

MEMORANDUM

Agenda Item No. 11(A)(2)

TO: Honorable Chairman Jean Monestime
and Members, Board of County Commissioners

DATE: February 3, 2015

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

SUBJECT: Resolution declaring surplus
County-owned land located at
1280 NW 11th Street in the City
of Miami, Florida, authorizing
the conveyance of same to the
River Landing Conservation
Foundation, Inc., a Florida not-
for-profit corporation

The accompanying resolution was prepared and placed on the agenda at the request of Prime Sponsor Commissioner Bruno A. Barreiro.



R. A. Cuevas, Jr.
County Attorney

RAC/smm



MEMORANDUM

(Revised)

TO: Honorable Chairman Jean Monestime
and Members, Board of County Commissioners

DATE: February 3, 2015

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

SUBJECT: Agenda Item No. 11(A)(2)

Please note any items checked.

- "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
- Ordinance creating a new board requires detailed County Mayor's report for public hearing
- No committee review
- Applicable legislation requires more than a majority vote (i.e., 2/3's _____, 3/5's _____, unanimous _____) to approve
- Current information regarding funding source, index code and available balance, and available capacity (if debt is contemplated) required

Approved _____ Mayor

Agenda Item No. 11(A)(2)

Veto _____

2-3-15

Override _____

RESOLUTION NO. _____

RESOLUTION DECLARING SURPLUS COUNTY-OWNED LAND LOCATED AT 1280 NW 11th STREET IN THE CITY OF MIAMI, FLORIDA, AUTHORIZING THE CONVEYANCE OF SAME TO THE RIVER LANDING CONSERVATION FOUNDATION, INC., A FLORIDA NOT-FOR-PROFIT CORPORATION, FOR THE PURPOSE OF CREATION AND MAINTENANCE OF GREEN SPACE, SEAWALL, LANDSCAPING, LIGHTING AND A RIVERWALK OPEN TO THE PUBLIC, AS WELL AS INCIDENTAL PUBLIC FAIRS OR SHOWS FOR NO MORE THAN THIRTY TOTAL DAYS A YEAR, AND REQUIRING THE FOUNDATION'S EXPENDITURE OF A MINIMUM OF \$3,974,223.00 TO CREATE SUCH IMPROVEMENTS; WAIVING ADMINISTRATIVE ORDER 8-4 AS IT RELATES TO REVIEW BY THE PLANNING ADVISORY BOARD AND POLICY SET FORTH IN RESOLUTION NO. R-256-13 REQUIRING A LEASE RATHER THAN A DEED WHEN CONVEYING PROPERTY TO NOT-FOR-PROFIT ENTITIES UNDER FLORIDA STATUTE SECTION 125.38; AUTHORIZING THE CHAIRPERSON OR VICE-CHAIRPERSON OF THE BOARD TO EXECUTE A COUNTY DEED AND DECLARATION OF RESTRICTIONS FOR SUCH PURPOSE; AND AUTHORIZING THE COUNTY MAYOR OR COUNTY MAYOR'S DESIGNEE TO TAKE ALL ACTIONS NECESSARY TO ACCOMPLISH THE CONVEYANCE OF SAID PROPERTY

WHEREAS, The River Landing Conservation Foundation, Inc. (the "Foundation") is a Florida not-for-profit corporation which was organized for the community interest and welfare purpose of acquiring and improving land along the Miami River in order to enhance the Health District in the City of Miami; and

WHEREAS, the Foundation is seeking to participate in the City of Miami River Greenway Action Plan to provide walkways and green space along the Miami River in the Health District of the City of Miami for the benefit of the residents of Miami-Dade County; and

WHEREAS, the County owns property located at 1280 N.W. 11th Street in Miami, Florida (the "Property") which is not needed for County purposes; and

WHEREAS, the Foundation has applied to the County for the conveyance of the Property for the construction and maintenance of green space, a pedestrian walkway along the north bank of the Miami River, the creation of a seawall along the Miami River, and enhanced beautification, landscaping and lighting (the "Improvements") on the Property, and for the incidental use for public shows and fairs which shall be open to the public and shall not exceed a total period of thirty period (30) days per year; and

