

# MIAMI BEACH

## City Commission Meeting

### SUPPLEMENTAL MATERIAL 1 (11/4/2016)

City Hall, Commission Chambers, 3<sup>rd</sup> Floor, 1700 Convention Center Drive  
November 9, 2016

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

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

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#### ATTENTION ALL LOBBYISTS

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

#### SUPPLEMENTAL AGENDA

##### C7 - Resolutions

- C7 I A RESOLUTION OF THE MAYOR AND CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA, ACCEPTING THE CITY MANAGER'S RECOMMENDATION AND WAIVING, BY 5/7TH VOTE, THE CITY'S COMPETITIVE BIDDING REQUIREMENT, FINDING SUCH WAIVER TO BE IN THE BEST INTEREST OF THE CITY, AND APPROVING AND AUTHORIZING THE MAYOR AND CITY CLERK TO EXECUTE AMENDMENT NO. 2 TO THE CITY'S AGREEMENT WITH ATLANTIC PAVING CO., INC. FOR THE PAINTING AND STRIPING OF DEDICATED BICYCLE LANES ACROSS THE CITY, PURSUANT TO INVITATION TO BID (ITB) NO. 2015-002-KB, WITH A TOTAL CONTRACT SUM, IN AN AMOUNT NOT-TO-EXCEED \$1,700,000.

Procurement/Transportation  
Supplemental updated on 11/4/2016  
**(Resolution & Agreement)**

- C7 M A RESOLUTION OF THE MAYOR AND CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA, APPROVING SPECIAL EVENT FEE WAIVERS FOR THE SQUARE FOOTAGE FEE IN THE AMOUNT OF \$2,487, AND THE TO-BE-DETERMINED LUMMUS PARK USER FEE, FOR THE BURGER KING BEACH RUN TO BE HELD ON DECEMBER 11, 2016.

Commissioner Ricky Arriola  
Supplemental updated on 11/4/2016  
**(Updated Memorandum & Resolution)**

**R5 - Ordinances**

R5 N AN ORDINANCE OF THE MAYOR AND CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA, AMENDING CHAPTER 82 OF THE CODE OF THE CITY OF MIAMI BEACH, ENTITLED "PUBLIC PROPERTY," BY AMENDING ARTICLE III, ENTITLED "USE OF PUBLIC PROPERTY," BY AMENDING DIVISION 2, ENTITLED "REVOCABLE PERMIT;" BY CREATING SECTION 82-96 THEREOF TO BE ENTITLED "COMMERCIAL OUTDOOR FEE BASED ACTIVITY PERMIT, BY ESTABLISHING SUBSECTIONS THAT ARE ENTITLED "COMMERCIAL OUTDOOR FEE BASED ACTIVITY," "PERMIT APPLICATION; SUBMITTAL AND QUALIFICATIONS," "CRITERIA FOR APPLICATION REVIEW; APPROVAL OR DENIAL," "PERMIT APPLICATION; ISSUANCE," "PERMIT; REQUIRED," "GENERAL PROVISIONS," "PERMIT FEES AND OTHER CHARGES," "SUSPENSION/REVOCATION; PERMITTEE CANCELATION," "PENALTIES AND ENFORCEMENT;" PROVIDING FOR REPEALER, SEVERABILITY, CODIFICATION, AND AN EFFECTIVE DATE.

First Reading Parks and Recreation  
Commissioner Michael Grieco  
Supplemental updated on 11/4/2016  
**(Ordinance)**

**R9 - New Business and Commission Requests**

R9 D DISCUSSION ITEM REGARDING ELEVATIONS.

Deferred from October 19, 2016 - R9 M

Commissioner John Elizabeth Aleman  
Supplemental updated on 11/4/2016  
**(Additional Information)**

R9 W DISCUSS THE REDEVELOPMENT OF REGAL SOUTH BEACH STADIUM 18 & IMAX.

Commissioner Kristen Rosen Gonzalez  
Supplemental updated on 11/4/2016  
**(Updated Memorandum)**

RESOLUTION NO. \_\_\_\_\_

**A RESOLUTION OF THE MAYOR AND CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA, ACCEPTING THE CITY MANAGER'S RECOMMENDATION AND WAIVING, BY 5/7TH VOTE, THE CITY'S COMPETITIVE BIDDING REQUIREMENT, FINDING SUCH WAIVER TO BE IN THE BEST INTEREST OF THE CITY, AND APPROVING AND AUTHORIZING THE MAYOR AND CITY CLERK TO EXECUTE AMENDMENT NO. 2 TO THE CITY'S AGREEMENT WITH ATLANTIC PAVING CO., INC. FOR THE PAINTING AND STRIPING OF DEDICATED BICYCLE LANES ACROSS THE CITY, PURSUANT TO INVITATION TO BID (ITB) NO. 2016-002-KB, WITH A TOTAL CONTRACT SUM IN AN AMOUNT NOT-TO-EXCEED \$1,700,000.**

**WHEREAS**, on October 14, 2015, the City Commission approved the award of a contract to Atlantic Paving Co., Inc., pursuant to Invitation To Bid (ITB) No. 2016-002-KB for Painting and Striping of Dedicated Bicycle Lanes, for the bicycle lanes on 16<sup>th</sup> Street, between Alton Road and Washington Avenue (the "Agreement"); and

**WHEREAS**, pursuant to the Agreement, the City's cost to paint and stripe dedicated bicycle lanes on 16<sup>th</sup> Street was \$130,986.00, which calculates to \$6.50 per square foot; and

**WHEREAS**, the City's Bicycle/Pedestrian Master Plan recommends that the City paint green all existing bike lanes within City boundaries, in order to enhance bicycle safety and raise driver awareness of bicycle facilities; and

**WHEREAS**, on March 9, 2016, the Mayor and City Commission authorized Amendment No. 1 to the Agreement, and increased the total contract sum to a not-to-exceed amount of \$886,000, for the painting of the following additional bike lanes throughout the City:

- Alton Road, from South Pointe Drive to 5<sup>th</sup> Street, including South Pointe Drive from Alton Road to Ocean Drive
- Prairie Avenue from 28<sup>th</sup> Street to 44<sup>th</sup> Street
- Royal Palm Avenue from 42<sup>nd</sup> Street to 47<sup>th</sup> Street
- 47<sup>th</sup> Street from Pine Tree Drive to Alton Road; and

**WHEREAS**, although authorized as part of Amendment No. 1, the segment along Prairie Avenue from 28<sup>th</sup> Street to 34<sup>th</sup> Street was deferred due to imminent roadway construction occurring in the Central Bayshore South neighborhood as part of an ongoing Capital Improvement Project; and

**WHEREAS**, in order to protect the public safety of the City's residents and visitors, and especially the City's cyclists, the City desires to paint and stripe bicycle lanes on additional streets as quickly as possible, including the following streets:

- Ocean Drive from 5<sup>th</sup> Street to South Pointe Drive, in the estimated amount of \$122,980;

- The portions of the Venetian Causeway within the City's boundaries, from east end of San Marco Island to the east end of the Venetian Causeway just west of Purdy Avenue, in the estimated amount of \$383,409; and

**WHEREAS**, in the proposed Amendment No. 2, the Administration is also seeking retroactive approval for the painting and striping of two segments for the amount of \$266,688 (namely, Dickens Avenue from 71<sup>st</sup> Street to 79<sup>th</sup> Street, and Byron Avenue from 82<sup>nd</sup> Street to 87<sup>th</sup> Terrace), as these two segments are in close proximity to schools and were assigned to the Contractor this past summer in order to expedite completion prior to the beginning of the school year; and

