Memorandum

MIAMI-DADE COUNTY

Date: July 17, 2008

Agenda Item No. 8(A)(1)(E)

To: Honorable Chairman Bruno A. Barreiro
and Members, Board of County Commissioners

From: George M. Burgess
County Manager

Subject: Request to Advertise- EOI for Public Private Investor Project EOI No. MDAD-07-06

RECOMMENDATION

It is recommended that the Board approve this request for advertisement of the attached solicitation in substantially the form attached hereto for Expressions of Interest (EOIs) for four development sites at Miami International Airport (MIA) and authorize the Mayor or designee to negotiate a development lease agreement with the company that provides the best development proposal and financial benefit to the County.

SCOPE

MIA is located primarily within Commission District Six, however, the impact of this item is countywide in nature as it relates to the Miami-Dade Aviation system.

FISCAL IMPACT/FUNDING SOURCE

The award resulting from this EOI will be a revenue generator for the Miami-Dade Aviation Department (MDAD).

TRACK RECORD/MONITOR

Track Record is not applicable as this is a request to advertise. The monitor for the project will be Gregory C. Owens, MDAD Division Director for Real Estate Management and Development.

COMPLIANCE DATA

Not applicable as this is a request to advertise.

DELEGATED AUTHORITY

The Mayor or his designee is authorized to negotiate a development lease agreement with the company that provides the best development proposal and financial benefit to the County

BACKGROUND

The County, through MDAD, is seeking to negotiate with qualified developers/investors a development lease agreement to finance, design, construct, renovate, manage, and/or operate projects in four available investment areas in the vicinity of MIA's Central Boulevard, consisting of a hotel, existing structures, and underutilized land. This opportunity is the second phase of MDAD's efforts to generate non-aviation revenues from under-producing assets through a Public Private Investor Partnership (PPIP). The first phase of PPIP sites is currently in the negotiation stage with the top-ranked developers that responded to a competitive Request for Proposal (RFP) as approved in Resolution No. R-650-07.

MDAD's $6.2 billion Capital Improvement Program (CIP) has consumed the Aviation Department's borrowing capacity. However, the needs of the anticipated CIP significantly exceed the $6.2 billion amount. In an effort to address these unfunded needs and increase non-aviation revenues, MDAD is seeking private investors/developers to generate revenues. Completion of the Central Boulevard PPIP

project is best achieved via a solicitation for EOIs leading to a negotiation of a development lease agreement and not the more traditional competitive RFP. This process will provide MDAD the flexibility to conduct negotiations with several entities to select the best and most appropriate investor/developer to construct improvements.

An EOI is a two-step process which allows MDAD to measure what type of interest there is for a project and to pre-qualify potential participants. The first step invites participants to submit information regarding their companies and their ability to meet the financial and development capability to engage in a proposed development of this magnitude, and more importantly, a brief description of how the investor/developer will develop all or a portion of the available sites. The second step allows the County to select a limited number of participants based upon the EOI information submitted with whom to negotiate to develop the sites.

The four investment sites included in the EOI are:

- Area "A," commonly known as "Central Base," is a 25 +/- acre site. If an investor/developer chooses, the site may be subdivided into an 8+/- acre parcel that currently consists of a surface parking area; if this option is chosen, the investor/developer will not have any future development rights to the remaining 17 acres. MDAD is not mandating what type of development should go on this site; however preliminary feedback from interested parties indicates that a conference center hotel may be ideal for this site. Also, MDAD will not consider any proposals regarding fixed-based operations (FBO) for this site;
- Area "B" is an 8 +/- acre site adjacent to NW 20 Street and is designated for the development of a new retail service plaza;
- Area "C" is the designated new hotel site and is comprised of a 3 +/- acre area that straddles the access lanes to the parking garages (the "New Hotel Site"); and
- Area "D" is the existing in-terminal hotel located at Concourse "E". The hotel has undergone several renovations and is currently being brought to code compliance. However, extensive renovations are still required, along with an expansion of the hotel into three (3) floors of adjoining space currently occupied by MDAD.

A planning session was held with senior MDAD staff; HNTB, the bond engineer; AvAirPros, the airline liaison; First Southwest, the financial advisor (for this engagement they serve as the Owner's representative); Quinlivan Appraisals, the airport real estate appraiser; the County Attorney's Office; and the County Manager's Office. Each site was thoroughly reviewed in an effort to determine what impact if any these developments would have on MDAD's day-to-day operations. Having identified no significant operational impacts, the workshop participants recommended that MDAD proceed with the EOI process.

To confirm that there is an existing market for these potential development projects, MDAD invited the industry to a workshop on March 25, 2008, to advise the industry of this investment opportunity, to field questions, and to request comments. Approximately 50 investor/development industry representatives attended the workshop. Additionally, MDAD staff has accommodated many one-on-one informational meetings with numerous prospective investors.

MDAD intends to advertise nationally and internationally the availability of the sites to generate a suitable number of potential investors. In addition to a brief description of how each entity would approach developing the sites, which will be a primary basis on which MDAD determines with whom to start negotiations, the solicitation requires each investor/developer to submit evidence that it possesses the capability and financial backing necessary for a project of this magnitude.

Upon receipt of the EOIs, MDAD will determine which EOIs present a proposed development that is in the best interest of the County to pursue through negotiations and which investor/developers should be

invited to discuss their EOIs further with MDAD. MDAD intends to create a short list of not more than five (5) developers with whom to negotiate. Negotiations will continue until MDAD is able to recommend a single investor/developer for the program.

Under Section 125.35(1)(b), the County through its Aviation Department is legally entitled to negotiate leases with proposed users of an airport facility. The resolution approving the solicitation of EOIs reflects the Board's determination that the four sites making up the PPIP Phase II project and the facilities to be constructed on the sites constitute an airport facility.

PROJECT: Solicitation of Expressions of Interest for Public Private Investor Project, Phase II.

PROJECT NO: EOI No. MDAD-07-06

TERM OF CONTRACT: All terms of a development lease agreement will be subject to negotiation. However, regarding the length of the term, the Federal Aviation Administration (FAA) has recently limited the maximum term of a non-aviation development agreement to 55 years, but allowed such term to commence at the conclusion of the development period. The FAA however, retains the right to require a shorter (than 55 years) term, basing its decision on the merits of each development lease presented. Each lease must be accepted by the FAA prior to the consideration of the Board.