WHEREAS, the Foundation will use the Property to construct and maintain green space, pedestrian walkways, the seawall, landscaping and lighting at no cost to the County or its residents, in support of the community interest and welfare purposes for which it is organized; and

WHEREAS, the Foundation will also be permitted to use the Property for incidental public shows and fairs, for a total period of thirty (30) days per year, which shall be open to the public and serve the community interest and welfare; and

WHEREAS, the Property will be conveyed at no cost to the Foundation by a County Deed, in substantially the form attached as Exhibit "A," which will require the construction of the Improvements within three years, with potential extensions up to three additional years for the construction of the seawall if certain minimum conditions are met to be determined in the sole discretion of the County Mayor or County Mayor's designee; and

WHEREAS, the Foundation has executed a Declaration of Restrictions, attached as Exhibit "B" which requires the expenditure of a minimum of \$3,974,223.00 to create and maintain the Improvements, restricts the use and re-conveyance of the Property, and provides for a reverter at no cost to the County if such conditions are not met, to ensure compliance with the intent of this Board; and

WHEREAS, this Board finds that, pursuant to Section 125.38 of the Florida Statutes, the Property is required for such use and that the use intended would promote community interest and welfare; and

WHEREAS, in light of the nature of the proposed use as green space, walkways and seawall improvements in accordance with the City of Miami Greenway Action Plan, and the required expenditure of a minimum of \$3,974,223.00 as set forth in Exhibit "B," this Board waives the policy set forth in Resolution No. R-256-13 which requires a lease rather than a deed of conveyance when transferring property to a not-for-profit corporation under Section 125.38, Florida Statutes; and

WHEREAS, at the time of adoption of Resolution No. R-909-14 by the Board, this conveyance was in the stage of continuous and ongoing negotiation and therefore, such resolution would not apply to this conveyance,

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS OF MIAMI-DADE COUNTY, FLORIDA, that:

Section 1. This Board ratifies and adopts the matters set forth in the foregoing recitals.

Section 2. This Board approves the conveyance of the Property to the Foundation pursuant to Section 125.38 of the Florida Statutes, waives Administrative Order 8-4 as it relates to review by the Planning Advisory Board and the board policy set forth in Resolution No. 256-13, authorizes the Chairperson or Vice-Chairperson of the Board to execute the County Deed and Declaration of Restrictions in substantially the form attached as Exhibits "A" and "B," and authorizes the County Mayor or County Mayor's designee to take all actions necessary to effectuate this conveyance.

Section 3. Pursuant to Resolution No. R-974-09, this Board directs the County Mayor to first record the Declaration of Restrictions, followed by the County Deed, in the public records of Miami-Dade County, and to provide a recorded copy of these documents to the Clerk of the Board within thirty (30) days of their execution, and further directs the Clerk of the Board to attach and permanently store a recorded copy of the County Deed and Declaration of Restrictions together with this resolution.

Section 4. This Board directs the County Mayor or County Mayor's designee to appoint staff to monitor compliance with the terms of this conveyance.

The Prime Sponsor of the foregoing resolution is Commissioner Bruno A. Barreiro. It 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:

	Jean Monestime, Chairman
	Esteban L. Bovo, Jr., Vice Chairman
Bruno A. Barreiro	Daniella Levine Cava
Jose "Pepe" Diaz	Audrey M. Edmonson
Sally A. Heyman	Barbara J. Jordan
Dennis C. Moss	Rebeca Sosa
Sen. Javier D. Souto	Xavier L. Suarez
Juan C. Zapata	

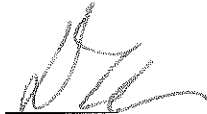
The Chairperson thereupon declared the resolution duly passed and adopted this 3rd day of February, 2015. This resolution shall become effective upon the earlier of (1) 10 days after the date of its adoption unless vetoed by the County Mayor, and if vetoed, shall become effective only upon an override by this Board, or (2) approval by the County Mayor of this Resolution and the filing of this approval with the Clerk of the 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.