**WHEREAS**, the City's Transportation Department has determined that the \$6.50 per square foot price quoted by the Contractor for all of its work is a reasonable price to paint and stripe dedicated bicycle lanes on the additional streets specified herein; and

**WHEREAS**, as the total estimated value of the work for the aforementioned streets is \$773,077, the Administration recommends increasing the total contract value from \$886,000 to \$1,700,000; and

**WHEREAS**, Atlantic Paving was the lowest, responsible, and responsive bidder to the ITB and has performed the bulk of all dedicated bicycle lane painting across Miami-Dade County; and

**WHEREAS**, due to the fact that Amendment No. 2 will greatly expand the scope of the Agreement, the City Commission is required to waive, by 5/7ths vote, the City's competitive bidding requirement, in order to approve the Amendment; and

**WHEREAS**, because of the urgent need to protect cyclists traveling along the City's streets, the City Manager recommends that the City Commission waive the City's competitive bidding requirement.

**NOW, THEREFORE, BE IT DULY RESOLVED BY THE MAYOR AND THE CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA** that the Mayor and City Commission hereby accept the City Manager's recommendation and waiving, by 5/7<sup>th</sup> vote, the City's competitive bidding requirement finding such waiver to be in the best interest of the City, and approving and authorizing the Mayor and City Clerk to execute Amendment No.2 to the City's Agreement with Atlantic Paving Co., Inc. for the painting and striping of dedicated bicycle lanes across the City, pursuant to Invitation to Bid (ITB) No. 2016-002-KB, with a total contract sum in an amount not to exceed \$1,700,000.

**PASSED AND ADOPTED** this \_\_\_\_ day of November, 2016.

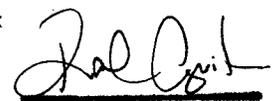
ATTEST:

\_\_\_\_\_  
Philip Levine, Mayor

\_\_\_\_\_  
Rafael E. Granado, City Clerk

T:\AGENDA\2016\November\Transportation\Amendment No 2 Green Bike lanes- RESO.docx

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

  
\_\_\_\_\_  
City Attorney      RAP      11/2/16  
Date

**AMENDMENT NO. 2 TO THE AGREEMENT  
BETWEEN THE CITY OF MIAMI BEACH, FLORIDA  
AND  
ATLANTIC PAVING CO., INC  
FOR THE PAINTING AND STRIPING OF DEDICATED BICYCLE LANES**

This Amendment No. 2 (Amendment) to the Agreement is entered into this \_\_\_\_ day of \_\_\_\_\_, 2016 (Effective Date), by and between the City of Miami Beach, Florida, a municipal corporation organized and existing under the laws of the State of Florida, having its principal place of business at 1700 Convention Center Drive, Miami Beach, Florida 33139 (City), and Atlantic Paving Co., Inc., a Florida Corporation, having its principal place of business at 8309 NW 70 Street, Miami, FL 33166 (Contractor), and hereby amends the Agreement as follows:

**RECITALS**

**WHEREAS**, on October 2, 2015, the Procurement Department issued Invitation to Bid No. 2016-002-KB for Painting And Striping Of Dedicated Bicycle Lanes (the "ITB"), a copy of which is attached hereto and incorporated herein by reference; and

**WHEREAS**, on October 14, 2015, the City Commission approved the award of contract to Atlantic Paving Co., Inc., to paint and striped dedicated bicycle lanes for 16 Street, from Washington Avenue to Alton Road, which services include furnishing of all supervision, labor, materials, tools, equipment and performing all operations required to construct the work in accordance with the ITB (the "Agreement"); and

**WHEREAS**, the Agreement stipulated a contract sum for the project of \$130,986.00, which calculates to \$6.50 per sq. ft.; and

**WHEREAS**, the Agreement, pursuant to Section 0200, "Instructions to Bidders," subsection 73. "Additional Services," allows for services to be added to the Agreement; and

**WHEREAS**, on March 9, 2016, the Mayor and City Commission adopted Resolution No. 2016-29312, waiving by 5/7<sup>th</sup> vote the competitive bidding requirement, finding such waiver to be in the best interest of the City, and approving Amendment No. 1 to the Agreement, which increased the contract sum to an amount not-to-exceed \$886,000 for painting and striping of specified additional locations; and

**WHEREAS**, on November 9, 2016, the Mayor and City Commission adopted Resolution No. \_\_\_\_\_, waiving by 5/7<sup>th</sup> vote the competitive bidding requirement, finding such waiver to be in the best interest of the City, and approving Amendment No. 2 to the Agreement; said Amendment increasing the scope of the work to include additional bike lane locations specified below, and increasing the total contract sum to a not-to-exceed amount of \$1,700,000; and

**WHEREAS**, City staff has determined that \$6.50 per sq. ft. is a reasonable price for the Additional Services required; and

**WHEREAS**, the painting and striping of dedicated bicycle lanes included in the original scope of work and the Additional Services, as approved by Amendment No. 1 and this Amendment No. 2, shall be referred to herein as the “Bundled Bike Lanes Project.”

**NOW THEREFORE**, in consideration of the mutual promises and conditions contained herein, and other good and valuable consideration, the sufficiency of which is hereby acknowledged, the City and Contractor hereby agree to amend the Agreement as follows:

**1. ABOVE RECITALS.**

The above recitals are true and correct and are incorporated as part of this Amendment No. 2.

**2. MODIFICATIONS.**

The Agreement is hereby modified as follows:

a. The Agreement is hereby amended to include, as Additional Services, the painting and striping of the following locations, for an additional cost not to exceed \$773,077, including:

i. Additional Locations:

- Ocean Drive, from 5<sup>th</sup> Street to South Pointe Drive (\$122,980);
- Venetian Causeway, from east end of San Marco Island to the east end of the causeway, west of Purdy Avenue (\$383,409); and

ii. Additional bike lane segments:

- Dickens Avenue from 71<sup>st</sup> Street to 79<sup>th</sup> Street, and Byron Avenue, from 82<sup>nd</sup> Street to 87<sup>th</sup> Terrace (collectively, \$266,688).

b. The original scope of work and the Additional Services, as approved by Amendment No. 1 and this Amendment No. 2, shall be referred to herein as the “Bundled Bike Lanes Project.”

c. The time for completion of the Agreement is hereby extended through and including the date of work required pursuant to the Bundled Bike Lanes Project is completed by the Contractor and accepted by the City.

**3. RATIFICATION.**

Except as amended herein and in Amendment No. 1, all other terms and conditions of the Agreement, shall remain unchanged and in full force and effect. In the event there is a conflict between the provisions of this Amendment No. 2 and the Agreement, the provisions of this Amendment No. 2 shall govern.

**IN WITNESS WHEREOF**, the parties hereto have caused this Amendment No. 2 to be executed by their appropriate officials, as of the date first entered above.