INVESTMENT: The total estimated investment for development of the projects could exceed $500 million. The development will be considered under a hybrid of (i) a Build (which includes design), Operate and Transfer (BOT) arrangement for new construction, whereby the developer/investor shall lease undeveloped land, build and operate the facilities for a prescribed period of time, and thereafter transfer the ownership of the facility to MDAD; and (ii) a Lease-Develop-Operate (LDO) agreement for existing or substantially rehabilitated structures such as the MIA Hotel, whereby the developer/investor shall lease the land and structure, rehabilitate and/or expand the structure, operate the structure for a prescribed period of time, and at lease termination return the renovated structure to MDAD.

MINIMUM QUALIFICATIONS: Each developer/investor will be required to submit a single certification form that includes (i) its statement of willingness to develop the project, (ii) experience in building and operating a mixed-use development where the investment exceeded $300 million – preferably consisting of a hotel component; and (iii) financial capacity to develop the facilities and (iv) a narrative of not more than 350 words, describing how the developer/investor will develop the sites

EXCEED LEGAL REQUIREMENTS: No

FUNDING SOURCE: N/A; Investor funded.

REVIEW COMMITTEE: N/A. Pursuant to Administrative Order 3-41, the Department of Business Development reviewed the solicitation for EOIs and determined that the small business enterprise program did not apply because no County dollars will be expended.

CONTRACT MEASURES: As a condition of award of a development lease agreement for the investment area, the successful proposer will be required to comply with applicable contract measures which may include: (a) a Community Business Enterprise (CBE) goal for architectural and engineering services; (b) a Community Small Business Enterprise (CSBE) goal for construction services; (c) a local workforce hiring provision under the Community Workforce Program (CWP) which requires that a percentage of the workforce performing construction trade work and labor on capital construction be residents from designated target areas; (d) a Disadvantaged Business Enterprise (DBE) goal for construction services; and (e) Airport Concession Disadvantaged Business Enterprise (ACDBE) goals for concession activities.

Assistant County Manager

MEMORANDUM

(Revised)

TO: Honorable Chairman Bruno A. Barreiro and Members, Board of County Commissioners

DATE: July 17, 2008

FROM: R. A. Cuevas, Jr. County Attorney

SUBJECT: Agenda Item No. 8(A)(1)(E)

Please note any items checked.

_____ "4-Day Rule" ("3-Day Rule" for committees) applicable if raised

_____ 6 weeks required between first reading and public hearing

_____ 4 weeks notification to municipal officials required prior to public hearing

_____ Decreases revenues or increases expenditures without balancing budget

_____ Budget required

_____ Statement of fiscal impact required

_____ Bid waiver requiring County Manager's written recommendation

_____ Ordinance creating a new board requires detailed County Manager's report for public hearing

_____ Housekeeping item (no policy decision required)

✓ No committee review

Approved _____ Mayor
Veto _____
Override _____

Agenda Item No. 8(A)(1)(E)
7-17-08

RESOLUTION NO. _____

RESOLUTION RELATING TO MIAMI INTERNATIONAL AIRPORT; AUTHORIZING THE MAYOR OR DESIGNEE TO ADVERTISE A SOLICITATION FOR EXPRESSIONS OF INTEREST FROM INVESTORS AND DEVELOPERS FOR CONSTRUCTION, RENOVATION, AND USE OF FACILITIES IN THE FOUR SITES MAKING UP PHASE II OF THE COUNTY'S PUBLIC PRIVATE INVESTOR PROJECT FOR THE AIRPORT SYSTEM; FINDING AND DETERMINING THAT EACH OF SUCH SITES AND THE FACILITIES CURRENTLY THEREON AND THOSE TO BE CONSTRUCTED THEREON CONSTITUTE AIRPORT FACILITIES; AUTHORIZING THE MAYOR OR DESIGNEE TO DETERMINE FROM THE EXPRESSIONS OF INTEREST WHICH INVESTORS OR DEVELOPERS THE AVIATION DEPARTMENT SHOULD COMMENCE NEGOTIATIONS WITH IN ORDER FOR A DEVELOPMENT LEASE AGREEMENT FOR THE PHASE II SITES TO BE NEGOTIATED THAT IS IN THE BEST INTEREST OF THE COUNTY AND TO RETURN SUCH AGREEMENT TO THIS BOARD FOR APPROVAL

WHEREAS, this Board desires to accomplish the purposes outlined in the accompanying memorandum and document, copies of which are incorporated herein by reference,

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS OF MIAMI-DADE COUNTY, FLORIDA, that this Board authorizes the Mayor or designee to advertise the attached Solicitation for Expressions of Interest from investors and developers for the construction, renovation, and use of facilities on the four sites at Miami International Airport that make up Phase II of the County's Public Private Investor Project for the County's Airport System; finds and determines that each of the four sites and the facilities currently thereon and those to be constructed thereon constitute airport facilities under Section 125.35 of the Florida Statutes; authorizes the Mayor or designee to determine from the Expressions of Interest received as a result of the advertised solicitation which investors or

developers the Aviation Department should commence negotiations with in order for a Development Lease Agreement for the Phase II sites to be negotiated that is in the best interest of the County; and directs the Mayor or designee to return such Agreement to this Board for approval.

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:

Bruno A. Barreiro, Chairman
Barbara J. Jordan, Vice-Chairwoman

Jose "Pepe" Diaz	Audrey M. Edmonson
Carlos A. Gimenez	Sally A. Heyman
Joe A. Martinez	Dennis C. Moss
Dorrin D. Rolle	Natacha Seijas
Katy Sorenson	Rebeca Sosa
Sen. Javier D. Souto	

The Chairperson thereupon declared the resolution duly passed and adopted this 17th day of July, 2008. This resolution shall become effective ten (10) days after the date of its adoption unless vetoed by the Mayor, and if vetoed, shall become effective only upon an override by this Board.

MIAMI-DADE COUNTY, FLORIDA
BY ITS BOARD OF
COUNTY COMMISSIONERS

HARVEY RUVIN, CLERK

By:_____
Deputy Clerk

Approved by County Attorney as
to form and legal sufficiency. TPA

Thomas P. Abbott

Miami-Dade Aviation Department
EXPRESSIONS OF INTEREST – FOUR DEVELOPMENT SITES AT MIAMI INTERNATIONAL AIRPORT

Introduction

Miami-Dade County's Aviation Department (MDAD) is soliciting Expressions of Interest from developers/investors for the development of four investment sites at Miami International Airport (MIA).

Miami International Airport's Statistical Information

The Miami-Dade Aviation Department, including Miami International Airport and the General Aviation Airports, is the leading economic generator for the South Florida Region. In 2006, this system of airports generated approximately 272,400 jobs in the region, $9.8 billion of direct, indirect and induced personal income and $25.6 billion of business revenue. For the same period, MIA alone generated 267,913 jobs and $25.3 billion in business revenue.

