaez Weinberg	yes
Vice Mayor Teri Holzberg	yes
Mayor Susan Gottlieb	yes

The foregoing Ordinance was offered by _____, who moved its adoption on second reading. This motion was seconded by _____, and upon being put to a vote was as follows:

Commissioner Zev Auerbach	_____
Commissioner Bob Diamond	_____
Commissioner Billy Joel	_____
Commissioner Michael Stern	_____
Commissioner Luz Urbaez Weinberg	_____
Vice Mayor Teri Holzberg	_____
Mayor Susan Gottlieb	_____

PASSED on first reading this 10th day of July, 2012.

PASSED AND ADOPTED on second reading this ___ day of _____, 2012.

SUSAN GOTTLIEB, MAYOR

ATTEST:

TERESA M. SOROKA, MMC
CITY CLERK

APPROVED AS TO LEGAL SUFFICIENCY:

CITY ATTORNEY

This Ordinance was filed in the Office of the City Clerk this ___ day of _____, 2012.

CITY OF AVENTURA

COMMUNITY DEVELOPMENT DEPARTMENT

MEMORANDUM

TO: City Commission

FROM: Eric M. Soroka, ICMA-CM
City Manager

BY: Joanne Carr, AICP
Community Development Director

DATE: August 2, 2012

SUBJECT: Application to Amend Section 31-238 "Accessory Uses" of the Land Development Regulations to add standards for installation of renewable energy devices (01-LDR-12)

September 4, 2012 City Commission Meeting Agenda Item 8-B

Based on questions from the City Commission and a member of the public at first reading of this ordinance at the July 10, 2012 meeting, staff is recommending a revision to condition (8) of the Renewable Energy Devices section, as follows:

...

(8) Wind turbines shall not exceed a height of the higher of 18 feet above the main roofline or the manufacturer's recommended height for the particular model to be installed, whichever is lower;

...

This revision will clarify that the maximum height of the wind turbine is the lower of 18 feet above the main roofline, or the manufacturer's recommended height for the particular model to be installed.

The revised ordinance is attached to this report for second reading.

CITY OF AVENTURA

COMMUNITY DEVELOPMENT DEPARTMENT

MEMORANDUM

TO: City Commission

FROM: Eric M. Soroka, ICMA-CM
City Manager

BY: Joanne Carr, AICP
Community Development Director

DATE: June 7, 2012

SUBJECT: Application to Amend Section 31-238 "Accessory Uses" of the Land Development Regulations to add standards for installation of renewable energy devices (01-LDR-12)

July 10, 2012 Local Planning Agency Agenda Item 4-B
July 10, 2012 City Commission Meeting Agenda Item 7-B
September 4, 2012 City Commission Meeting Agenda Item 8-B

RECOMMENDATION

It is recommended that the City Commission approve the request for an amendment to Section 31-238 "Accessory Uses" of the Land Development Regulations by adding standards for installation of renewable energy devices.

THE REQUEST

City staff is requesting approval of an amendment to the text of the Land Development Regulations to add standards for installation of renewable energy devices, including, but not limited to, solar collector panels and wind turbines. The purpose of the new section is to encourage and facilitate installation of accessory renewable energy systems in our City, while mitigating possible nuisances to maintain the unique aesthetic quality of the City.

DESCRIPTION OF THE PROPOSED AMENDMENT

The amendment proposed to Section 31-238 "Accessory Uses" of the Land Development Regulations is the following addition in underlined text:

"Sec. 31-238. Accessory Uses.

- (a) *General.* No accessory uses shall be permitted in a required yard or bufferyard area, except as set forth below. In no event shall an accessory use be construed to authorize a use not otherwise permitted in the district in which the principal use is located and in no event shall an accessory use be established prior to the principal use to which it is accessory. No permanent structures shall be permitted in utility easements without the written prior approval of the appropriate utilities, and the concurrence of the City.