**FOR CITY:**

**CITY OF MIAMI BEACH, FLORIDA**

**ATTEST:**

By: \_\_\_\_\_  
**Rafael E. Granado, City Clerk**

\_\_\_\_\_  
**Philip Levine, Mayor**

\_\_\_\_\_  
Date

\_\_\_\_\_  
Date

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

*Rafael E. Granado* - 11/2/16  
\_\_\_\_\_  
City Attorney *RAG* Date

**FOR CONSULTANT:**

**ATLANTIC PAVING CO., INC.**

**ATTEST:**

By: \_\_\_\_\_  
**Secretary**

\_\_\_\_\_  
**President**

\_\_\_\_\_  
Print Name

\_\_\_\_\_  
Print Name

\_\_\_\_\_  
Date

\_\_\_\_\_  
Date

# MIAMI BEACH

## COMMISSION MEMORANDUM

TO: Honorable Mayor and Members of the City Commission  
FROM: Commissioner Ricky Arriola  
DATE: November 9, 2016

SUBJECT: A RESOLUTION OF THE MAYOR AND CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA, APPROVING SPECIAL EVENT FEE WAIVERS FOR THE SQUARE FOOTAGE FEE IN THE AMOUNT OF \$2,487, AND THE TO-BE-DETERMINED LUMMUS PARK USER FEE, FOR THE BURGER KING BEACH RUN TO BE HELD ON DECEMBER 11, 2016.

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### ANALYSIS

Please add this item to the consent agenda for the November 9, 2016 Commission meeting.

### Legislative Tracking

Commissioner Ricky Arriola

### ATTACHMENTS:

- |   | Description |
|---|-------------|
| □ | Resolution  |

RESOLUTION NO. \_\_\_\_\_

**A RESOLUTION OF THE MAYOR AND CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA, APPROVING SPECIAL EVENT FEE WAIVERS FOR THE SQUARE FOOTAGE FEE IN THE AMOUNT OF \$2487, AND THE TO-BE-DETERMINED LUMMUS PARK USER FEE, FOR THE BURGER KING BEACH RUN TO BE HELD ON DECEMBER 11, 2016.**

**WHEREAS**, the Burger King (BK) Beach Run is an annual 5K/10K race in the City of Miami Beach (City) which benefits the Burger King McLamore Foundation; and

**WHEREAS**, fundraising efforts for the BK Beach Run help to provide scholarships through the Burger King McLamore Foundation for local students in the Burger King Scholars program; and

**WHEREAS**, the BK Beach Run will take place in Lummus Park on December 11, 2016 from 6:00 a.m. to 11:00 a.m.; and

**WHEREAS**, the City's Special Event Requirements and Guidelines authorize the City Manager to waive special event application and permit fees for non-profit applicants administratively and such fees, in the amount of \$250 and \$500, respectively, have been waived by the City Manager; and

**WHEREAS**, the City Manager may also administratively waive vehicle access pass fees and such fees, in the amount of \$1500 for 10 passes, have been waived; and

**WHEREAS**, the square footage fee for the BK Beach Run is calculated to be \$2487 and may be waived by the City Commission; and

**WHEREAS**, the Lummus Park user fee is calculated as 25% of City services rendered and can only be accurately calculated after the event once staffing plans and services are finalized, and such fees can only be waived by the City Commission; and

**WHEREAS**, the Lummus Park user fee for last year's BK Beach Run was \$552.05; and

**WHEREAS**, the Mayor and City Commission deem it in the best interest of the City to waive the \$2487 square footage fee and the to-be-determined Lummus Park user fee for the 2016 BK Beach Run.

**NOW, THEREFORE, BE IT DULY RESOLVED BY THE MAYOR AND CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA**, that the Mayor and City Commission hereby waive the square footage fee of \$2487, and the to-be-determined Lummus Park user fee, for the 2016 Burger King Beach Run to be held on December 11, 2016 in Lummus Park.

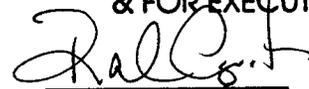
**PASSED AND ADOPTED** this \_\_\_\_ day of November, 2016.

**ATTEST:**

\_\_\_\_\_  
Rafael E. Granado, City Clerk  
TURNIRESOS\2016 BK BEACH RUN RESO.doc

\_\_\_\_\_  
Philip Levine, Mayor

APPROVED AS TO  
FORM & LANGUAGE  
& FOR EXECUTION

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

11-3-16  
\_\_\_\_\_  
Date

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

**AN ORDINANCE OF THE MAYOR AND CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA, AMENDING CHAPTER 82 OF THE CODE OF THE CITY OF MIAMI BEACH, ENTITLED "PUBLIC PROPERTY," BY AMENDING ARTICLE III, ENTITLED "USE OF PUBLIC PROPERTY," BY AMENDING DIVISION 2, ENTITLED "REVOCABLE PERMIT;" BY CREATING SECTION 82-96 THEREOF TO BE ENTITLED "COMMERCIAL OUTDOOR FEE BASED ACTIVITY PERMIT, BY ESTABLISHING SUBSECTIONS THAT ARE ENTITLED "COMMERCIAL OUTDOOR FEE BASED ACTIVITY," "PERMIT APPLICATION; SUBMITTAL AND QUALIFICATIONS," "CRITERIA FOR APPLICATION REVIEW; APPROVAL OR DENIAL," "PERMIT APPLICATION; ISSUANCE," "PERMIT; REQUIRED," "GENERAL PROVISIONS," "PERMIT FEES AND OTHER CHARGES," "SUSPENSION/REVOICATION; PERMITTEE CANCELATION," "PENALTIES AND ENFORCEMENT;" PROVIDING FOR REPEALER, SEVERABILITY, CODIFICATION, AND AN EFFECTIVE DATE.**

**WHEREAS**, within the last few years, the awareness and pursuit of healthier and more active lifestyles has proven to become progressively popular and the number of private fitness instructors, yoga instructors, and similar fitness related activities has increased in numbers, many of which utilize City owned facilities, parks and beaches to conduct their classes and boot camps; and

**WHEREAS**, City Code, as currently written, does not allow for any commercial use of for-profit business ventures to be permitted on City property without City authorization; and

**WHEREAS**, there is a need to legitimize these private instructors as their activities, especially if done incorrectly, could impact the safety of the participant, persons nearby and expose the City to unnecessary liability; and

**WHEREAS**, the Administration is recommending creating a commercial use permit for any commercial outdoor fee-based activity at City facilities, parks and beaches, and enforcing this by amending Chapter 82 of the Code of the City of Miami Beach, Division 2, by creating section 82-96; and

**WHEREAS**, the proposed permit would be offered to Miami Beach Based Businesses on a first come, first served basis and would be limited to a specified number of permits per location and permits would be issued on an annual basis, based on the City's fiscal year; and

**WHEREAS**, at the May 13, 2016 Neighborhoods and Community Affairs Committee meeting, the Committee directed staff to make some changes to the proposal; including prohibiting the use of pavilions and to reassess the approved park list and directed administration to take to the full commission once the discussed changes were made.

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

**SECTION 1.** That Chapter 82 entitled “Public Property,” Article III entitled “Use of Public Property,” Division 2 entitled “Revocable Permit,” of the Code of the City Miami Beach is hereby amended to create Section 82-96 “Commercial Outdoor Fee Based Activity Permit, and by establishing subsections therein that are entitled “Commercial Outdoor Fee Based Activity,” “Permit Application; Submittal and Qualifications,” “Criteria for Application Review; Approval or Denial,” “Permit Application; Issuance,” “Permit; Required,” “General Provisions,” “Permit Fees and Other Charges,” “Suspension/Revocation; Permittee Cancellation,” “Penalties and Enforcement;” as follows:

**Chapter 82**

**PUBLIC PROPERTY**

\* \* \*

**ARTICLE III. USE OF PUBLIC PROPERTY**

\* \* \*

**DIVISION 2. REVOCABLE PERMIT**

~~Secs. 82-96 — 82-125 Reserved.~~

**Sec. 82-96. Commercial Outdoor Fee Based Activity Permit.**

(a) Commercial Outdoor Fee Based Activity: An activity where five or more individuals are engaged in an organized group that is offered by an individual or business entity for which a payment or fee is made, directly or indirectly, for the right of a person to participate or attend the Commercial Outdoor Fee Based Activity (“COFA Activity”) on Public Property.