MIA's strength in international passengers and cargo activity stimulates several major industries within the South Florida Region, including tourism, the leisure cruise industry and international banking and commerce. MIA is the world's largest Latin American and Caribbean gateway, offering over 1,070 weekly departures with direct service to sixty-two (62) destinations. With forty-six percent (46) of total passenger traffic being international, MIA ranks among the top two leading airports in the U.S. based on the highest international to domestic passenger ratio. Additionally, for fiscal year end 2007, MIA was the port of entry for sixty-nine percent (69%) of all international traffic arriving by air to the State of Florida.

Miami-Dade County operates the world's leading cruise port and more than sixty percent (60%) of all cruise passengers begin or end their cruise with flights to and/or from MIA. In addition, Miami is the leading international financial center in the southeastern United States. MIA stimulates much of this activity through the financing of international trade facilitated through the airport. During 2007, trade originating and clearing at MIA amounted to 972,686 tons, valued at $34.9 billion; this is an increase of 8.2% by weight and 14% by volume over the previous year. Of this activity, seventy-seven percent (77%) of these export and eighty percent (80%) of all imports between the U.S., Latin America and the Caribbean was processed through MIA.

Investment Sites

The four investment sites are located in areas adjacent to MIA's Central Boulevard which is the main public entranceway to the Terminal Building. These investment sites are:

1) Area "A," commonly known as "Central Base," is a 25 +/- acre site. If an investor/developer chooses, the site may be subdivided into an 8+/- acre parcel that currently consists of a surface parking area; if this option is chosen, the investor/developer will not have any future development rights to the remaining 17 acres. MDAD is not mandating what type of development should go on this site; however preliminary feedback from interested parties indicates that a conference center hotel may be ideal for this site. Also, MDAD will not consider any proposals regarding fixed-based operations (FBO) for this site.

2) Area "B" is an 8 +/- acre site adjacent to NW 20 Street and is designated for the development of a new retail service plaza.

3) Area "C" is the designated new hotel site and is comprised of a 3 +/- acre area that straddles the access lanes to the parking garages (the "New Hotel Site").

4) Area "D" is the existing in-terminal hotel located at Concourse "E". The hotel has undergone several renovations and is currently being brought to code compliance. However, extensive renovations are still required, along with an expansion of the hotel into three (3) floors of adjoining space currently occupied by MDAD.

*The MIA Airport Hotel is owned by the County and operated by H.I. Development Corporation. Built in 1959, the MIA Airport Hotel has undergone a series of refurbishments. It houses a conference and business facilities and does not have hotel designated parking for patrons. The MIA Airport Hotel over the years has continued to demonstrate an extremely strong revenue performance. The MIA Airport Hotel leads the airport market in occupancy and rates. The convenience of the MIA Airport Hotel, the ability to sell day rooms, and the strong market for food and beverage has contributed to its outstanding financial performance.

MDAD intends to select a single developer/investor for the combined four investment sites. The total estimated investment to be made for development of the projects could be in excess of $500 million. The developments will be considered under a hybrid of (i) a Build (which includes design), Operate and Transfer (BOT) arrangement for new construction, whereby the developer/investor shall lease the land, build and operate the facility for a prescribed period of time, and thereafter transfer the ownership of the facility to MDAD; and (ii) a Lease-Develop-Operate (LDO) arrangement for the existing or substantially rehabilitated structures such as the Central Terminal "E" hotel, whereby the developer/investor shall lease the land and structure, rehabilitate and expand the hotel, operate the facility for a prescribed period of time, and at the end of the lease term transfer the facility and whatever ownership it may have of the facility built by the developer/investor to MDAD .

Purpose

MDAD's goal is to generate ~~maximize~~ revenue to the Airport System from the development of the four available sites or portions thereof in a manner that best meets the needs of the County. ~~that provides the best development and the greatest amount of revenue to MDAD. At this time,~~ MDAD is interested in discussing with the potential developer/investor their interest in developing the aforementioned four investment sites.

Minimum Requirements

In its EOI, the developer/investor ~~"Expression of Interest"~~ should set forth ~~why~~ how it meets the following minimum requirements as a condition to being considered for negotiations: ~~criteria,~~ (i) a willingness to develop the four projects; (ii) the degree of the developer's/investor's experience in building and operating a mixed use development of over $300 million – preferably consisting of a hotel component; and (iii) the financial capacity to develop the facilities valued at $500 million and greater; (iv) a narrative in not more than 350 words, describing how the developer/investor proposes to develop all four sites or portions thereof ~~would go about developing the sites~~. See Exhibit B, Expression of Interest-Self Certification Form.

Submittal Instructions

Expressions of interest must be in writing and delivered by mail, by facsimile, or by email so that they are received by MDAD at the following address by no later than _____P.M. on _____, 2008:

Lenora Allen-Johnson
PO Box 025 504
Miami, Florida 33102-5504

lallenjohnson@miami-airport.com
305 876-8091 (Facsimile)

MDAD reserves the right to accept EOIs filed later than this date upon MDAD's receipt of a reasonable statement from the developer/investor as to why it could not send it by such date and time.

~~, [illegible], located at [illegible] by _____, 2008, 4:00 pm.~~ Upon MDAD's receipt of all expressions of interest, MDAD will determine which expressions meet the requirements ~~criteria~~ set forth above and which developers/investors should be invited to discuss their expressions further with MDAD. MDAD intends to create a short-list of not more than five (5) developers/investors so that

negotiations can be held with them until MDAD is able to select a single developer/investor for the core projects.

For passenger information about MIA, refer to MIA's website address: www.miami-airport.com, and click on Airport information, About Miami-Dade Aviation, Facts at a Glance.

Process

Following MDAD's receipt of Expressions of Interest, MDAD intends to determine whether the Expressions of Interest meet the requirements set forth above ~~minimum criteria~~ so that further discussions leading to negotiations may be held. If this process is not successful, MDAD has the right to cancel proceedings and pursue other forms of solicitations. The final award, if any, will be approved by the Board of County Commissioners.

All questions regarding this project/process should be addressed to: Lenora Allen-Johnson, Contracts Officer, Miami-Dade Aviation Department, P.O.Box 025504, Miami, Florida 33102-5504, 305-876-8054

Attachments:

Exhibit A, Location Maps
Exhibit B, Expression of Interest-Self Certification Form

EXHIBIT "B"

SELF CERTIFICATION FORM

Please provide with your submittal the following information regarding your previous real estate development experience:

1. The proposer has successfully completed within the last seven years a project in excess of $300 million. (Please include the project's name, location and owner if different from the proposer)
2. The proposer's willingness to develop the four development sites described in the Expression of Interest.
3. The proposer's ability to finance a real estate project in excess of $500 million.
4. A narrative of not more than 350 words, describing how the developer/investor would go about developing the sites.

