Memorandum

MIAMI-DADE COUNTY

Date: October 7, 2008

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

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

From: George M. Burgess
County Manager

Subject: Retroactive Lease Agreement at 1094 N.W. North River Drive, Miami, with Spring Garden Civic Association, Inc., a Florida Non Profit Corporation.
Property # 3135-23-00

RECOMMENDATION

It is recommended that the Board of County Commissioners approve the attached resolution authorizing execution of a Retroactive Lease Agreement, for $1.00 per year, for County-owned property located at 1094 N.W. North River Drive, Miami with Spring Garden Civic Association, Inc., a Florida Non Profit Corporation, for premises to be utilized as a passive park. The attached Retroactive Lease Agreement has been prepared by the General Services Administration at the request of Miami-Dade Water and Sewer Department. This lease is retroactive due to the delay in finalizing the lease agreement caused by changes in the association board members.

PROPERTY:	1094 N.W. North River Drive, Miami
USE:	6,160 square feet of land for use as a passive park.
COMMISSION DISTRICT:	3
COMMISSION DISTRICT IMPACTED:	3
OWNER:	Miami-Dade County
PROPOSED TENANT:	Spring Garden Civic Association, Inc., a Florida Non Profit Corporation
COMPANY PRINCIPALS:	Beverly Stappert - President Lisa Cabral - Secretary
TENANT'S TRACK RECORD:	The County has no record of negative performance issues with Spring Garden Civic Association, Inc.
JUSTIFICATION:	This vacant parcel of land, under the jurisdiction of the Miami-Dade Water and Sewer Department, has been leased to the Spring Garden Civic Association since 1997 for use as a passive park. The property contains an underground sewer force main, which prohibits any significant improvements on the property. The Spring Garden Civic Association desires to continue using the property as a passive park for the benefit of the community.

LEASE TERM:	Three years with one additional three-year renewal option period.
EFFECTIVE DATES:	Commenced on June 17, 2008 and terminates three years thereafter.
RENTAL RATE:	$1.00 per year.
LEASE CONDITIONS:	Tenant is responsible for all costs for utilities, waste removal services, maintenance repairs or replacements of the grounds, landscaping and landscaping services.
CANCELLATION PROVISION:	Either party may cancel by giving sixty (60) days written notice.
CURRENT LEASE:	The current lease was approved by the Board on June 4, 2002 by Resolution No. R-577-02. The lease commenced on June 17, 2002 for three years with one additional three-year renewal option period. The tenant is currently on a month-to-month basis until this proposed lease is approved by the Board. The association has continued to maintain the property and is current with their annual rent.
MONITOR:	Linda Weber, Real Estate Officer
DELEGATED AUTHORITY:	Authorizes the County Mayor or his designee to execute the attached lease agreement with Spring Garden Civic Association, Inc., exercise the cancellation provision, and exercise one additional three-year renewal option period.

Director
General Services Administration

MEMORANDUM

(Revised)

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

DATE: October 7, 2008

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

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

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(F)(1)(A)
10-7-08

RESOLUTION NO. _____

RESOLUTION AUTHORIZING EXECUTION OF A RETROACTIVE LEASE AGREEMENT AT 1094 N.W. NORTH RIVER DRIVE, MIAMI WITH SPRING GARDEN CIVIC ASSOCIATION, INC., A FLORIDA NON PROFIT CORPORATION, FOR PREMISES TO BE UTILIZED AS A PASSIVE PARK; AND AUTHORIZING THE COUNTY MAYOR OR COUNTY MAYOR'S DESIGNEE TO EXERCISE ANY AND ALL OTHER RIGHTS CONFERRED THEREIN

WHEREAS, Spring Garden Civic Association, Inc. is a registered Florida Non Profit Corporation; and

WHEREAS, Spring Garden Civic Association, Inc., a Florida Non Profit Corporation desires to continue to lease certain County-owned property located at 1094 N.W. North River Drive, Miami for a passive park; and

WHEREAS, the County is satisfied that the Spring Garden Civic Association, Inc., a Florida Non-Profit Corporation, does require the County-owned property for such use and the property is not otherwise needed for County purposes; and

WHEREAS, this Board further desires to accomplish the purposes outlined in the accompanying memorandum, a copy of which is incorporated herein by reference,

NOW THEREFORE, BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS OF MAIMI-DADE COUNTY, FLORIDA, that this Board hereby approves a Retroactive Lease Agreement between Miami-Dade County and Spring Garden Civic Association, Inc., a Florida Non Profit Corporation, for premises to be utilized as a passive park for a three (3) year term, with one (1) additional three (3) year renewal option period, at an annual rental rate of $1.00, in substantially the form attached hereto and made a part hereof; authorizes the County Mayor or the County Mayor's designee to exercise any and all other rights conferred therein.