(1) A COFA Activity may include, but is not expressly limited to, clinics, exercise or physical training program(s), guided class(es) in aerobics; yoga or tai chi, self-defense or martial arts class(es), personal improvement instruction, physical education program(s), Zumba class(es), boot camp(s), circuit training, cross training, and art classes or any other class, camp, guided activity, program or related service as determined by the Parks and Recreation Director. A COFA Activity will require a permit, if any portion of a commercial transaction, activity or operation takes place, either directly or indirectly, upon the public property as identified within Section 82-1.

(2) It shall be unlawful for any COFA Activity to be organized, or offered at a City park or other public property for which a payment, fee or other consideration is expected to be made, without a permit issued by the Miami Beach Parks and Recreation Department (the “Department”).

(b) Permit Application; Submittal and Qualifications.

(1) Submittal. A person must submit an application for a COFA Activity permit, in a form prescribed by the Parks and Recreation Director, to the Parks and Recreation Department of the City. The failure to submit a completed and accurate permit application may result in the rejection or denial of the application. The submission of the permit application acknowledges the applicant's

acceptance of, and willingness to, comply with those Rules and Regulations set forth by the Department and the permit.

(2) Qualifications. An applicant must be at least 18 years of age, and must present a valid picture identification that is issued by a governmental entity of the United States of America. The applicant must demonstrate the ability to comply with those Rules and Regulations established by the Department regarding the COFA Activity. The applicant must obtain a Miami Beach Business Tax Receipt (BTR), complete the appropriate background check through the City of Miami Beach Human Resources Department (at the applicant's sole expense), and submit copy of any other documentation required by the Department before engaging in the COFA Activity.

(3) Insurance. General liability coverage of not less than \$1,000,000 is required by the Applicant. It shall include the City of Miami Beach as an additional insured, and shall contain a waiver of subrogation endorsement. All of the Permittee's certificates shall contain endorsements providing that written notice shall be given to the City at least thirty (30) days prior to termination, cancellation or reduction in coverage in the policy.

(c) Criteria for Application Review; Approval or Denial.

(1) The Department will evaluate the application pursuant to those requirements set forth within the terms of those Rules and Regulations promulgated by the Department. The Department will consider the following criteria with respect to the proposed COFA Activity:

- a. Whether the COFA Activity would be a violation of federal or state law or would be a violation of the City's charter, ordinances, Department's Rules and Regulations.
- b. Whether the COFA Activity is not generally considered recreational in nature or not a common and customary use of the City's Park.
- c. Whether it presents a substantial risk of having a negative impact on the public health, safety or welfare.
- d. Whether it presents a substantial risk of having a negative impact on the park, and other City-owned property or nearby private property.
- e. Whether it presents a substantial risk of having a negative impact on the public's ability to access or use the park or other public property.
- f. The COFA Activity creates a potential for damage to the park, which exceeds the value of allowing the COFA Activity.
- g. The COFA Activity will likely cause a substantial nuisance to other park patrons, persons travelling on City streets or to residents or occupants of nearby private property.

(2) The Department may deny any Permit application based on a determination that the COFA Activity will be detrimental or interfere with the public health, safety and welfare of the citizens or participants.

(3) The Department may deny an application if the application contains false or misleading statements, or where the applicant has failed or refused to provide relevant information as required by the Department's Rules and Regulations.

(4) The Department may deny an application if a Permit for a COFA Activity has been revoked during the preceding year. The applicant may submit an explanation or evidence mitigating the circumstances under which the prior Permit was revoked, or provide documentary evidence that establishes that the permit was improperly revoked. The acceptability of such explanation or evidence shall be at the sole discretion of the Department, and does not create any rights, title, or interest to such COFA Activity permit.

(5) If the Department approves the Permit, the applicant shall be notified in writing, and must satisfy all prescribed conditions for the issuance of the Permit. The failure to formally acknowledge, in writing, the conditions of the permit may result in the approval being withdrawn.

(d) Permit Application; Issuance.

(1) Parks and Recreation Department. The Department is responsible for reviewing and approving those applications for a COFA Activity permit, and shall be responsible for administering the Permits application process, including compliance with those Permit conditions and the Rules and Regulations for the City.

(2) COFA Activity Park and other Public Property. A Permit may be obtained for a COFA Activity in a park or other public property to the extent provided for in the COFA Activity application for permit consistent with those prohibitions set forth in Section 82-1 and the Department's Rules and Regulations. The Permit may contain appropriate restrictions for the use of the park or other public property, including, maximum number of participants or attendees, the nature and extent of activities, available locations for use within the park, and other requirements, limitations or conditions prescribed in the Department's Rules and Regulations or the Permit.

(3) A Permit. A revocable and nontransferable permit issued for one year by the Department that allows the Permittee a restricted, limited use of a park or other public property for a COFA Activity upon payment of the prescribed permit fee.

(4) Permittee. An individual, organization, a non-profit or for-profit entity or business who submits an application to, and obtains a permit from the Department, for the holding of a COFA Activity. The term "Permittee" includes employees, contractors and agents retained by or representing the Permittee in obtaining or utilizing the Permit or conducting a COFA Activity.

(e) Permit; Required.

The City's parks and other public property are intended for a wide array of public uses. To the extent that a COFA Activity is consistent with those uses allowed in such parks and is properly regulated, the use of the City's parks and other public property may be extended to allow, by Permit, for a COFA Activity. The following apply to COFA Activity to the extent and manner specified.

- (1) Sales of Services in Parks. The City prohibits the sale of merchandise pursuant to Section 82-1, and a COFA Activity permit will not authorize or permit such conduct at the City's parks or other public property. The Department will, through the issue of a permit, authorize the sales of services in parks in the nature of a COFA Activity conducted at a park, subject to the requirements of the Department's Rules and Regulations, and the terms and conditions contained in the issued Permit.
- (2) COFA Activity Standards. The Department reserves the right, at any time, to withdraw from availability any given park or public property location(s) within the City that may have previously been available for a COFA Activity. A COFA Activity permit may be restricted to specific days, times, or months and seasons. The number of COFA Activity permits allowed at each City park will be regulated based upon daily, weekly or seasonal use; the number of participants or attendees allowed at any one time; the type of COFA Activity allowed at a given COFA Activity park; the extent of exclusivity for use based on the type of COFA Activity allowed; the recurrence of a given COFA Activity at a specific park or other nearby parks; the locations for use of COFA Activity within City Parks; Type of equipment used for COFA Activity activities; and other requirements, limitations and conditions designed to protect the park in order to ensure that other park patrons have reasonable access to and use of the park or other public property. All of the information described above for a specified City park and the applicable requirements, limitations and conditions will be regularly posted and updated on the Department's website on [miamibeachfl.gov](http://miamibeachfl.gov), and will be distributed to the public by such other means as determined by the Department Director or designee. The above requirements, limitations and conditions as specified by Department are referred to in the COFA Activity Permit.
- (3) Available COFA Activity Parks. A Permit for a COFA Activity in a City park or other public property may only be obtained for specifically designed parks and other public property as determined by the Department Director or designee.
- (4) Permit. A Permit issued for a COFA Activity allows the Permittee the privilege, not the right, of conducting a COFA Activity in a specified park or public property. The Permit does not grant any property right or any protected right to operate a business and the Permit shall not be asserted against the Department or the City of Miami Beach for the purpose of establishing such a right. The permittee is only authorized to conduct those services specified in the Permit — the sale of goods, food or beverage are expressly prohibited. A Permit is not assignable. The Permit must be in the possession of the Permittee at all times during a COFA Activity.
- (5) No Warranties. The Department and the City make no warranties or guarantees as to the suitability or usability of a park or public property for a COFA Activity. The Permittee accepts the condition of a COFA Activity park "as is, where is" without any expectation that the Department or the City will take any action to make the park more suitable or usable for the Permittee's COFA Activity. The Department reserves the right to eliminate a park or public property from being available for a COFA Activity if the Department determines that circumstances or conditions warrant such elimination.