EXHIBIT "A"

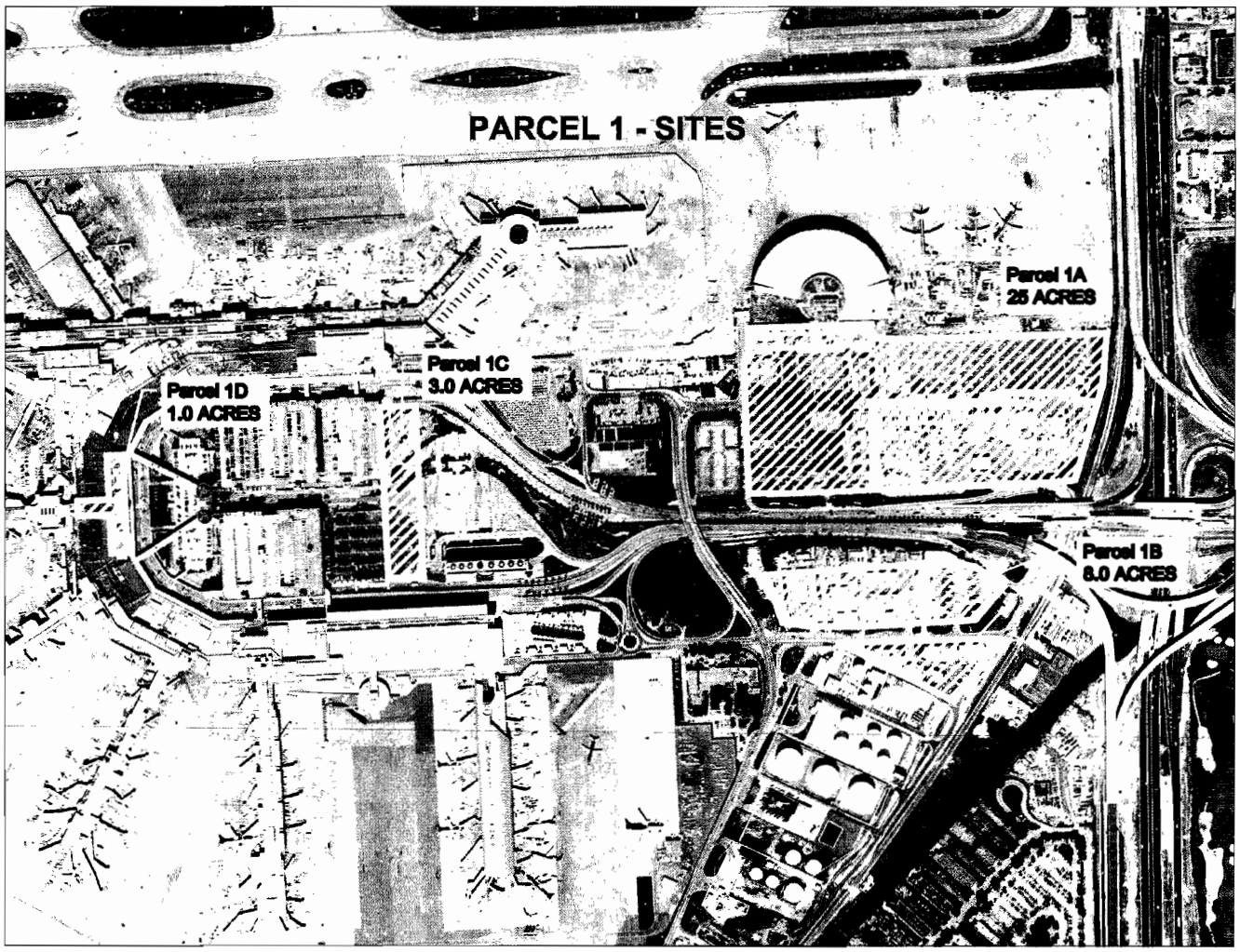
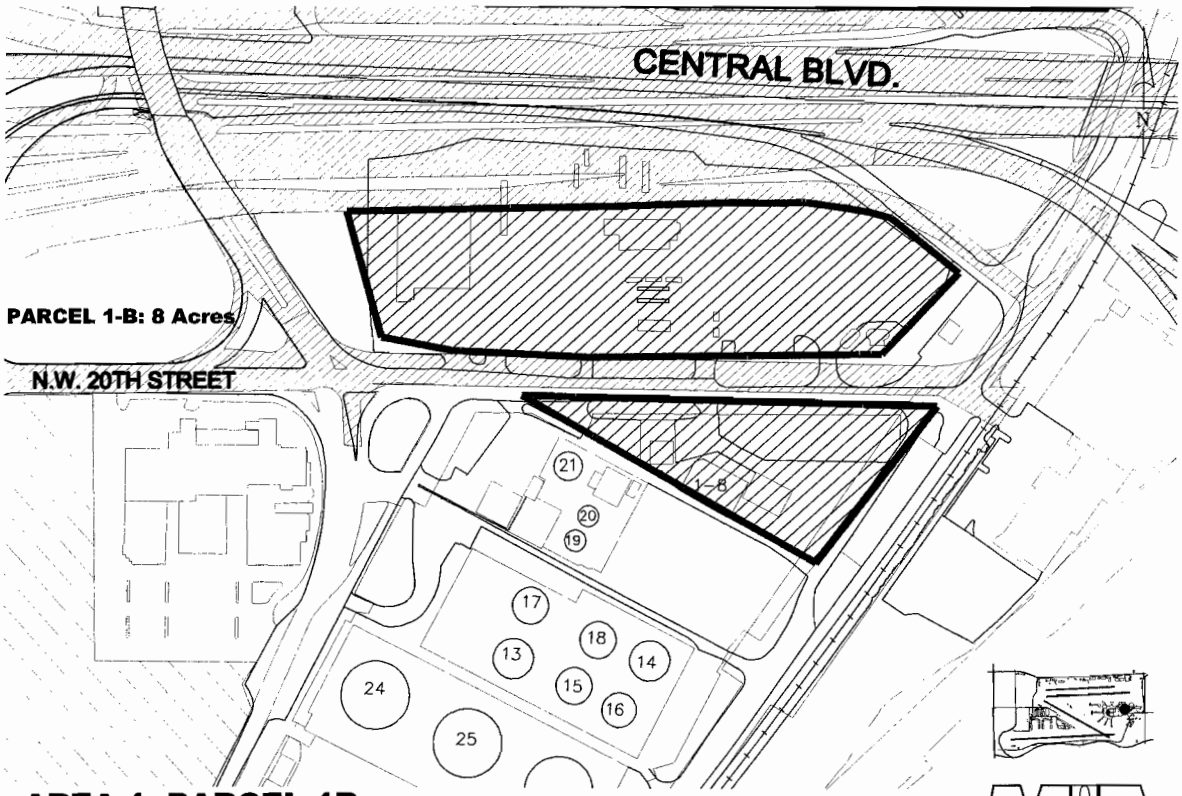