Debra Herman

Instrument prepared by and returned to:
Robert Warren, Real Estate Advisor
Miami-Dade County, Internal Services Department
111 N.W. 1 Street, Suite 2460
Miami, Florida 33128-1907

Folio No. : 01-3135-037-0090

----- {(SPACE ABOVE THIS LINE RESERVED FOR RECORDING DATA) -----

COUNTY DEED

THIS COUNTY DEED, made this day of , 2015, by Miami-Dade County, Florida, a political subdivision of the State of Florida, party of the first part (the "County"), whose address is: Stephen P. Clark Center, 111 N.W. 1st Street, Suite 2460, Miami, Florida 33128, and the River Landing Conservation Foundation, Inc., (the "Foundation") a Florida not-for-profit corporation, party of the second part, whose address is: 283 Catalonia Avenue, Coral Gables, Florida 33134.

WITNESSETH:

That the said party of the first part, for and in consideration of the sum of Ten (\$10.00) Dollars, to it in hand paid by the party of the second part, receipt whereof is hereby acknowledged has granted, bargained and sold, except without the right to convey or assign, to the party of the second part, its successors and assigns forever, the following described lands lying and being in Miami-Dade County, Florida, (the "Property"):

LEGAL DESCRIPTION

TRACT 9 OF CIVIC CENTER SECTION ONE, according to the Plat thereof recorded in Plat Book 75, at Page 26, of the Public records of Miami-Dade County, Florida, including that parcel of land lying North of the Miami River and South and Southwesterly of Southerly right-of-way of NW 11 Street, as now laid out and in use.

Address: 1280 NW 11th Street, Miami, FL 33125
Folio No: 01-3135-037-0090

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This grant conveys only the interest of the County and its Board of County Commissioners in the Property herein described and shall not be deemed to warrant the title or to represent any statement of facts concerning the same. This grant is made solely for the public not for profit purpose of construction, maintenance and creation of sea wall improvements, pedestrian walkways and green space, enhancement, beautification, landscaping and lighting of the walkways along the banks of the Miami River and greenways along the north side of the Miami River according to the City of Miami Greenway Action Plan for the benefit of all Miami-Dade County residents for the non-profit use of the public, and for no other use and subject to the terms and conditions contained in the Declaration of Restrictions (the "Declaration") executed together with this Deed on _____.

If in the sole discretion of the County, the Property ceases to be used for these purposes by the Foundation, or the Foundation ceases to exist, or changes or loses its status as a not-for-profit corporation, or if the Foundation violates the terms contained in the Declaration, including but not limited to construction of the improvements or expenditure of funds set forth in Exhibits A and B of the Declaration, title to the Property shall revert to the County, at the option of the County under the terms set forth in the Declaration. In the event of such reverter, the Foundation shall immediately deed the Property back to the County, and the County shall have the right to immediate possession of the Property, with any and all improvements thereon, at no cost to the County. The effectiveness of the reverter shall take place after final notice is provided by the County, regardless of the deed back to the County by the Foundation. The County retains a reversionary interest in the Property, which right may be exercised by the County in accordance with this Deed or the Declaration. Upon such reversion, the County may file a Notice of Reversion evidencing same in the public records of Miami-Dade County.

[THE REMAINDER OF THIS PAGE WAS INTENTIONALLY LEFT BLANK]

[ONLY THE SIGNATURE PAGE FOLLOWS]

IN WITNESS WHEREOF Miami-Dade County has caused these presents to be executed in its name by its Board of County Commissioners acting by the Chairperson or Vice-Chair Person of said Board, the day and year aforesaid.

(OFFICIAL SEAL)

ATTEST:
FLORIDA

HARVEY RUVIN, CLERK

MIAMI-DADE COUNTY,

BY ITS BOARD OF
COUNTY COMMISSIONERS

By: _____
Deputy Clerk

By: _____

Approved for legal sufficiency: _____

The foregoing was authorized by Resolution No.: _____ approved by the Board of County Commissioners of Miami-Dade County, Florida, on the _____ day of _____, 2014.