(f) General Provisions.

- (1) Priorities. A Department or City-sponsored or City-conducted event(s), program(s) and class(es) have priority over all other requests for use of the City's parks or public property, including any COFA Activity. Individuals and entities that have contracted with the City for the reservation and use of a City park or public property, that have previously scheduled events to be held have priority over all Permit applications or COFA Activity permits. This provision shall apply to those events that are permitted prior to, or subsequent to, a Permit being issued for a COFA Activity.
- (2) Competition. Unless expressly authorized by the Permit, a COFA Activity shall not duplicate or directly compete with existing programming provided by the Department or the Department's agents or contractors where a COFA Activity permit is issued or a Miami Beach recreational facility in or adjacent to the park or other public property where the COFA Activity permit is issued.
- (3) Supervision & Control. The Permittee will be responsible for the conduct and control of the participants and attendees, and must take all reasonable measures to assure compliance by participants and attendees with all of the City's rules, regulations and ordinances. All children under the age of 18 years of age must be properly and continuously supervised during a COFA Activity. The Permittee is responsible for assuring the following adult per child ratios are complied with: Ages 3-5, one adult per five children; Ages 6-17, one adult per 15 children.
- (4) Right of Access. The Department's staff person shall have full access to all activities at the COFA Activity, at any time, in order to ensure that all Rules and Regulations of the Permits are in compliance.

(g) Permit fees and other charges.

- (1) The appropriate Permit fee of \$200.00 for the year, and application fee of \$50.00 must be paid prior to the issuance of the Permit. Any required charges (unless said charges are deferred for payment at a later date) must be fully paid prior to approval and issuance of the Permit. A receipt for payment will be provided. Permit fees are not prorated.

(h) Suspension/ Revocation; Permittee Cancellation.

- (1) Department Reserved Right to Suspend or Revoke. The Department reserves the right to suspend a COFA Activity during a certain period of time, or to revoke a Permit at any time due to unforeseen factors or events, including but not limited to, inclement weather, poor conditions at the public property, emergency repairs, closure of the park or the portion of the park, or use of the park for a City-sponsored or City-conducted event or individuals and entities that have contracted with the City for the reservation and use of Miami Beach Parks. The Department will notify the Permittee of the suspension or revocation as early as possible. An alternative park will be offered to the Permittee, if possible. The Department shall not be liable to, or financially responsible for, the permittee for

the revocation or suspension of the COFA Activity permit. The conducting of a COFA Activity or entry upon or use of the park or other public property despite the Department's suspension or revocation, shall be grounds for immediate revocation of the Permit, and the removal of the Permittee from the COFA Activity program for a one year period of time.

(2) Department Suspension or Revocation with Cause. If a Permittee fails to substantially adhere to the Department's Rules and Regulations, the requirements of the COFA Activity, or any terms or conditions in the Permit, the Department reserves the right to suspend or revoke the Permit at any time, at the discretion of the Department, and not refund the fees or charges paid by the Permittee and/or to impose restrictions or prohibitions on the Permittee as to any future permitting or use of park property, as the Department deems appropriate under the circumstances. The Department may take such actions should a Permittee fail to conduct the COFA Activity at the park.

(3) Cancellation by Permittee. All Permit cancellations by the Permittee must be provided in writing to the Department.

(i) Penalties and Enforcement.

(a) The following warnings and fines shall be imposed for a violation of this section:

(1) First Violation within a 12-month period: Warning Notice advising of the infraction, and corrective action to be within twenty four (24) hours of the issuance of the Warning Notice for all non-life safety violations of this division.

(2) Second violation within a twelve 12-month period.....\$100

(3) Third violation within the preceding twelve (12) months.....\$250

(4) Fourth violation within the preceding twelve (12) months.....\$500

(5) Fifth violation within the preceding twelve (12) months – revocation of the permit for the remainder of the permit year in addition to permittee being prohibited from applying for a permit for a period of one (1) permit year.

(b) No warning notices shall be required prior to the issuance of life safety violation(s), and such violations shall be corrected immediately. Life safety violations are defined as those conditions which, in the reasonable determination and judgment of the City Manager or designee, involve serious danger and/or risk to the public health, safety or welfare (including, without limitation, blocking pedestrian pathways and violations of park rules). A life safety violation shall result in a fine of \$1,000.00.

(c) The Department, Code Enforcement Department or the Miami Beach Police Department shall enforce the provisions of this section. If a Park Ranger, Police Officer or a Code Compliance Officer finds a violation of this section, the Park Ranger, Police Officer or the Code Compliance Officer shall issue a Notice of Violation to the violator as provided in Chapter 30 of the Code, as may be amended from time to time.

The Notice of Violation shall inform the violator of the nature of the violation, amount of fine for which the violator is liable, instructions and due date for paying the fine, notice that the Violation may be appealed by requesting an administrative hearing within ten days after service of the Notice of Violation, and that failure to appeal the violation within the ten (10) days, shall constitute an admission of the violation and a waiver of the right to a hearing.

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

(1) A violator who has been served with a Notice of Violation shall elect either to:  
a. Pay the civil fine in the manner indicated on the Notice of Violation; or  
b. Request an administrative hearing before a special master to appeal the Notice of Violation within ten (10) days of the issuance of the notice of violation.

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

(3) If the named violator, after issuance of the Notice of Violation, fails to pay the civil fine or fails to timely request an administrative hearing before a special master, the special master shall be informed of such failure by report from the Park Ranger, Code Compliance Officer or the Miami Beach Police Officer. Failure of the named violator to appeal the decision of the Park Ranger, Code Compliance Officer or the Miami Beach Police Officer within the prescribed time period shall constitute a waiver of the violator's right to administrative hearing before the special master, and be treated as an admission of the violation, and fines and penalties may be assessed accordingly.

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

(5) The Special Master shall adjudicate a violation upon failure to request an administrative hearing with ten (10) days of the issuance of the Notice of Violation, and shall be prohibited from hearing the merits of the Notice of Violation or consideration of the timeliness of the request for an administrative hearing. The Special Master shall not have discretion to alter the penalties prescribed for life safety violations issued pursuant to subsection (i)(b) herein.