PARCEL 1 - SITES
Parcel 1A
25 ACRES
Parcel 1C
3.0 ACRES
Parcel 1D
1.0 ACRES
Parcel 1B
8.0 ACRES

EXHIBIT "A"

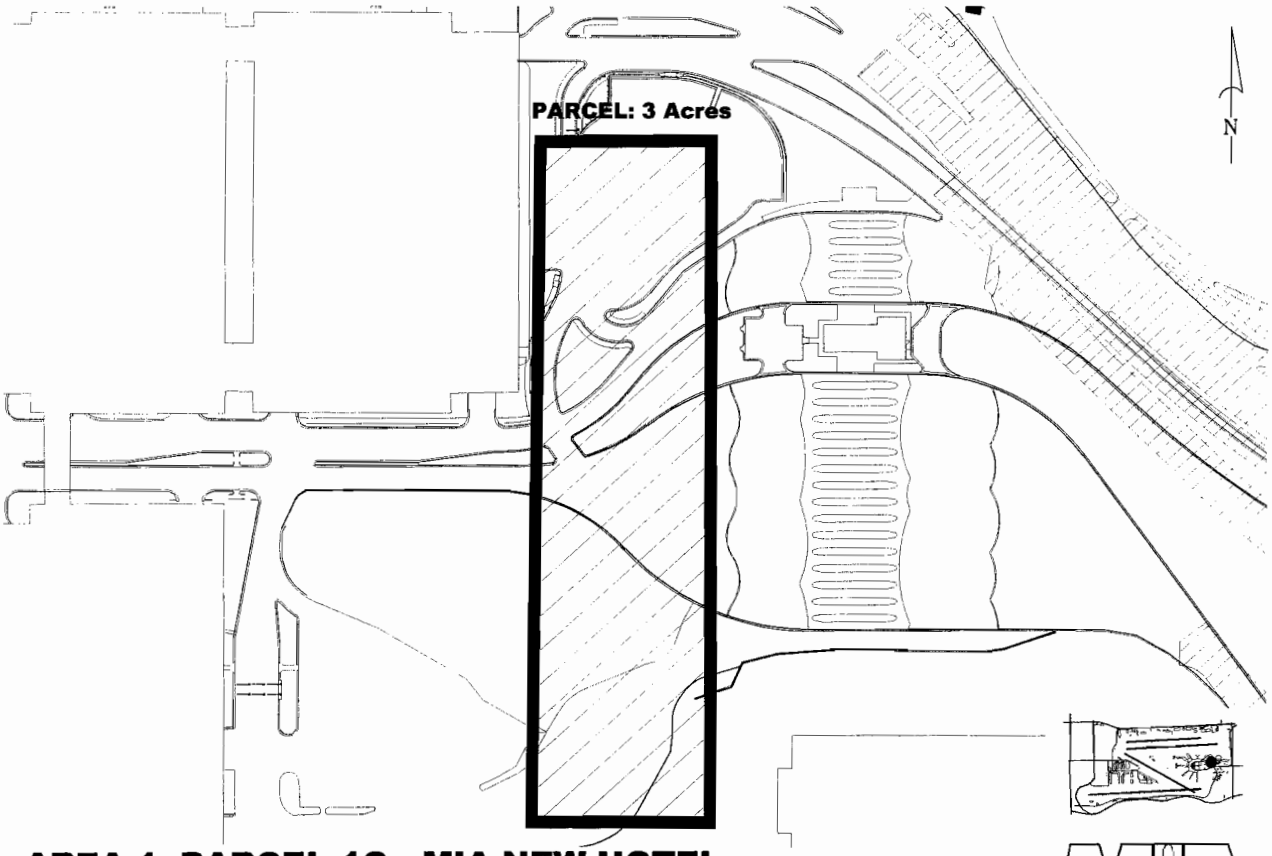


AREA 1, PARCEL 1B
Exhibit - 1B

PROJECT FILE: 60256_Parcel_1C
DATE: 06/04/06

TECHNICAL SUPPORT DIVISION

EXHIBIT "A"



AREA 1, PARCEL 1C - MIA NEW HOTEL
Exhibit - 1C

PROJECT FILE: 60256_MIANewHotel03
DATE: 06/04/06

TECHNICAL SUPPORT DIVISION

EXHIBIT "A"