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 7th day of October, 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.

Martin W. Sybblis

LEASE AGREEMENT

THIS AGREEMENT made on the day of , 2008, by and between MIAMI-DADE COUNTY, a political subdivision of the State of Florida, herein sometimes designated or referred to as the "LANDLORD," and SPRING GARDEN CIVIC ASSOCIATION, INC., a Florida non profit corporation, hereinafter referred to as the "TENANT,"

***WITNESSETH*:**

The LANDLORD, for and in consideration of the restrictions and covenants herein contained, hereby leases to TENANT and TENANT hereby agrees to lease from LANDLORD the described as follows:

> The East 25 feet of Lot 29-E and the West 25 feet of Lot 30-E, Country Club Addition, PB 8-72, more commonly known as a vacant lot at 1094 N.W. North River Drive, Miami, Florida.
> (See Exhibit "C" attached hereto)

TO HAVE AND TO HOLD unto said TENANT for a term of three (3) years, which commenced on June 17, 2008 and terminates three (3) years thereafter, for and at an annual rental of One Dollar and 00/100 ($1.00) per year, payable in advance on the first day of every year to the Board of County Commissioners, c/o General Services Administration, 111 N.W. First Street, Suite 2460, Miami, Florida 33128-1907 or at such other place and to such other person as LANDLORD may from time to time designate in writing, as set forth herein.

IT IS FURTHER MUTUALLY UNDERSTOOD AND AGREED BY THE RESPECTIVE PARTIES HERETO:

Property # 3135-23-00

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ARTICLE I
USE OF LEASED PREMISES

The area of the leased premises may be used by TENANT solely for a passive park for members of the public. The use of the park will be subject to rules attached and labeled Exhibit "A" and any changes to the rules in Exhibit "A" by TENANT will be subject to written approval of LANDLORD. TENANT will keep the park open during daylight hours and may open the park during non-daylight hours. TENANT will not rent the leased premises in whole or part to others, but may charge for occasional private use, of one day or less, in the form of cleanup fees or other pass-through costs. TENANT may charge private groups a security deposit to assure clean up and that no property is damaged by such use. Upon expiration of this Lease Agreement any improvements will become the property of the LANDLORD.

ARTICLE II
CONDITION OF LEASED PREMISES

TENANT hereby accepts the leased premises in the condition they are in at the beginning of this Lease Agreement. TENANT acknowledges that the premises contain underground utility lines and the LANDLORD may use the leased premises for access to the underground utility lines for maintenance, repair, alteration or any other related purpose.

ARTICLE III
UTILITIES, MAINTENANCE AND CONSTRUCTION

All utilities shall be placed in the name of the TENANT and the cost of all utilities and waste removal shall be paid by TENANT, including any and all infrastructure required to provide service to the leased premises. The location of all utility lines shall be subject to the approval of LANDLORD prior to installation. The TENANT agrees to provide, at its sole cost and expense, all maintenance, landscaping, repairs or replacements, as necessary required to keep the leased premises and any improvements thereto in a state of good repair, and in a safe and clean condition at all times, during the term of this Lease Agreement or any extension or renewal thereof. This shall include, but not be limited to, cutting grass, trimming trees and shrubs and removing trash. TENANT shall be responsible for and shall repair any damage

caused to the leased premises as a result of TENANT's use of the leased premises, ordinary wear and tear excepted. If any lighting, water fountains, tables, grills for cooking, fences, signs or any other equipment or improvements shall be provided by TENANT, they shall be paid for and maintained by TENANT. The LANDLORD shall notify TENANT after discovering any damage which TENANT is responsible for repairing and TENANT shall make the necessary repairs promptly after said notice. Any construction on the property, such as fences, lighting, gazebos, shelters or any item that requires a building permit will require the written approval of LANDLORD. LANDLORD shall be able to withhold approval for any reason.

ARTICLE IV
CONSTRUCTION BY LANDLORD

LANDLORD has the right to make construction in, on, under or to the leased premises, without prior written notice to TENANT.

ARTICLE V
ASSIGNMENT

Without the written consent of LANDLORD first obtained in each case, TENANT shall not sublet, transfer, mortgage, pledge, or dispose of this Lease Agreement or the term hereof.