“(o) Renewable Energy Devices

Non-commercial renewable energy devices, including solar collector panels, wind turbines, clotheslines and other energy devices using renewable resources, shall be permitted as an accessory use in all zoning districts, provided that: (i) the device installation complies with all site development standards of this subsection, complies with the applicable zoning district and complies with the landscape standards of these LDRs and provided that; (ii) excepting solar collector panels, the number and size of renewable energy devices installed on a property shall not exceed the total number of kilowatts needed to generate the amount of energy required to serve the established uses located on the property upon which the renewable energy devices are installed; (iii) any sell-back of energy shall be made only as authorized by law and further provided that; (iv) the following conditions are met:

- (1) The device installation shall not create a nuisance as determined by the City Manager or his designee;
- (2) The device installation shall not interfere with any existing broadcast, transmission or reception antenna, including, but not limited to the City’s emergency communication system;
- (3) The device or devices shall be installed in a manner to avoid glare or reflection onto adjacent properties and adjacent roadways and shall not interfere with traffic or create a safety hazard;
- (4) The device or devices shall not be mounted on or supported by building walls unless approved by the City Manager or his designee;
- (5) No signage, advertising, pennants, ribbons, balloons, flags, banners or similar material shall be placed on any renewable energy device;
- (6) The device installation shall not be placed on patio or balcony railings in condominiums, cooperatives or apartments;
- (7) The device installation shall comply with all applicable building, fire and life safety codes and regulations, as evidenced by obtaining all necessary permits prior to installation;
- (8) Wind turbines shall not exceed the higher of 18 feet above the main roofline or the manufacturer’s recommended height for the particular model to be installed;
- (9) Roof-mounted wind turbines and other related rooftop equipment and structures shall not occupy more than 5% of the roof area;
- (10) Wind turbines shall be painted a non-reflective, non-obtrusive color that conforms to the environment and architecture of the community;

- (11) Solar collector panels shall not project above the ridge of a sloped roof and shall not project more than 5 feet above the finished slope of the roof surface or more than 5 feet above the deck or parapet of a flat roof. No part of the device shall extend beyond the edge of the roof. All mounting hardware, electrical and other connections required for operation of the panels shall be screened from view;
- (12) No lighting of a renewable energy device is permitted, except as required by Federal Aviation Administration or other agency having jurisdiction;
- (13) Ground installations shall comply with the site development criteria of the applicable zoning district;
- (14) Any renewable energy device found to be unsafe by the Building Official shall be repaired by the property owner to meet all federal, state and local safety standards or shall be removed within 30 days of such determination of the Building Official;
- (15) If any renewable energy device is not operational for a period of 12 consecutive months or more, the device shall be removed by the property owner within 30 days of the date of written notice by the City to remove such device.
- (16) Waivers. A waiver to provide relief from the requirements of this subsection, or any other applicable development standards of the LDRs of Chapter 31 of this Code, may be granted in those cases where strict application of such requirements would have the effect of prohibiting the operation and functionality of a renewable energy device. It is acknowledged that emerging technologies in renewable energy devices may also require and justify a waiver of provisions of this subsection.
 - (i) An application for a waiver under this subsection shall be filed by the owner of the property upon which the waiver is requested, or their designated representative. The application shall be on a form provided by the City.
 - (ii) Waivers from this section or other applicable LDRs of Chapter 31 of this Code, may be granted by the City Manager or his designee only when competent and substantial evidence demonstrates that the particular waiver or waivers requested are necessary for the operation and functionality of the particular renewable energy device to serve the energy needs of the uses and structures located on the subject property.
 - (iii) Appeals from a decision of the City Manager or his designee pursuant to this subsection shall be made in accordance with Section 31-83 of the Code."

ANALYSIS

City staff has had inquiries from contractors as to our regulations for installation of renewable energy devices, specifically, wind turbines and solar collector panels.

The City Code does not specifically address these devices. Our Code refers generally to mechanical equipment in two sections. The first reference is in Section 31-21 of the City Code, where the description of height provides that "...mechanical equipment, chimneys, spires, steeples, radio or television antenna, flag poles, solar apparatus and utility poles" are excluded from overall building height determination. The second reference is in Section 31-233, where architectural standards provide that mechanical equipment needs to be screened from the adjacent public road and from adjacent properties. This required

screening would interfere with the operation of a wind turbine or solar collector panel. Absent any specific regulation on these types of devices, an applicant would need to seek a variance from the screening requirement of the Code.