This instrument was prepared by:
Robert Warren, Real Estate Advisor
Internal Services Department
Miami-Dade County
111 N.W. 1st Street, Suite 2460
Miami, Florida 33129

Folio No.: 01-3135-037-0090

(Space reserved for Clerk)

DECLARATION OF RESTRICTIONS

WHEREAS, Miami-Dade County (the "County") has approved the conveyance to the River Landing Conservation Foundation, Inc. (the "Foundation"), a Florida not-for-profit corporation, of real property located in the City of Miami, Florida, subject to the execution of this Declaration of Restrictions ("Declaration"), legally described as follows:

TRACT 9 OF CIVIC CENTER SECTION ONE, according to the Plat thereof recorded in Plat Book 75, at Page 26, of the Public records of Miami-Dade County, Florida, including that parcel of land lying North of the Miami River and South and Southwesterly of Southerly right-of-way of NW 11 Street, as now laid out and in use.

Address: 1280 NW 11th Street, Miami, FL 33125 (the "Property")
Folio No: 01-3135-037-0090

WHEREAS, the Foundation hereby acknowledges and agrees that this Declaration was an inducement and part of the consideration for the County to convey the Property to the Foundation.

NOW THEREFORE, in order to assure the County that the representations made by the Foundation will always be abided by, the Foundation, for sufficient consideration, makes the following Declaration covering and running with the Property.

The Foundation hereby agrees and stipulates as follows:

Permitted Use of the Property. The Property shall solely be used by the Foundation to: construct, maintain, and create pedestrian walkways on the boundary of the Property and to enhance, beautify, landscape and light the walkways along the banks of the Miami River, and to build, create and maintain sea-wall improvements and greenways along the north side of the

Miami River (collectively the "Improvements"), all of which shall be for such not for profit use by the public at no charge, consistent with all governmental regulations and according to the City of Miami Greenway Action Plan for the benefit of the public, and for no other use. No for-profit use shall be made of the Property. Notwithstanding the foregoing, incidental shows or fairs may be held on the Property provided that they shall be open to the public and limited to a total duration of thirty (30) total days per year. Construction of the Improvements, with the exception of the seawall as set forth herein, shall be completed, as evidenced by a final certificate of completion or its equivalent, within three (3) years of the conveyance of the Property. Solely with respect to the improvements to the seawall, such construction shall be completed, as evidenced by a final certificate of completion or its equivalent, within three (3) years of the conveyance of the Property; provided, however, that if the Foundation has applied and paid for all necessary permits, and through no fault or delay of the Foundation, the seawall has not been completed within the three year period, then the timeframe for completion may be extended by the County Mayor or the County Mayor's designee in one year increments for a total of three additional years, to be determined in the sole discretion of the County Mayor. Immediately following its completion, the Improvements shall continuously be maintained solely for the uses set forth in this section. Nothing in this Declaration, however, shall prevent the Foundation from modifying or updating the walkways or seawall to be consistent with any future modifications of the Miami River Greenway Action Plan. The Foundation shall maintain the Improvements along the boundary of the property consistent with all governmental regulations, including, but not limited to, the City of Miami standards for the Miami River and the State of Florida Inland Waterways regulations or standards.

As a minimum condition of this Declaration, in addition to any additional requirements set forth herein, the Foundation shall construct and create the improvements, and expend the funds on same, as set forth in Exhibits A and B, attached hereto and made a part hereof. Such construction, use, maintenance, and expenditure shall be a required and enforceable condition of this Declaration.

County Inspection and Right to Audit. It is hereby agreed that the County, or its duly authorized agents, shall have the right at any time to inspect the Property, or upon reasonable notice, the Foundation's financial and accounting records, maintenance records, or other corporate documents related to the construction or maintenance of the Improvements to determine whether the requirements herein are being fully complied with. Such records shall be made available within fifteen (days) of such request by the County.

Covenant Running with the Land. This Declaration shall constitute a covenant running with the land on the Property, and shall be recorded in the public records of Miami-Dade County, Florida, and shall remain in full force and effect and be binding upon the River Landing Conservation Foundation, and its subsidiaries, successors and assigns until such time as the same is modified, amended or released by mutual agreement with, and as evidenced by resolution of Miami-Dade County. The Foundation, its subsidiaries, successors and assigns, agree that acceptance of this Declaration is legally binding upon them, and does not in any way obligate or provide a limitation on the County.