## **SECTION 2. REPEALER.**

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

## **SECTION 3. SEVERABILITY.**

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

**SECTION 4. CODIFICATION.**

It is the intention of the Mayor and City Commission of the City of Miami Beach, and it is hereby ordained that the provisions of this Ordinance shall become and be made a part of the Code of the City of Miami Beach, Florida. The sections of this Ordinance may be renumbered or re-lettered to accomplish such intention, and the word "ordinance" may be changed to "section," "article," or other appropriate word.

**SECTION 5. EFFECTIVE DATE.**

This Ordinance shall take effect ten (10) days after adoption.

**PASSED and ADOPTED** this \_\_\_\_\_ day of \_\_\_\_\_, 2016.

**ATTEST:**

\_\_\_\_\_  
Mayor Philip Levine

\_\_\_\_\_  
Rafael E. Granado, City Clerk

~~Strikethrough~~ denotes deleted language

Underline denotes new language

(Sponsored by Commissioner Michael Grieco)

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

  
\_\_\_\_\_  
City Attorney **AB**      11/8/16  
Date

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# MIAMI BEACH

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

## COMMISSION MEMORANDUM

TO: Mayor Philip Levine and Members of the City Commission

FROM: Jimmy L. Morales, City Manager

DATE: November 9, 2016

SUBJECT: **DISCUSSION: BUILDING AND STREET ELEVATIONS**

The purpose of this memo is to provide background information regarding building elevations and street and sidewalk elevations in the context of flooding and sea level rise. As the majority of the City was constructed prior to any recognition of sea level rise, buildings and streets were constructed without this consideration. As a result, many buildings within the City are located below the current minimum base flood elevation requirements established by FEMA; however this is not the case for all buildings.

The following are definitions of basic terms used in this memo:

*Base Flood Elevation (BFE):* The minimum required elevation of a habitable structure (eg residential living unit). This elevation is required to be at least 8.0 ft. NGVD (6.44 ft. NAVD) in the City of Miami Beach.

*North American Vertical Datum (NAVD88):* The vertical control used as a reference for establishing varying elevations within the floodplain. NAVD88 is the accepted vertical datum used nationally and is the primary vertical datum used in the City of Miami Beach.

*National Geodetic Vertical Datum (NGVD29):* The vertical control used as a reference for establishing varying elevations within the floodplain. NGVD29 is still used in some cases due to continued reference in the Florida Building Code (FBC).

In order to reduce future impacts from flooding, the City has adopted a minimum street elevation standard of 5.26 feet NGVD (3.7 feet NAVD) for all future streets and sidewalks. (In order to provide the equivalency datum for the more widely used NGVD, 1.56 is added to the NAVD numbers provided). In general, the eastern areas of the City along the ocean are the higher areas, and already exceed this minimum standard.

The attached color coded map provides an overview of street elevations relative to this important base line minimum of 3.7 feet NAVD for the North Beach area, as an example. It should be noted that while the adopted minimum standard is 3.7 feet NAVD for all future streets and sidewalks, the adopted minimum elevation for all residential and commercial buildings is base flood elevation plus one (1') foot (BFE +1'). Commercial buildings do have some latitude to locate their first habitable floor below BFE+1, provided the structure meets minimum flood proofing, building design and interior height

requirements.

The street elevations are color coded as follows:

- The red and brown areas indicate where the existing street elevations exceed 3.7 feet NAVD;
- The orange areas indicate where the existing street elevations are 3 to 3.7 feet NAVD;
- The green areas indicate where the existing street elevations are 2 to 3 feet NAVD;
- The blue areas along Crespi Blvd (limited area), indicate where the elevations are less than 2 feet NAVD.

Based upon this map, in the most extreme cases along Crespi Blvd, the raising of the streets and sidewalk approximately 1.7 to 2.7 feet would be required in order to achieve the goal crown of road elevation of 3.7 feet NAVD. For the areas shown in green a more limited raising of the streets between 0.7 and 1.7 feet would be required to achieve the goal elevation of 3.7 feet NAVD. In many instances, existing building elevations are located above the adjacent street and sidewalk elevations; however in some areas where the streets will be raised, the first floors of some older buildings may be below the higher street elevations. Individual building elevation certificates provide the exact lot and building elevations for specific properties.

The Florida Building Code requires that the habitable floors of all new residential construction be located at or above the minimum base flood elevation plus one foot. For the North Beach area this is typically an elevation of 6.44 feet NAVD plus one foot, or 7.44 feet NAVD. In order to encourage even more resilient construction, changes to the measurement of building height were recently adopted which allow the first floor of a structure to be elevated as much as five feet above the minimum base flood elevation with no penalty to the buildings overall height. The attached diagram provides an illustration of the critical datum points referenced above, in section.

Also attached for reference is tool created by our consultant AECOM for staff for two purposes. One is to easily reference vertical datum conversions. The other chart brings together the Southeast Florida Climate Compact Sea Level Rise projections (adopted by City Commission in 2016) with the elevation standards adopted by the city as well.

# 7805 Dickens Ave

13.42

11.86

8.17

6.61

3.72

2.16

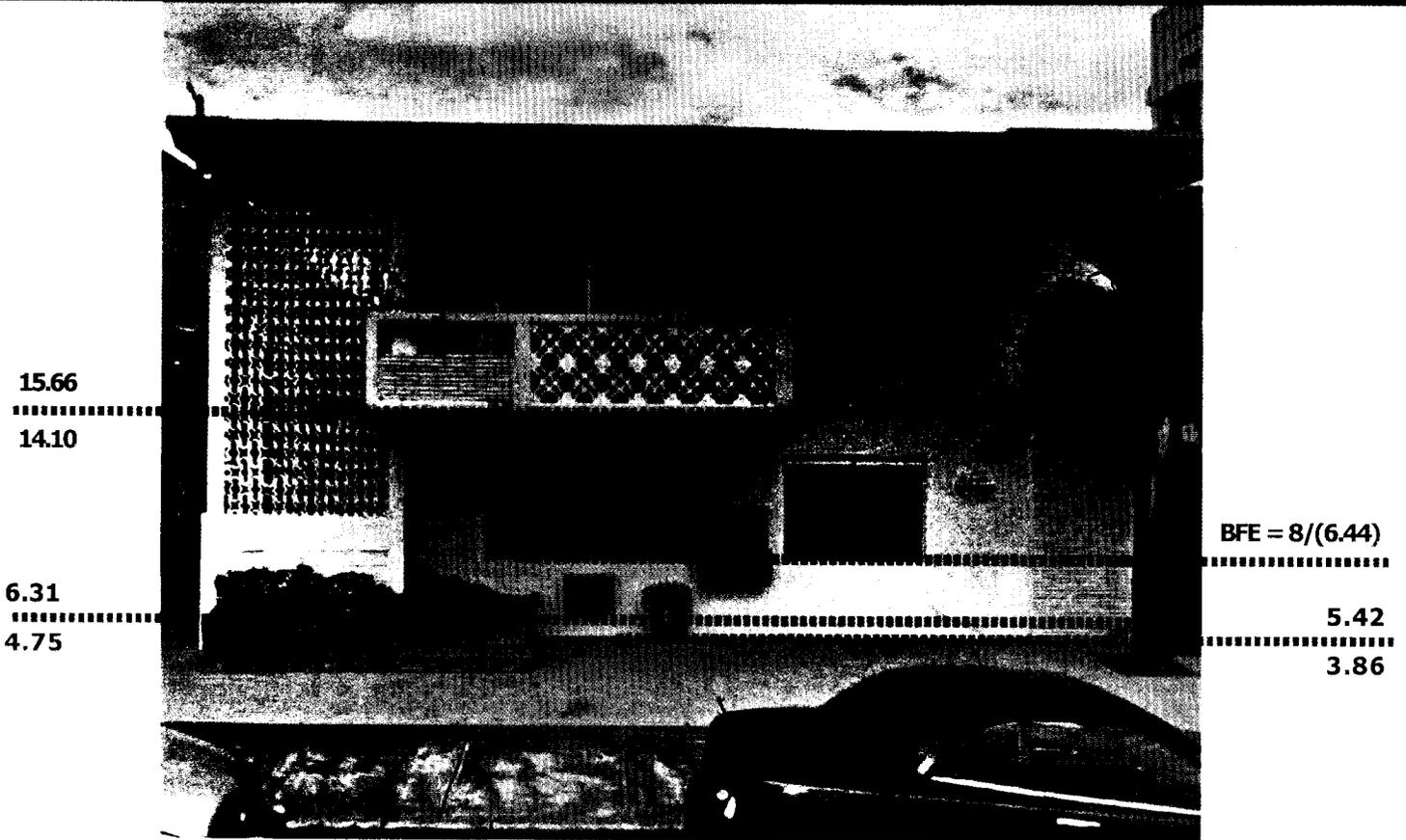
BFE = 8/(6.44)