Section 163.04 of the Florida Statutes regulates "Energy Devices based on renewable resources". A copy of this Section is attached to this report. In summary, this Section prohibits the adoption of an ordinance by a governing body that prohibits or has the effect of prohibiting the installation of solar collectors, clotheslines or other energy devices based on renewable resources. The Section further provides no deed restriction, covenant, declaration or other similar agreement may prohibit these devices and a property owner may not be denied permission to install a renewable energy device on a residential or condominium unit, with the exception of determination of specific location for solar collectors and placement on patio railings. The City Attorney has opined that the City Commission may adopt reasonable standards to support these installations while ensuring that the effect of the standards does not prohibit their installation.

The proposed amendment to the Land Development Regulations is designed to facilitate the installation of renewable energy devices, as an accessory use to a principal use, to mitigate possible nuisances and to provide predictability for building owners by setting installation standards. It is also designed to continue and expand the City's "Go Green" program to promote green initiatives. To provide for consistency with Section 163.04, Florida Statutes, the proposed regulation includes an administrative waiver procedure, which provides property owners with an opportunity to obtain relief from the standards, where its strict application would have the effect of prohibiting the operation and functionality of the renewable energy device.

**Section 31-77, Land Development Regulations
Standards for reviewing proposed amendments to the text of the LDR:**

1. *The proposed amendment is legally required.*

The proposed amendment is legally required to implement the requested revision to the Code.

2. *The proposed amendment is consistent with the goals and objectives of the Comprehensive Plan.*

The proposed amendment is consistent with the goals and objectives of the Comprehensive Plan. The Comprehensive Plan is intended to guide future development in the City while maintaining the integrity of the built and natural environment.

3. *The proposed amendment is consistent with the authority and purpose of the LDRs.*

The proposed amendment is consistent with the authority and purpose of the Land Development Regulations. The LDRs are enacted pursuant to the requirements and

authority of F.S. Chapter 163, Part II and the general powers confirmed in F.S. Chapter 166. The purpose of the LDRs is to implement further the Comprehensive Plan of the City by establishing regulations, procedures and standards for review and approval of all development and uses of land and water in the City. Further, the LDRs are adopted in order to foster and preserve public health, safety and welfare and to aid in the harmonious, orderly and progressive development and redevelopment of the City. The proposed amendment is consistent with this purpose.

4. *The proposed amendment furthers the orderly development of the City.*

The proposed amendment furthers the orderly development of the City.

5. *The proposed amendment improves the administration or execution of the development process.*

The proposed amendment improves the administration or execution of the development process in that it provides standards for installation of renewable energy devices.

The Florida Senate

2011 Florida Statutes

<u>TITLE XI</u> COUNTY ORGANIZATION AND INTERGOVERNMENTAL RELATIONS	<u>CHAPTER 163</u> INTERGOVERNMENTAL PROGRAMS	<u>VIEW ENTIRE CHAPTER</u>
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163.04 Energy devices based on renewable resources.—

(1) Notwithstanding any provision of this chapter or other provision of general or special law, the adoption of an ordinance by a governing body, as those terms are defined in this chapter, which prohibits or has the effect of prohibiting the installation of solar collectors, clotheslines, or other energy devices based on renewable resources is expressly prohibited.

(2) A deed restriction, covenant, declaration, or similar binding agreement may not prohibit or have the effect of prohibiting solar collectors, clotheslines, or other energy devices based on renewable resources from being installed on buildings erected on the lots or parcels covered by the deed restriction, covenant, declaration, or binding agreement. A property owner may not be denied permission to install solar collectors or other energy devices by any entity granted the power or right in any deed restriction, covenant, declaration, or similar binding agreement to approve, forbid, control, or direct alteration of property with respect to residential dwellings and within the boundaries of a condominium unit. Such entity may determine the specific location where solar collectors may be installed on the roof within an orientation to the south or within 45° east or west of due south if such determination does not impair the effective operation of the solar collectors.

(3) In any litigation arising under the provisions of this section, the prevailing party shall be entitled to costs and reasonable attorney's fees.

(4) The legislative intent in enacting these provisions is to protect the public health, safety, and welfare by encouraging the development and use of renewable resources in order to conserve and protect the value of land, buildings, and resources by preventing the adoption of measures which will

have the ultimate effect, however unintended, of driving the costs of owning and operating commercial or residential property beyond the capacity of private owners to maintain. This section shall not apply to patio railings in condominiums, cooperatives, or apartments.