ARTICLE VI
NO LIABILITY FOR PERSONAL PROPERTY

All personal property placed or moved in the leased premises above described shall be at the risk of TENANT or the owner thereof. LANDLORD shall not be liable to TENANT or any third party for any damage to said personal property unless caused by or due to negligence of LANDLORD, LANDLORD's agents or employees, subject to all limitations of Florida Statutes, Section 768.28.

ARTICLE VII
SIGNS

Signs will be of the design and form of letter to be first approved by LANDLORD. Sign wording will be per Exhibit "B" attached hereto and any changes will require written pre-approval of LANDLORD. The cost of any sign shall be paid by TENANT. All signs shall be removed by TENANT at termination of this Lease Agreement and any damage or unsightly condition caused to leased premises because of or due to said signs shall be satisfactorily corrected or repaired by TENANT, at Tenant's expense. All signs will comply with all applicable laws and regulations.

ARTICLE VIII
LANDLORD'S RIGHT OF ENTRY

LANDLORD or any of its agents shall have the right to enter said leased premises during all reasonable working hours, to examine the same or to make such repairs, additions, or alterations as may be deemed necessary for the safety, comfort, or preservation thereof. Said right of entry shall likewise exist for the purpose of removing placards, signs fixtures, alterations, or additions which do not conform to this Lease Agreement.

ARTICLE IX
PEACEFUL POSSESSION

Subject to the terms, conditions, and covenants of this Lease Agreement, LANDLORD agrees that TENANT shall and may peaceably have, hold, and enjoy the leased premises above described, with hindrance or molestation by LANDLORD.

ARTICLE X
SURRENDER OF LEASED PREMISES

TENANT agrees to surrender to LANDLORD, at the end of the term of this Lease Agreement or any extension thereof, said leased premises in as good condition as said leased premises were at the beginning of the term of this Lease Agreement, ordinary wear and tear and damage by fire and windstorm or other acts of God excepted.

ARTICLE XI
INDEMNIFICATION AND HOLD HARMLESS

TENANT shall indemnify and hold harmless the LANDLORD and its officers, employees, agents and instrumentalities from any and all liability, losses, or damages, including attorney fees and costs of defense, which the LANDLORD or its officers, employees, agents or instrumentalities may incur as a result of claims, demands, suits, causes of actions or proceedings of any kind or nature arising out of, relating to or resulting from the performance of the Lease Agreement by the TENANT or its employees, agents, servants, partners, principals or subcontractors. TENANT shall pay all claims and losses in connection therewith, and shall investigate and defend all claims, suits, or actions of any kind or nature in the name of the LANDLORD, where applicable, including appellate proceedings and shall pay all costs and judgments, and agrees that any insurance protection required by this Lease Agreement or otherwise provided by TENANT shall in no way limit the responsibility to indemnify, keep and save harmless and defend the LANDLORD or its officers, employees, agents and instrumentalities as herein provided.

ARTICLE XII
LIABILITY FOR DAMAGE OR INJURY

LANDLORD shall not be liable for any damage or injury which may be sustained by any party or person on the leased premises other than the damage or injury caused solely by the

negligence of LANDLORD, its officers, employees, agents, invitees, or instrumentalities, subject to all limitations of Florida Statues, Section 768.28.

ARTICLE XIII
SUCCESSORS IN INTEREST

It is hereby covenanted and agreed between the parties that all covenants, conditions, agreements, and undertakings contained in this Lease Agreement shall extend to and be binding on the respective successors and assigns of the respective parties hereto, the same as if they were in every case named and expressed.

ARTICLE XIV
CANCELLATION

Either party, LANDLORD, through its County Manager or his designee, shall have the right to cancel this Lease Agreement at any time by giving the other at least sixty (60) days' written notice prior to its effective date.

ARTICLE XV
OPTION TO RENEW

Provided this Lease Agreement is not otherwise in default, TENANT is hereby granted the option to extend this Lease Agreement for one (1) additional three (3) year renewal period upon the same terms and conditions, by giving LANDLORD notice in writing at least sixty (60) days prior to the expiration of this Lease Agreement or any extension thereof. Should TENANT neglect to exercise any extension option by the date specified above, TENANT's right to exercise shall not expire until thirty (30) business days after notice from LANDLORD of TENANT's failure to exercise the option.