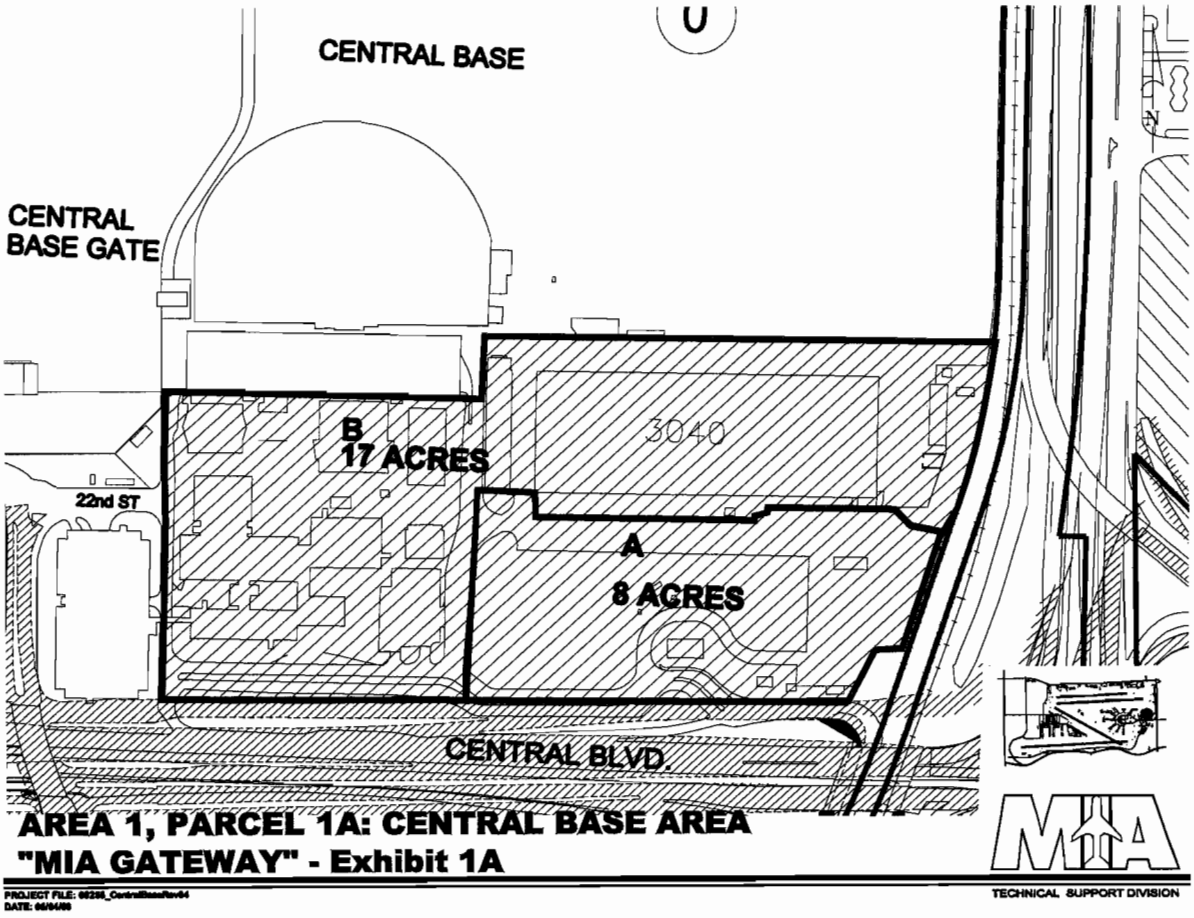
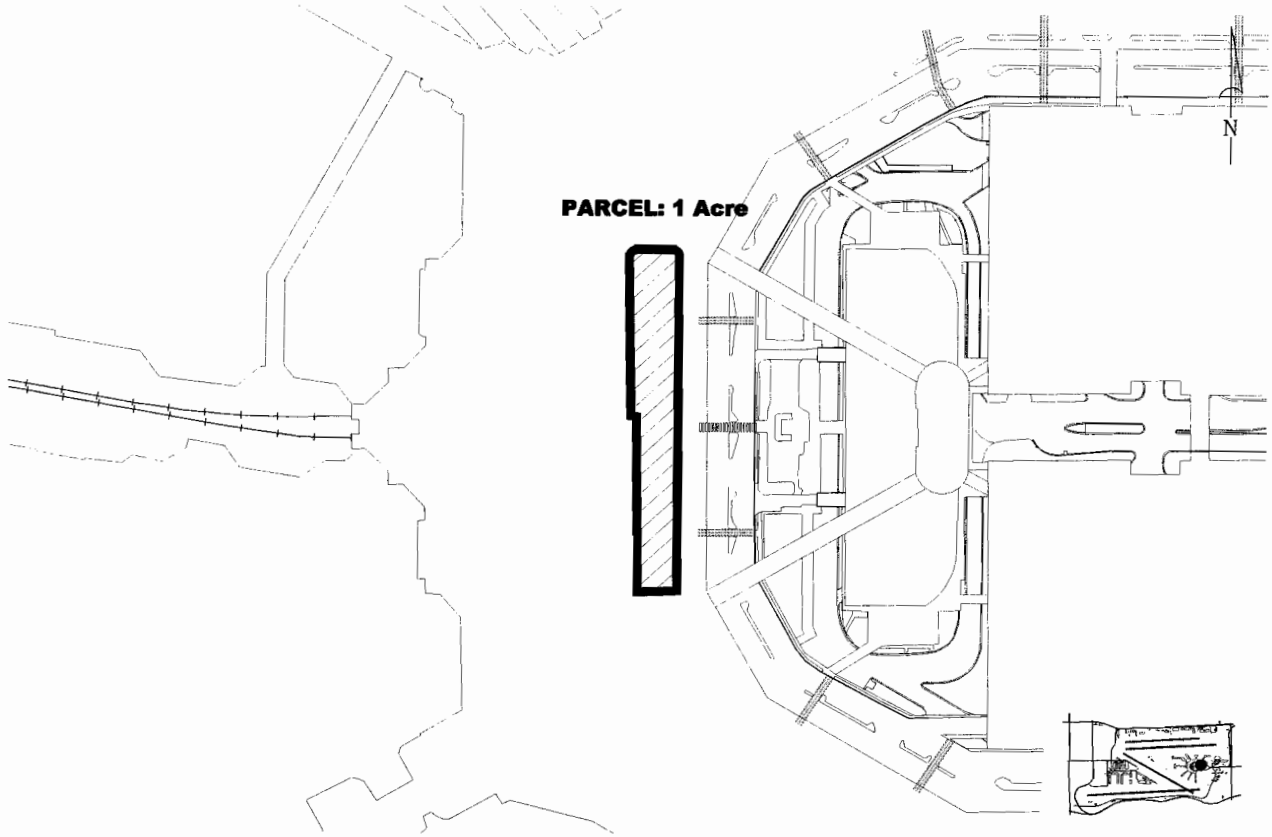

CENTRAL BASE
U
CENTRAL BASE GATE
B
17 ACRES
3040
22nd ST
A
8 ACRES
CENTRAL BLVD.
AREA 1, PARCEL 1A: CENTRAL BASE AREA
"MIA GATEWAY" - Exhibit 1A
MIA
TECHNICAL SUPPORT DIVISION

EXHIBIT "A"



AREA 1, PARCEL 1D - EXISTING MIA HOTEL
Exhibit - 1D

PROJECT FILE: 60258_ExistingHotel01
DATE: 06/04/08

TECHNICAL SUPPORT DIVISION

EXHIBIT "B"

EXPRESSION OF INTEREST - SELF CERTIFICATION FORM

Please provide with your submittal the following information regarding your previous real estate development experience:

1. The proposer has successfully completed within the last seven years a project in excess of $300 million. (Please include the project's name, location and owner if different from the proposer)
2. The proposer's willingness to develop the four core development sites described in the Expression of Interest.
3. The proposer's ability to finance a real estate project in excess of $500 million.
4. How you would go about developing the sites. (Please limit your reply to 350 words)

EXHIBIT C
AFFIDAVIT OF MIAMI-DADE COUNTY
LOBBYIST REGISTRATION FOR ORAL PRESENTATION

(1)ProjectTitle: Expression of Interest, Mixed Use/Hotel Development, Phase II Project No.: N/A
(2) Department: Miami-Dade Aviation Department
(3) Firm/Proposer's Name: _____
Address: _____ Zip: _____
Business Telephone: (_____) _____

(4) List All Members of the Presentation Team Who Will Be Participating in the Oral Presentation:

NAME	TITLE	EMPLOYED BY	TEL. NO.