History.—s. 8, ch. 80-163; s. 1, ch. 92-89; s. 14, ch. 93-249; s. 1, ch. 2008-191; s. 3, ch. 2008-227.

Disclaimer: The information on this system is unverified. The journals or printed bills of the respective chambers should be consulted for official purposes.

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ORDINANCE NO. 2012-_____

AN ORDINANCE OF THE CITY OF AVENTURA, FLORIDA, AMENDING SECTION 31-238 "ACCESSORY USES" OF THE CITY'S LAND DEVELOPMENT REGULATIONS TO ADD STANDARDS FOR INSTALLATION OF RENEWABLE ENERGY DEVICES AS AN ACCESSORY USE IN ALL ZONING DISTRICTS IN THE CITY; PROVIDING FOR WAIVER PROCEDURE; PROVIDING FOR SEVERABILITY; PROVIDING FOR INCLUSION IN THE CODE; PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the City Commission places a strong emphasis on and desires to foster a sustainable and healthy environment for its residents and has adopted and promotes a "Go Green" Program and Green Building incentives; and

WHEREAS, in furtherance of that emphasis and desire, the City Commission wishes to amend the City's Land Development Regulations to add standards for installation of renewable energy devices as an accessory use in all zoning districts and to provide for waivers to such standards if necessary to permit the operation of the device; and

WHEREAS, the City Commission has been designated as the Local Planning Agency for the City pursuant to Section 163.3174, Florida Statutes; and

WHEREAS, the Local Planning Agency has reviewed the proposed amendment pursuant to the required public hearing and has recommended approval to the City Commission; and

WHEREAS, the City Commission has held the required public hearings, duly noticed in accordance with law; and

WHEREAS, the City Commission has reviewed the action set forth in the Ordinance and has determined that such action is consistent with the Comprehensive Plan.

NOW THEREFORE, BE IT ORDAINED BY THE CITY COMMISSION OF THE CITY OF AVENTURA, FLORIDA, THAT:

Section 1. Recitals. The foregoing whereas clauses are hereby ratified and incorporated within this Ordinance.

Section 2. Section 31-238 "Accessory Uses" of the Land Development Regulations is hereby amended as follows¹:

¹ Underlined provisions constitute proposed additions to existing text; text without underline or strike-through constitute existing text.

“Sec. 31-238. Accessory Uses.

- (a) *General.* No accessory uses shall be permitted in a required yard or bufferyard area, except as set forth below. In no event shall an accessory use be construed to authorize a use not otherwise permitted in the district in which the principal use is located and in no event shall an accessory use be established prior to the principal use to which it is accessory. No permanent structures shall be permitted in utility easements without the written prior approval of the appropriate utilities, and the concurrence of the City.

...

“(o) Renewable Energy Devices

Non-commercial renewable energy devices, including solar collector panels, wind turbines, clotheslines and other energy devices using renewable resources, shall be permitted as an accessory use in all zoning districts, provided that; (i) the device installation complies with all site development standards of this subsection, complies with the applicable zoning district and complies with the landscape standards of these LDRs and provided that; (ii) excepting solar collector panels, the number and size of renewable energy devices installed on a property shall not exceed the total number of kilowatts needed to generate the amount of energy required to serve the established uses located on the property upon which the renewable energy devices are installed; (iii) any sell-back of energy shall be made only as authorized by law and further provided that; (iv) the following conditions are met:

- (1) The device installation shall not create a nuisance as determined by the City Manager or his designee;
 - (2) The device installation shall not interfere with any existing broadcast, transmission or reception antenna, including, but not limited to the City's emergency communication system;
 - (3) The device or devices shall be installed in a manner to avoid glare or reflection onto adjacent properties and adjacent roadways and shall not interfere with traffic or create a safety hazard;
 - (4) The device or devices shall not be mounted on or supported by building walls unless approved by the City Manager or his designee;
 - (5) No signage, advertising, pennants, ribbons, balloons, flags, banners or similar material shall be placed on any renewable energy device;
 - (6) The device installation shall not be placed on patio or balcony railings in condominiums, cooperatives or apartments;
 - (7) The device installation shall comply with all applicable building, fire and life safety codes and regulations, as evidenced by obtaining all necessary permits prior to installation;
-