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ARTICLE XVI
NOTICES

It is understood and agreed between the parties hereto that written notice addressed to LANDLORD and mailed or delivered to the Director, General Services Administration, 111 N.W. 1st Street, Suite 2460, Miami, Florida 33128-1907, shall constitute sufficient notice to LANDLORD, and written notice addressed to TENANT and mailed or delivered to the address of TENANT at Spring Garden Civic Association, Inc., c/o 1160 North River Drive, Apt. #6, Miami, Florida 33136, or such other address as each party shall designate to the other in writing, shall constitute sufficient notice to TENANT to comply with the terms of this Lease Agreement.

Notices provided herein in this paragraph shall include all notices required in this Lease Agreement or required by law.

ARTICLE XVII
INSURANCE

Prior to the start of this Lease Agreement, TENANT shall furnish to the Real Estate Management Section of Miami-Dade County, c/o General Services Administration, 111 N.W. First Street, Suite 2460, Miami, Florida 33128-1907, certificate(s) of insurance which indicate(s) that insurance coverage has been obtained which meets the requirements as outlined below:

A. Public Liability Insurance, in an amount not less than $300,000 combined single limit per occurrence for bodily injury and property damage. MIAMI-DADE COUNTY must be shown as an additional insured with respect to this coverage.

B. Automobile Liability Insurance, covering all owned, non-owned, and hired vehicles used in connection with the Lease Agreement in an amount not less than $300,000 combined single limit for bodily injury and property damage.

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Certificates will indicate that no modification or change in insurance shall be made without thirty (30) days written advance notice to the certificate holder. Compliance with the foregoing requirements shall not relieve TENANT of its liability and obligations under this Section or under the Indemnification and Hold Harmless Article, or any other portion of this Lease Agreement.

TENANT shall be responsible for assuring that the insurance certificates required in conjunction with this section remain in full force for the duration of this Lease Agreement. If insurance certificates are scheduled to expire during the term of the Lease Agreement, TENANT shall be responsible for submitting new or renewed insurance certificates to the LANDLORD at a minimum of thirty (30) days in advance of such expiration.

The above-stated amounts of liability insurance coverage shall be reviewed by the LANDLORD every five (5) years and LANDLORD shall have the right to increase said amounts of liability insurance in accordance and in conformity with like coverage required by Miami-Dade County of other tenants in similar circumstances.

ARTICLE XVIII
PERMITS , REGULATIONS

TENANT covenants and agrees that during the term of this Lease Agreement, TENANT will obtain any and all necessary permits and approvals and that all uses of the leased property will be in conformance with all applicable laws.

ARTICLE XIX
ADDITIONAL PROVISIONS

1. Mechanic's, Materialmen's and Other Liens

TENANT agrees that it will not permit any mechanic's, materialmen's or other liens to stand against the leased property for work or materials furnished to TENANT; it being provided,

however, that TENANT shall have the right to contest the validity thereof. TENANT shall immediately pay any judgment or decree rendered against TENANT, with all proper costs and charges, and shall cause any such lien to be released off record without cost to LANDLORD.

2. Non-Discrimination

The Board of County Commissioners declared and established as a matter of policy, by Resolution No. 9601 dated March 24, 1964, that there shall be no discrimination based on race, color, creed, or national origin, and Resolution No. 85-92 dated January 21, 1992, involving the use, operation, and maintenance of the property and facilities included in this Lease Agreement. TENANT agrees to comply with all State and Federal laws related to non-discrimination on the basis of race, color, creed, national origin or disability.

ARTICLE XX
WRITTEN AGREEMENT

This Lease Agreement contains the entire agreement between the parties hereto and all previous negotiations leading thereto, and it may be modified only by resolution approved by the Board of County Commissioners.

IN WITNESS WHEREOF, LANDLORD and TENANT have caused this Lease Agreement to be executed by their respective and duly authorized officers the day and year first above written.

(CORPORATE SEAL)

SPRING GARDEN CIVIC ASSOCIATION, INC., a Florida Non Profit Corporation

By: _____
Beverly Stappert, (TENANT)
President

_____
WITNESS M. IZA, J.D.

_____
WITNESS GIOIA DeCARLO

(OFFICIAL SEAL)

ATTEST:
HARVEY RUVIN, CLERK

By: _____
DEPUTY CLERK

MIAMI-DADECOUNTY, FLORIDA
BY ITS BOARD OF
COUNTY COMMISSIONERS

By: _____
Carlos Alvarez
County Mayor (LANDLORD)