Elevations Shown: NAVD 1929

Elevations Shown: NAVD 1988

# 7715 Harding Ave



Elevations Shown: NAVD 1929

Elevations Shown: NAVD 1988

# 400 & 430 81 Street



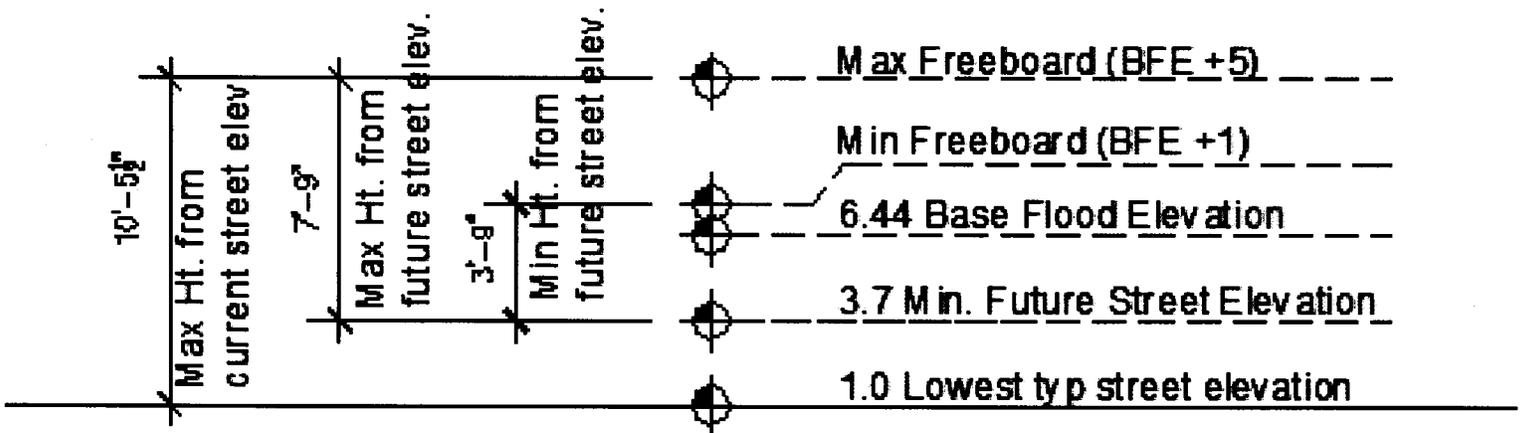
5.05  
3.49

3.70  
2.14

BFE = 8/(6.44)

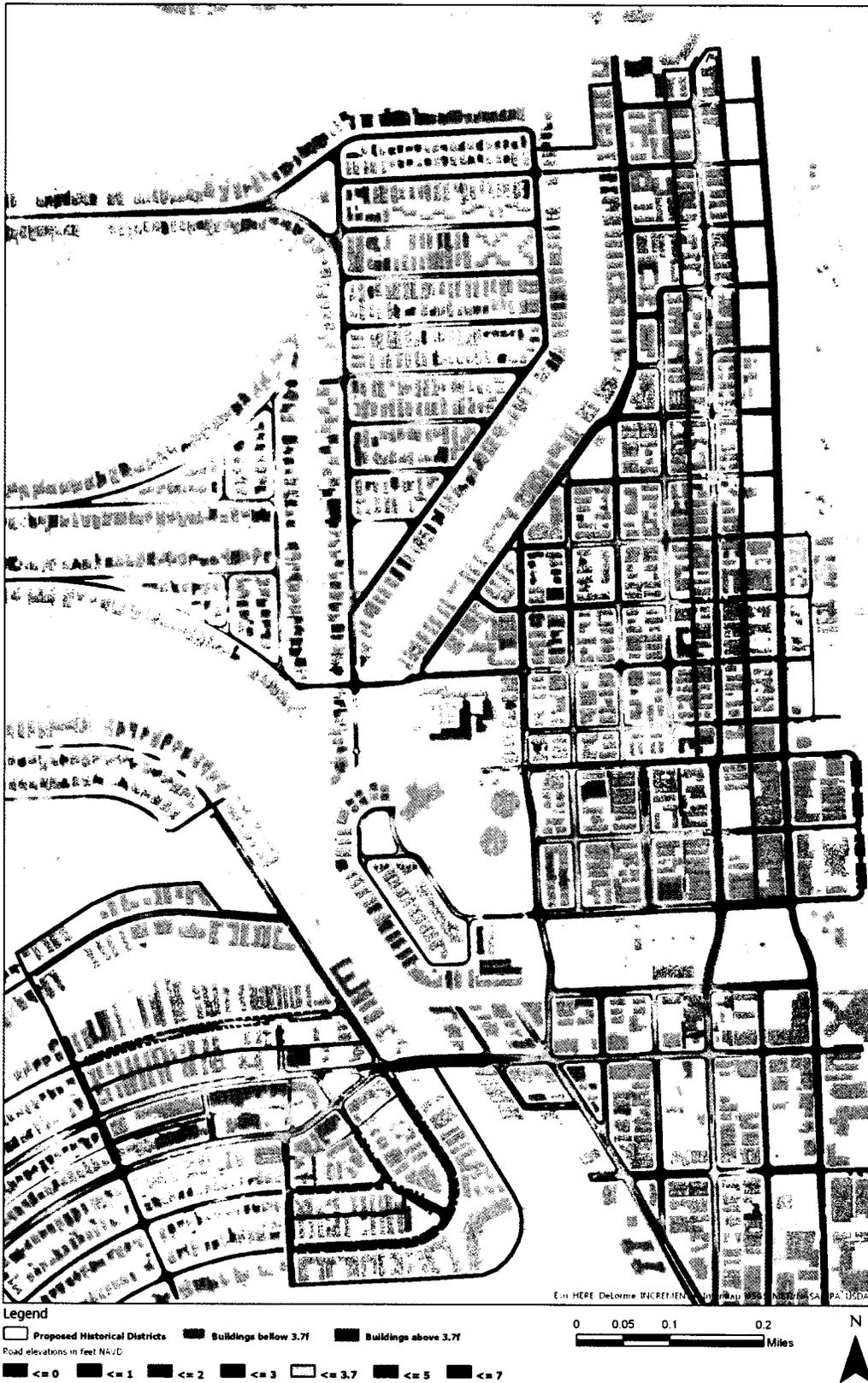
Elevations Shown: NAVD 1929  
Elevations Shown: NAVD 1988

# Critical Datum Points in Section:



All noted elevations are N.A.V.D.

