

MIAMI BEACH

OFFICE OF THE CITY MANAGER

NO. LTC # 281-2016

LETTER TO COMMISSION

TO: Mayor Philip Levine and Members of the City Commission

FROM: Jimmy L. Morales, City Manager

DATE: June 30, 2016

SUBJECT: **HIGH-FLOOR TROLLEY VEHICLE ORDER CANCELLATION FEE UPDATE AND OPTIONS TO CONSIDER**

The purpose of this Letter to Commission (LTC) is to provide updated information with respect to the City's exposure due to potential cancellation of 7 modified/kneeling high-floor/rear end wheelchair lift trolley vehicles as well as proposed options for moving forward that will be presented as part of discussion item at the July 13, 2016 City Commission meeting.

On June 8, 2016, the City Commission directed staff to proceed with incorporation of partial low-floor trolley vehicles on the North Beach Trolley loop, Middle Beach Trolley loop and Collins Link to specifically improve accessibility for disabled passengers. At the meeting, staff advised that this action would require the cancellation of 7 of the 14 modified/kneeling high-floor/rear end wheelchair lift trolley vehicles currently in production. Pursuant to City Commission direction on October 21, 2015, Limousines of South Florida, Inc. (LSF) had placed an order for 14 new trolley vehicles in December 2015. Additionally, staff advised that the City would be responsible for any cancellation fees and costs incurred to date on the production of the 7 trolleys being cancelled.

Since the June 8, 2016 City Commission meeting, staff has been communicating with LSF in regards to the City's exposure as a result of the cancellation of 7 of the 14 new trolley vehicles. On June 24, 2016, LSF received a letter (attached) from Specialty Vehicles, Inc. (SVI) Attorneys stating that there appears to be no economically effective way to decrease the order or to mitigate for damages that would result from cancellation. The letter also states that the cost of customized chassis and other parts and labor likely exceed \$1.5 million as well as there are no known buyers for disparate parts, most of which were special order and designed specifically for our trolleys. Given cancellation of the 7 vehicles would cost equal or more than the purchase price of 7 trolleys, on June 28, 2016, the Administration requested that LSF provide SVI with adequate assurances that the City is not canceling the pending order and is moving forward with production of all 14 trolleys originally ordered. Considering high cancellation cost of the 7 trolleys, staff will be presenting three (3) options at the July 13, 2016 City Commission meeting.

All options propose maintaining the current order of 14 modified/kneeling high-floor/rear end wheelchair lift trolley vehicles. Summary of options is presented below.

Option 1. This option proposes proceeding with Commission direction from October 21, 2015. At that time, the Mayor and City Commission adopted Resolution No. 2015-29194, approving the use of 14 modified/kneeling high-floor/rear end wheelchair lift trolley vehicles for Middle Beach

Trolley routes (Middle Beach loop and Collins Link) and the North Beach loop in lieu of low-floor trolley vehicles due to higher capital and operating costs of low-floor trolleys. Additionally, this option would follow the City Commission direction from May 11, 2016. At that time, during the discussion on South Beach Circulator Options, the City Commission directed the Administration to proceed with the competitive procurement of Turnkey Trolley Operations and Maintenance Services for the South Beach Trolley route using low-floor trolley vehicles only. Option 1 would not require an Amendment to the current Agreement with LSF.

Option 2. This option is the same as Option 1 and additionally proposes providing an on-demand service for passengers in wheelchairs. The City of Miami is currently providing similar services and is in the fourth year of a contract with Transportation America (TA). Staff is currently evaluating if it would be more advantageous to piggy-back on the existing City of Miami contract or amend the existing contract with LSF to provide an on-demand service for passengers in wheelchairs. Please note TA is a parent company of LSF.

Option 3. This option proposes waiving the competitive bidding requirement amending the existing Agreement with LSF to include purchase of 12 low-floor trolley vehicles. These vehicles would be used sparsely on all trolley routes to improve accessibility for wheelchair passengers. It is likely that headways for the low-floor trolley vehicle would exceed 30 minutes on one or more of 4 trolley routes unless additional low-floor trolley vehicles are purchased.

Options above will be further discussed at the July 13, 2016 City Commission meeting.

Please feel free to contact me if you have any questions or concerns.

Attachment: SVI Letter


JLM/KGB/JRG/MM



June 24, 2016

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Limousines Of South Florida
c/o Mr. Mark Leavitt
3300 SW 11th Ave,
Fort Lauderdale, FL 33315

Re: Specialty Vehicle's Order for The City of Miami Beach
Our file number: 12644.000008

Dear Mr. Levitt

Our firm represents Specialty Vehicles, Inc. ("SVI"), and this correspondence concerns the order ("Order") of fourteen customized trolley vehicles ("Trolleys") by your company, the Limousines of South Florida ("LSF"), which is on track for completion as discussed previously. As a threshold matter if LSF has retained an attorney, then please forward this correspondence accordingly and provide us with your attorney's contact information.

SVI anticipates that all of LSF's Trolleys will be completed and delivered per the Order. Yet SVI heard that a representative of your client, the City of Miami Beach, was attempting to persuade the City Council to reduce the Order by seven Trolleys and, attempt to substitute those Trolleys with others from a competitor trolley-distributor and manufacturer. If this is incorrect, then we would be happy to ask you to ignore this letter. Indeed, as of today, SVI has received no written correspondence and no oral communications from anyone asserting authority to request any material change to the Order. Instead, we believe that one of SVI's competitors improperly obtained SVI's confidential/propriety trade-secret information and unlawfully attempted to interfere with SVI's business relationships, which we are investigating diligently.

Moreover, in the short run, there appears to be no economically effective way to decrease the Order or to mitigate the damages from such a material change to the Order. Notably, the sunk costs for the customized chassis and other parts and labor likely already exceed \$1.5 million. And, there are no known buyers for disparate parts, most of which were special ordered and designed specifically for the City of Miami Beach.

We understand that SVI and the Limos of South Florida have enjoyed a long history of successful transactions and vehicle acquisitions. And we hope that this relationship will continue.

Please let me know if you have any questions or comments.

Sincerely,

Wilson Elser Moskowitz Edelman & Dicker LLP

/s/ J. Scott Burris

J. Scott Burris
JSB/nes

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