(ATTACH ADDITIONAL SHEET IF NECESSARY)

The individuals named above are Registered and the Registration Fee is not required for the Oral Presentation ONLY. Any person who appears as a representative for an individual or firm for an oral presentation before a County certification, evaluation, selection, technical review or similar committee must be listed on an affidavit provided by the County. The affidavit shall be filed with the Clerk of the Board at the time the response is submitted. The individual or firm must submit a revised affidavit for additional team members added after submittal of the proposal with the Clerk of the Board at least **two (2) days prior to the oral presentation**. Any person not listed on the revised affidavit may not participate in the oral presentation.

Other than for the oral presentation, Proposers who wish to address the county commission, a county board or county committee concerning any action, decision or recommendation of county personnel regarding this solicitation MUST register with the Clerk of the Board (Form BCCFORM2DOC) and pay all applicable fees.

I do solemnly swear that all the foregoing facts are true and correct and I have read or am familiar with the provisions of Section 2-11.1(s) of the Code of Miami-Dade County as amended.

Signature of Authorized Representative: _____
Title: _____
STATE OF _____
COUNTY OF _____

The foregoing instrument was acknowledged before me this _____,
by _____, a _____, who is
(Individual, Officer, Partner or Agent) (Sole Proprietor, Corporation or Partnership)
personally known to me or who has produced _____ as identification and who did/did not take an oath.

_____
Signature of person taking acknowledgement)

_____
(Name of Acknowledger typed, printed or stamped)

_____ _____
(Title or Rank) (Serial Number, if any)

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EXHIBIT D
LOBBYING RULES

1.1 Purpose and Scope of Lobbying Rules

a) The following rules delineate the responsibilities of lobbyists and County personnel lin implementing the requirements of the lobbying section of the Conflict of Interest and Code of Ethics ordinance.

1.2 Definition of "Lobbyist"

a) A lobbyist is any person, firm or corporation employed or retained by a principal that seeks to encourage the passage, defeat or modification of

1) any ordinance, resolution, action or decision of the County Commission;

2) any action, decision, or recommendation of the County Manager or any County board or committee; or

3) any action, decision, or recommendation of County personnel during the time period of the entire decision-making process on such action, decision or recommendation which forseeably will be heard or reviewed by the County Commission or a County board or committee. "Lobbyist" specifically includes the principal as well as any employee whose normal scope of employment includes lobbying activities.

1.3 Exclusions

a) Attorneys or other representatives retained or employed solely for the purpose of representing individuals, corporations or other entities during publicly noticed quasi-judicial proceedings where the law prohibits ex-parte communication. A quasi-judicial proceeding is a hearing before a County or municipal commission or board where the rights of particular persons or entities are determined and for which prior notice, the opportunity to be heard and the introduction and evaluation of evidence are required (e.g. Value Adjustment Board, Community Zoning Appeals Board, Equal Opportunity Board).

b) Expert witnesses who provide only scientific, technical or other specialized information or testimony in public meetings. An expert witness is a person duly and regularly engaged in the practice of a profession who holds a professional degree from a university or college and special training or experience, or a person who is possessed of special knowledge or skill about the subject.

c) A representative of a neighborhood association who appears without compensation or reimbursement, whether direct, indirect or contingent, to express support of or opposition to any item. A neighborhood association is an organization of residential homeowners and tenants created to address quality of life issues in a defined neighborhood or community.

d) A representative of a not-for-profit community based organization for the purpose of requesting a grant, without special compensation or reimbursement for the appearance. A community based organization is a not-for-profit association or

e) corporation organized under state or local law to engage in community development activities (including, but not limited to, housing and economic development activities) and has as its primary purpose the improvement of the physical, economic or social environment by addressing one or more of the critical needs of the area, with particular attention to the needs of people with low or moderate incomes

f) Employees of a principal whose normal scope of employment does not include lobbying activities.

1.4 Examples of Lobbying Activities

a) Lobbying activities include but are not limited to:

1) Meetings or communication with elected officials or staff regarding a particular solicitation or product (i.e. time frames for the solicitation, specifications, qualifications, etc.).

2) Meetings or communication with elected officials or staff to discuss issues regarding a prior or ongoing solicitation or contract when a resolution of the matter may require approval of the Board of County Commissioners, the County Manager and his or her designee or a County board or committee.

3) Meetings or communication with elected officials or staff regarding any matter where the lobbyist is seeking to influence a decision or recommendation of staff on any matter that will require action or decision by the Board of County Commissioners, the County Manager or any County board or committee.

4) Meetings or communication with elected officials or staff regarding policy matters that may forseeably before the Board of County Commissioners, the County Manager or any County board or committee.

1.5 Examples of Activities Not Constituting Lobbying

a) Activities that do not constitute lobbying include but are not limited to the following:

1) Requests for information about procedures, forms, budgets or other requirements on behalf of another

2) Appearances at meetings or communications with staff or an elected official at the department or elected official are request or a description of materials or services available in response to a departmental request.

3) Advices or services communicated to a department or an elected official which arise out of an existing contractual obligation to the county or municipality.

4) Meetings or communication to provide staff or elected officials with general information regarding a firm's background or expertise.

1.6 General Registration Requirements

a) Every lobbyist must file an annual registration form with the Clerk at the time of initial registration and on or before January 15th of each year thereafter, along with an annual registration fee of four hundred and ninety dollars ($490.00).

b) Every lobbyist must file a registration form with the Clerk of the Board for each client within five days of being retained by a principal or before conducting any lobbying activities, whichever comes first.

c) The principal must also submit a principal authorization form prior to any lobbying. The principal must identify whether the lobbyist is retained for a particular matter or may lobby on any matter regarding the principal.

d) Every lobbyist must file a Notice of Withdrawal when the representation ends. The lobbyist must file an expenditure statement for the preceding year.

1.7 Selection Committee Registration Requirements

a) Any person who appears as a representative for an individual or firm for an oral presentation before a County certification, evaluation, selection n, technical review or similar committee shall list on an affidavit provided by the County, all individuals who may make a presentation. The affidavit shall be filed with the Clerk of Board at the time the response is submitted.

b) The individual or firm must submit a revised affidavit for any additional team members with the Clerk of the Board at least 2 days prior to the oral presentation. Any person not listed on the revised affidavit or who is not a registered lobbyist will not be permitted to participate in the oral presentation.

c) All additional team members, who are lobbyists, as defined herein, must file a principal authorization form (for the individual or entity) with the Clerk of the Board of County Commissioners prior to the oral presentation.