# Color Coded Map:



## Miami Beach Vertical Datum Conversions

Two primary vertical datums are currently utilized in Miami Beach: NAVD88 (North American Vertical Datum of 1988) and NGVD29 (National Geodetic Vertical Datum of 1929). NAVD88 is the accepted vertical datum used nationally and is the primary vertical datum used by the City of Miami Beach. NGVD29 is still used in some cases due to continued reference in the Florida Building Code. The vertical elevation differences between the datums vary by geography. In the City of Miami Beach **NAVD88 is 1.56 feet higher than NGVD29**. Datum Conversion Source: NOAA Tide Gauge 8723214, Virginia Key.

### Common Conversions

From:	To:	Do This:
MSL	NGVD	Add 0.69 ft.
MSL	NAVD	Subtract 0.87 ft.
NGVD	NAVD	Subtract 1.56 ft.
Bay Datum	NAVD	Subtract 2.34 ft.



	NAVD88	MSL	NGVD29	Bay Datum
MHHW	0.22	1.09	1.78	2.56
MHW	0.16	1.03	1.72	2.50
NAVD88	0.00	0.87	1.56	2.34
MSL	-0.87	0.00	0.69	1.47
NGVD29	-1.56	-0.69	0.00	0.78
MLW	-1.86	-0.99	-0.30	0.48
MLLW	-1.97	-1.10	-0.41	0.37
BayDatum	2.34	1.47	0.78	0.00

### Miami Beach Standards

#### Minimum Elevations by City Ordinance

- Base Flood Elev.: 8.0 ft. NGVD  
6.44 ft. NAVD
- Sea Wall: 7.26 ft. NGVD  
5.7 ft. NAVD
- Crown of Road: 5.26 ft. NGVD  
3.7 ft. NAVD

#### Notes:

1. Base Flood Elevation (BFE) is the City min. standard.
2. Sea wall elevation is new (min.) top of wall elevation.
3. Road crown elevation is new (min.) City road elevation.

### Definitions and Abbreviations:

- Bay Datum = previous City datum
- NGVD = National Geodetic Vertical Datum
- MHHW = Mean Higher High Water
- MHW = Mean High Water
- NAVD = North American Vertical Datum
- MSL = Mean Sea Level
- MLW = Mean Low Water
- MLLW = Mean Lower Low Water



AECOM

August 2016

# Implementing Resilience in Miami Beach: Infrastructure Planning

## SE FL Compact Guidance (2015)

- 2030 (short term) – low risk projects with short design life.
- 2060 (medium term) – moderate risk projects with design life < 50 years.
- 2100 (long term) – high risk and critical infrastructure projects not easily replaceable with design life > 50 years

## Miami Beach Guidance

### Asset type 1

- Short design life
- Low sensitivity to flooding
- High adaptive capacity
- Not critical system
- Plan for 2030-2060 (middle curve)

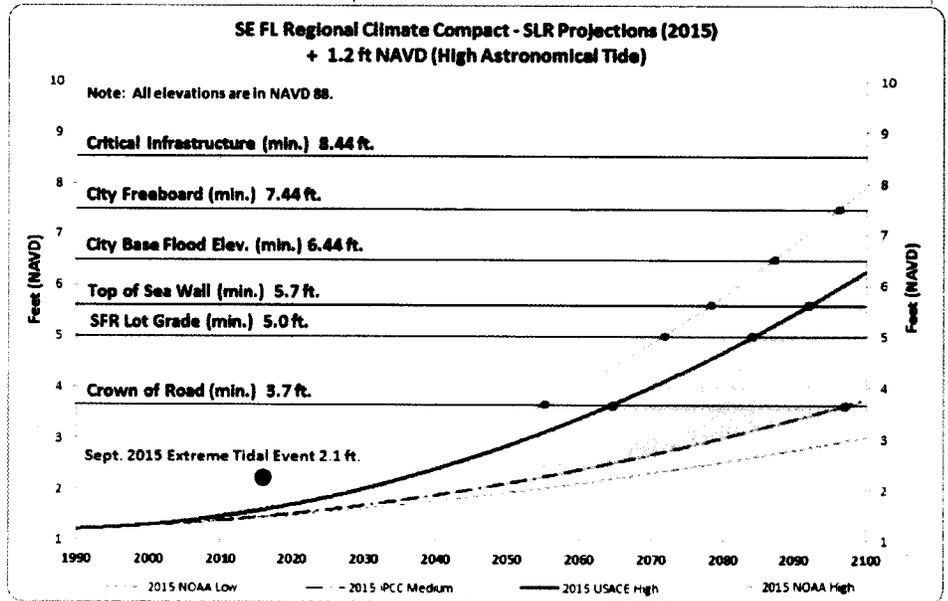
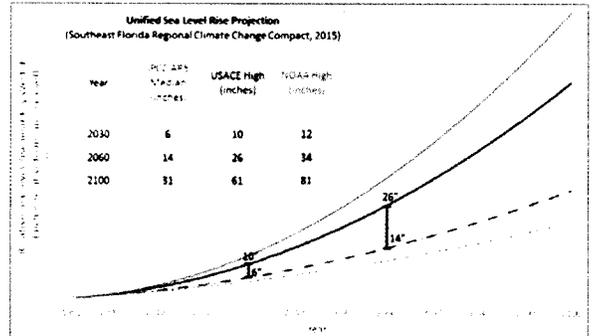
### Asset type 2

- Medium-long design life
- Medium sensitivity to flooding
- Moderate adaptive capacity
- Important system
- Plan for 2060-2100 (middle curve)

### Asset type 3

- Long design life
- High sensitivity to flooding
- Low adaptive capacity
- Critical system
- Plan for 2060-2100 (high curve)

Note: High Astronomical Tide, 1.2 feet NAVD, adopted by City Commission, Feb. 2014 for stormwater design.



*Intent of this document:* This document is intended to summarize the common vertical datums and SLR related guidance for new capital projects based on the Unified SLR Projections published by the SE FL Regional Climate Compact in 2015. This is not intended to be a design guide, but rather to relate potential SLR, tidal and surge flooding elevations to planning of future capital projects.



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# MIAMI BEACH

## COMMISSION MEMORANDUM

TO: Honorable Mayor and Members of the City Commission  
FROM: Commissioner Kristen Rosen Gonzalez  
DATE: November 9, 2016

SUBJECT: DISCUSS THE REDEVELOPMENT OF REGAL SOUTH BEACH STADIUM 18 & IMAX.

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### **ANALYSIS**

Please place on the November 9, 2016 Commission Meeting agenda, a discussion item regarding the potential sale and redevelopment of the Regal South Beach Stadium 18 & IMAX at 1120 Lincoln Rd. This potential loss, if substantiated, would be detrimental to Lincoln Road.

### **Legislative Tracking**

Commissioner Kristen Rosen Gonzalez

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