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EXHIBIT A

Spring Garden Park Rules

1. The Spring Garden neighborhood park shall be available for public use daily from dawn to dusk.

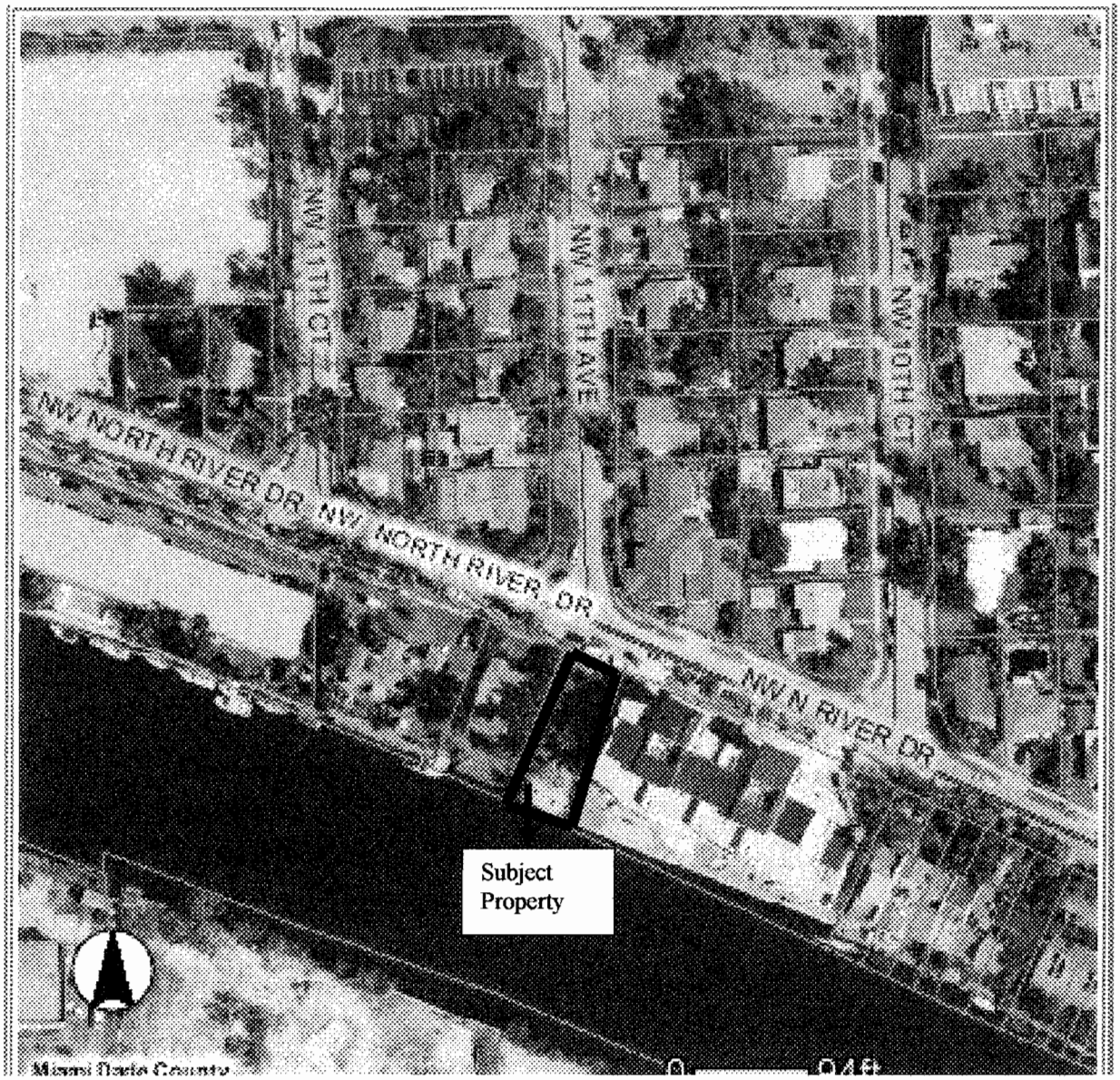
2. Special events may be scheduled by the Spring Garden Civic Association (SGCA) at any time. SGCA shall be responsible for clean-up and any costs associated with these events.

3. Other groups or private individuals may schedule uses for Spring Garden Park by prior approval of the SGCA consistent with its use as a neighborhood passive park. Deposits and fees may be required of these uses only to cover clean-up and other event-related expenditures.

EXHIBIT B

Park Sign Wording

Spring Garden Arnold Greenfield Park Hours: Dawn to Dusk

Exhibit "C"

1094 N.W. North River Drive