Assignment, Lease or Subsequent Conveyance. The Foundation shall not assign, lease, or convey or transfer the Property, in whole or in part, to any person or entity without the prior written consent of Miami-Dade County Board of County Commissioners, which may be withheld in its sole and absolute discretion.

Modification, Amendment, Release. This Declaration may not be amended or released without the written consent of Miami-Dade County, in its sole and absolute discretion.

Authorization for Miami-Dade County to Reacquire the Property. In the event that the Improvements are not constructed as set forth herein, including but not limited to expenditure of the funds and/or construction of the improvements set forth in Exhibits A and B hereto within the time frame set forth herein, or the Foundation ceases to exist or changes or loses its status as a not-for-profit organization, or any of the terms of this Declaration are not complied with, the County shall provide thirty (30) days written notice to the Foundation to provide the Foundation an opportunity to cure the default ("Grace Period"). If after expiration of the thirty (30) day Grace Period, the Foundation has not remedied the default, as determined in the County's sole and absolute discretion, then at the option of the County and upon ten (10) days' written notice, the Property shall then immediately revert to the County, along with any and all improvements thereon, without cost or expense to the County. This right shall be in addition to any other remedy that the County may have herein and/or at law or in equity.

Election of Remedies. All rights, remedies, and privileges granted herein shall be deemed to be cumulative and the exercise of any one or more shall neither be deemed to constitute an election of remedies, nor shall it preclude the party exercising the same from exercising, at will, such other additional rights, remedies, or privileges.

Severability. Invalidation of any one of these covenants, by judgment of a court, shall not affect any of the other provisions which shall remain in full force and effect. However, if any material portion is invalidated, the County shall be entitled to reacquire the Property predicated upon the invalidated portion of this Declaration as a result of its reversionary interest in the Property.

Recording. This Declaration shall be filed on the date the Property is conveyed to the Foundation, with the Declaration filed first and then the Deed for the Property filed immediately thereafter. This Declaration shall become effective immediately upon recordation.

Acceptance of Declaration. The Foundation acknowledges that acceptance of this Declaration does not obligate Miami-Dade County in any manner, and does not entitle the Foundation to favorable approval of any application, zoning or otherwise, and that the County retains its full power and authority to any application, in whole or in part.

Incorporation of Recitals. The Foundation hereby agrees that the recitals in this Declaration are hereby true and correct, and are incorporated into this Declaration.

IN WITNESS WHEREOF, the representatives of the River Landing Conservation Foundation, Inc. have caused this Declaration to be executed by their respective and duly

authorized representative on this 23 day of December 2015, and they intend to be legally bound hereby to all of the terms and conditions of this Declaration.

River Landing Conservation
Foundation, Inc.
a Florida not-for-profit corporation

By: [Signature]

Name: Andrew Hellingner

Title: Director/President

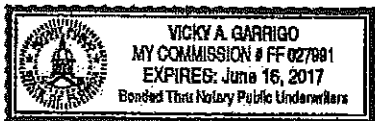
[Signature]
Witness/Attest:
Beatriz Plana
Witness/Attest:

STATE OF Florida

SS:

COUNTY OF Miami-Dade

The foregoing instrument was acknowledged before me this 23 day of December 2015, by Andrew Hellingner, of the River Landing Conservation Foundation, Inc., a Florida not-for-profit corporation, whose title is Director/Manager and s/he has produced _____ as identification.



(SEAL)

[Signature]
Notary Public-State of Florida
Commission Number: FF 027991

MIAMI-DADE COUNTY, FLORIDA,
a political subdivision of the State of
Florida by its Board of County
Commissioners

By: _____

Name: _____

Title: _____

ATTEST:

HARVEY RUVIN, CLERK

By: _____
Deputy Clerk

APPROVED FOR FORM AND LEGAL SUFFICIENCY

By: _____

Name: _____

Title: Assistant County Attorney

EXHIBIT "A"

Required Use and Construction on the Property by the River Landing Conservation Foundation, Inc.:

1. Creation of scenic and pedestrian walkways along the banks of the Miami River for use by the public.
2. Creation and improvement of the seawall along the boundary of the Property on the banks of the Miami River to prevent erosion of the land and to allow the building of the pedestrian walkways.
3. Enhanced beautification, landscaping and lighting of the boundary of the Property creating pedestrian walkways, greenway and riverwalk along the banks of the Miami River and below the SR 836 highway.
4. Creation of green space along the banks of the Miami River.
5. Construction of the pedestrian walkways, bicycle paths and supporting seawall along the length of the property all in conformity with the applicable zoning rules and regulations and all federal, state, county and municipal regulations, including, but not limited to the Miami Greenway Action Plan of April 2001 including its modifications and amendments according to any City of Miami ordinances and/or resolutions.
6. Construction of the itemized improvements on the Budget Estimate attached as Exhibit "B" to this Declaration.
7. The Foundation shall spend a minimum of \$3,974,223, as per the specifications of Exhibit "B," in site work, construction, utilities and maintenance for the Property.

EXHIBIT "B"

March 12th, 2013

River Landing County Parcel Alternate 1
MIAMI, FL

PRELIMINARY BUDGET ESTIMATE

Gross Site Area (SF): 94,000

River Landing County Parcel Alternate 1				
SPEC	DESCRIPTION OF WORK	QNTY	UNIT	TOTAL
SITE WORK & UTILITIES				
General Items				
	Surveying, Layout, & As-built	1	ls	25,000.00
	Sedimentation Control Fence	2,300	lf	5.00
	Turbidity Barrier	1,000	lf	25.00
	Construction Entrance	2	ea	5,000.00
	Construction Gates - 20'-0"	2	ea	1,200.00
	Truck Wash Station	1	ea	4,000.00
	Temporary Construction Fence w/ Screen	2,300	lf	12.60
	Maintain Temporary Construction Fence	310	mh	23.00
Demolition				
	Asphalt removal	70,000	sf	0.17
	Concrete curb removal	1,315	lnft	0.17
	Tree Removal/Clear & grub	94,000	sf	0.45
	Remove Light Poles/Foundations	5	ea	367.33
Earth Work				
	Strip Topsoil 0'-6" - Haul Offsite	1,741	cy	10.99
	Rough Grade Site	10,444	sy	1.63
Storm Drainage				
	Storm Drainage System	1	allow	20,000.00
Sanitary Sewer				
	Sanitary Sewer System			N/A
Water Distribution				
	Irrigation service	1	allow	10,000.00
Site Electrical				
	Lighting: Water's Edge	100	ea	2,000.00
	Lighting: Overhead	30	ea	4,000.00
Site Improvements				
	Replace existing sidewalk	12,400	sf	6.00
	Stamped concrete paving w/ wood element	28,000	sf	12.00
	12" Stabilized subgrade	2,889	sy	4.50
	4" Limerock base	2,889	sy	7.50
Seawall Improvements				
	Temporary sheet piling	800	lf	350.00
	Dewatering	1	allow	250,000.00
	Utility locales (Diver)	1	ls	15,000.00
	Maintenance of Traffic - Existing Roadway as Access	1	ls	10,000.00
	Sheet piling, concrete cap, batter piles at new sea wall	750	lf	1,300.00
	Limestone boulders lining new sea wall (Miami-Dade permit)	750	lf	136.00
	Bond for boulders, material only (Miami-Dade permit)	750	lf	90.00
Site Furnishings				
	Plainwell Benches-Wood/Metal-Git	12	ea	3,000.00
	Plainwell Trash Receptacles	15	ea	1,400.00
	Wayfinding signage	3	ls	5,000.00
	Metal Rolling	800	lnft	75.00
	Misc. FFE Designer	1	allow	75,000.00
Landscaping & Irrigation				
	Landscaping - Large Palms	25	ea	3,750.00
	Landscaping - Trees	40	ea	2,500.00
	Landscaping - Shrubs/Groundcover	850	ea	65.00
	Landscaping - Sod	70,500	sf	0.37
	Irrigation	94,000	sf	0.45
Subtotal Construction Costs				3,222,233
General Conditions & Mark Ups				
	General Conditions			400,000
	Insurance Program			40,000
	Payment & Performance Bond			32,000
	Design Contingency			0
	Construction Contingency		2%	80,000
	Construction Managers Fee		5%	200,000
Estimate Total:				3,974,233