- (8) Wind turbines shall not exceed a height of 18 feet above the main roofline or the manufacturer's recommended height for the particular model to be installed, whichever is lower;
- (9) Roof-mounted wind turbines and other related rooftop equipment and structures shall not occupy more than 5% of the roof area;
- (10) Wind turbines shall be painted a non-reflective, non-obtrusive color that conforms to the environment and architecture of the community;
- (11) Solar collector panels shall not project above the ridge of a sloped roof and shall not project more than 5 feet above the finished slope of the roof surface or more than 5 feet above the deck or parapet of a flat roof. No part of the device shall extend beyond the edge of the roof. All mounting hardware, electrical and other connections required for operation of the panels shall be screened from view;
- (12) No lighting of a renewable energy device is permitted, except as required by Federal Aviation Administration or other agency having jurisdiction;
- (13) Ground installations shall comply with the site development criteria of the applicable zoning district;
- (14) Any renewable energy device found to be unsafe by the Building Official shall be repaired by the property owner to meet all federal, state and local safety standards or shall be removed within 30 days of such determination of the Building Official;
- (15) If any renewable energy device is not operational for a period of 12 consecutive months or more, the device shall be removed by the property owner within 30 days of the date of written notice by the City to remove such device.
- (16) Waivers. A waiver to provide relief from the requirements of this subsection, or any other applicable development standards of the LDRs of Chapter 31 of this Code, may be granted in those cases where strict application of such requirements would have the effect of prohibiting the operation and functionality of a renewable energy device. It is acknowledged that emerging technologies in renewable energy devices may also require and justify a waiver of provisions of this subsection.
 - (i) An application for a waiver under this subsection shall be filed by the owner of the property upon which the waiver is requested, or their designated representative. The application shall be on a form provided by the City.
 - (ii) Waivers from this section or other applicable LDRs of Chapter 31 of this Code, may be granted by the City Manager or his designee only when competent and substantial evidence demonstrates that the particular waiver or waivers requested are necessary for the operation and functionality of the particular renewable energy device to serve the energy needs of the uses and structures located on the subject property.
 - (iii) Appeals from a decision of the City Manager or his designee pursuant to this subsection shall be made in accordance with Section 31-83 of the Code."

Section 3. Severability. The provisions of this Ordinance are declared to be severable and if any section, sentence, clause or phrase of this Ordinance shall for any reason be held to be invalid or unconstitutional, such decision shall not affect the validity of the remaining sections, sentences, clauses, and phrases of this Ordinance but they shall remain in effect, it being the legislative intent that this Ordinance shall stand notwithstanding the invalidity of any part.

Section 4. Inclusion in the Code. It is the intention of the City Commission, and it is hereby ordained that the provisions of this Ordinance shall become and be made a part of the Code of the City of Aventura; that the sections of this Ordinance may be renumbered or relettered to accomplish such intentions; and that the word "Ordinance" shall be changed to "Section" or other appropriate word.

Section 5. Effective Date. This Ordinance shall be effective immediately upon adoption on second reading.

The foregoing Ordinance was offered by Commissioner Weinberg, who moved its adoption on first reading. This motion was seconded by Commissioner Joel, and upon being put to a vote was as follows:

Commissioner Zev Auerbach	yes
Commissioner Bob Diamond	yes
Commissioner Michael Stern	yes
Commissioner Billy Joel	yes
Commissioner Luz Urbaez Weinberg	yes
Vice Mayor Teri Holzberg	yes
Mayor Susan Gottlieb	no

The foregoing Ordinance was offered by Commissioner _____, who moved its adoption on second reading. This motion was seconded Commissioner _____, and upon being put to a vote was as follows:

Commissioner Zev Auerbach	___
Commissioner Bob Diamond	___
Commissioner Michael Stern	___
Commissioner Billy Joel	___
Commissioner Luz Urbaez Weinberg	___
Vice Mayor Teri Holzberg	___
Mayor Susan Gottlieb	___

PASSED on first reading this 10th day of July, 2012.

PASSED AND ADOPTED on second reading this 4th day of September, 2012.

SUSAN GOTTLIEB, MAYOR

ATTEST:

TERESA M. SOROKA, MMC
CITY CLERK

APPROVED AS TO LEGAL SUFFICIENCY:

CITY ATTORNEY

This Ordinance was filed in the Office of the City Clerk this 5th day of September, 2012.