1.8 Not for Profit Registration Requirements

a) A lobbyist for a not-for-profit organization (unless lobbying for a community-based organization seeking grant funds) must register and file the required expenditure form. Upon request, the Clerk of the Board may waive the applicable registration fees.

1.9 Expenditure Reports

a) All registered lobbyists must file an expenditure report with the Clerk of the Board by July 1st of each year. The date of filing is the date that the report is received by the Clerk's office.

b) A lobbyist must file a report for every principal and must list all expenditures in excess of twenty-five dollars ($25.00) for the preceding calendar year. The form must be filed even if the lobbyist did not make any expenditures during the prior year.

1.10 Expenditure Categories

a) The lobbyist must report expenditures in the following categories: communications, entertainment, food and beverages, lodging, media advertising, publications and other. The information covered in each category is:

1) "Communications" means dissemination of information, including but not limited to the following means: audio-visual materials, signs, placards, buttons, promotional materials, or other display materials; together with any associated production services. This category does not include media advertising, publications or research.

2) "Entertainment" means amusement or recreation including but not limited to sporting, hunting, fishing, theatrical, artistic, cultural and musical activities or events.

3) "Food and Beverages" means meals, snacks or edible substances or liquids for drinking including services associated therewith.

4) "Lodging" means sleeping or living accommodations for an individual for one or more nights.

5) "Media advertising" means newspaper and magazine advertising, radio and television advertising and outdoor advertising including production services and copyrighting services.

6) "Other" means any item or service which is not included in one of the specified categories; this category does not include any item or service which is not required by law to be reported.

7) "Publications" means mass-produced, printed materials including but not limited to magazines, newsletters, brochures or pamphlets, which expressly encourage to communicate with agency officials or employees or to influence an agency with respect to a decision of the agency in the area of policy or procurement or which are designed to communicate with agency officials or employees.

8) "Research" means obtaining information relating to a specific policy issue or procurement matter regardless of the form or medium in which such information is provided including, but not limited to, surveys, information services, periodicals and consultants or consultant services to gather data or statistics.

9) "Special Events" means large scale functions, including but not limited to receptions, banquets, dinners or fairs to which more than 250 persons are invited and for which the expenditures associated with hosting the function are negotiated with a catering service or facility at a single, set price or which include multiple expenditure categories.

10) "Travel" means transporting an individual from, one place to another, regardless of the means used.

b) Certain items such as communications, publications and research are office expenses if performed by the lobbyist or principal or their employees. If those functions are

performed by independent contractors, other than the lobbyist or principal or an affiliate controlled by the principal, they are reportable under the appropriate expenditure category.

c) If an expense is incurred for a business purpose unrelated to lobbying and the product of that expense is later used for a lobbying purpose, the expenditure does not have to be reported.

1.11 Penalties for Late Filing

a) A late fee of fifty dollars per day per report will automatically be assessed for any report filed after the due date. All fines must be paid to the Clerk of the Board of County Commissioners.

b) The Clerk of the Board of County Commissioners will notify all lobbyists who have failed to file by July 15th of each year that they are not in compliance with the ordinance and of the current fines assessed against the lobbyist.

c) A lobbyist is automatically suspended and may not lobby any employee, elected official or before any County board (including the Board of County Commissioners) if the lobbyist has not filed an expenditure report by September 1rst of each year.

d) The Clerk of the Board of County Commissioners must provide the Ethics Commission with a report listing all lobbyists who have either failed to file disclosure reports or pay assessed fines by October 1rst of each calendar year. The Ethics Commission will provide the list to the Commission Advocate who may initiate complaint proceedings against any lobbyist for failure to file an expenditure report and/or pay assessed fines.

1.12 Appeals

a) Any lobbyist may appeal a fine and request a hearing before the Ethics Commission by filing an appeal with the Ethics Commission within fifteen days receipt of the Notice of Violation. Late fees will continue to accrue after an appeal unless the required forms are filed.

b) The lobbyist must mail or fax a letter to the Executive Director of the Ethics Commission stating the reasons for the appeal. The lobbyist must include in his or her notice of appeal any request for a hearing before the Ethics Commission. The lobbyist must attach any documentation or evidence for consideration by the Ethics Commission in making a determination on the appeal at the time the notice of appeal is filed.

c) The Ethics Commission may delegate determinations of appeals without a request for hearing to Commission staff. The staff may have the authority to waive fines in whole or part for good cause shown. Any determinations by staff must be ratified by the Ethics Commission or a committee appointed by the Chair.

d) A hearing on an appeal under this ordinance may be heard by a committee appointed by the Chair or the Ethics Commission as a whole. The Ethics Commission may waive any fines, in whole or part, for good cause shown.

1.13 Contingency Fe es

a) After May 16, 2003, no person may, in whole or in part, pay, give or agree to pay or give a contingency fee to another person. No person may, in whole or in part, receive or agree to receive a contingency fee.

b) A contingency fee is a fee, bonus, commission or non-monetary benefit as compensation which is dependent on or in any way contingent upon the passage, defeat, or modification of: 1) any ordinance, resolution, action or decision of the County Commission; 2) any action, decision or recommendation of the County Manager or any County board or committee; or 3) any action, decision or recommendation of any County personnel during the time period of the entire decision-making process regarding such action, decision or recommendation which forseeably will be heard or reviewed by the County Commission or a County board or committee.

1.14 Depart mental Responsibilities

a) All departments and agencies must maintain a visitor log for anyone seeking to do business with the department or agency or seeking administrative action from the department or agency. The log should include information regarding the name of the visitor, the staff person or persons visited and the purpose of the visit (i.e. name of matter or agenda item number).

b) All elected officials, board members and employees shall be diligent to ascertain whether persons appearing before them have registered as lobbyists. County personnel may check on a lobbyist's status through the Lobbyist Registration section of the Metronet or by calling the Clerk of the Board of County Commissioners. Elected officials, board members and employees may not knowingly permit a person who is not registered to lobby them regarding an issue.

1.15 Penalties for Lobbying Violations

a) The Ethics Commission may prohibit any lobbyist who commits a lobbying violation from lobbying before the Board of County Commissioners or any committee, board or personnel of the Miami-Dade County for a period of: 1) ninety days following determination of the first violation; 2) one year following determination of the second violation and 3) five years from determination of the third violation.

b) Any lobbyist who commits a lobbying violation is also subject to a two hundred and fifty-dollar fine for the first violation and a five hundred-dollar fine for the second violation.

c) The County Manager or the Board of County Commissioners may void any contract where a lobbying violation has occurred.