



CITY OF MIAMI GARDENS CITY COUNCIL MEETING AGENDA

Meeting Date: June 9, 2010
1515 NW 167th St., Bldg. 5, Suite 200
Miami Gardens, Florida 33169
Next Regular Meeting Date: June 23, 2010
Phone: (305) 622-8000 Fax: (305) 622-8001
Website: www.miamigardens-fl.gov
Time: 7:00 p.m.

Mayor Shirley Gibson
Vice Mayor Aaron Campbell Jr.
Councilwoman Barbara Watson
Councilman André Williams
Councilman Melvin L. Bratton
Councilwoman Sharon Pritchett
Councilman Oliver G. Gilbert III
City Manager Dr. Danny O. Crew
City Attorney Sonja K. Dickens, Esq.
City Clerk Ronetta Taylor, MMC

City of Miami Gardens Ordinance No. 2007-09-115 requires all lobbyists before engaging in any lobbying activities to register with the City Clerk and pay an annual fee of \$250.00. This applies to all persons who are retained (whether paid or not) to represent a business entity or organization to influence “City” action. “City” action is broadly described to include the ranking and selection of professional consultants, and virtually all-legislative, quasi-judicial and administrative action. All not-for-profit organizations, local chamber and merchant groups, homeowner associations, or trade associations and unions must also register however an annual fee is not required.

- (A) CALL TO ORDER/ROLL CALL**
- (B) INVOCATION**
- (C) PLEDGE OF ALLEGIANCE**
- (D) APPROVAL OF MINUTES**
D-1) Regular City Council Minutes – May 12 , 2010
- (E) ORDER OF BUSINESS** (Items to be pulled from Consent Agenda at this time)

(F) SPECIAL PRESENTATIONS (5 minutes each)

- F-1) Yolanda Cash-Jackson, Esq. 2010 Legislative Session Update
- F-2) Mayor Gibson – Nick Kellergis of the American Red Cross of Greater Miami and the Keys
- F-3) Mayor Gibson, - Proclamation – Code Enforcement Week – June 7-11, 2010
- F-4) Chief Boyd - Police Department Monthly Report
- F-5) 2010 Waterway Slogan and Image Winners
- F-6) Myrtle Grove Elementary “Career Day” Certificate of Appreciation
- F-7) Miami Carol City Senior H.S. – Police Certificate of Appreciation Ms. McKinney

(G) PUBLIC COMMENTS

(H) ORDINANCE(S) FOR FIRST READING:

H-1) AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MIAMI GARDENS, FLORIDA, AMENDING SECTION 16 OF ORDINANCE 2005-10-48, TO INCREASE THE LOCAL PREFERENCE FROM FIVE PERCENT (5%) TO TEN PERCENT (10%); PROVIDING FOR THE ADOPTION OF REPRESENTATIONS; REPEALING ALL ORDINANCES IN CONFLICT; PROVIDING A SEVERABILITY CLAUSE; PROVIDING FOR INCLUSION IN CODE; PROVIDING FOR AN EFFECTIVE DATE. (SPONSORED BY MAYOR SHIRLEY GIBSON)

H-2) AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MIAMI GARDENS, FLORIDA, AMENDING ORDINANCE NO. 2007-26-132, REGULATING INTERSECTIONS DETERMINED TO BE DANGEROUS; PROVIDING FOR RECORDED IMAGE MONITORING AND ENFORCEMENT OF RED LIGHT TRAFFIC CONTROL SIGNALS CONSISTENT WITH CHAPTER 2010-80, LAWS OF FLORIDA (2010) (“THE MARK WANDALL TRAFFIC SAFETY ACT”); PROVIDING FOR ADOPTION OF REPRESENTATIONS; REPEALING ALL ORDINANCES IN CONFLICT; PROVIDING A SEVERABILITY CLAUSE; PROVIDING FOR INCLUSION IN CODE; PROVIDING FOR SAVINGS, RATIFICATION AND RESERVATION OF RIGHTS; PROVIDING AN EFFECTIVE DATE. (SPONSORED BY THE CITY MANAGER)

H-3) AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MIAMI GARDENS, FLORIDA, AMENDING SECTION 4 AND 15 OF ORDINANCE 2005-13-51, THE “PROPERTY MAINTENANCE” ORDINANCE TO INCLUDE REQUIREMENTS

FOR THE STORAGE OF SOLID WASTE RECEPTACLES; PROVIDING FOR THE ADOPTION OF REPRESENTATIONS; REPEALING ALL ORDINANCES IN CONFLICT; PROVIDING A SEVERABILITY CLAUSE; PROVIDING FOR INCLUSION IN CODE; PROVIDING FOR AN EFFECTIVE DATE. (COUNCILWOMAN BARBARA WATSON)

(I) ORDINANCE(S) FOR SECOND READING/PUBLIC HEARING(S)

I-1) AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MIAMI GARDENS, FLORIDA, AMENDING THE CITY'S CODE OF ORDINANCES TO PROHIBIT PAIN MANAGEMENT CLINICS FROM DISPENSING DRUGS ON-SITE; AMENDING SECTION 9-20 OF ORDINANCE NO. 2010-10-218 OF THE LAND DEVELOPMENT REGULATIONS ("LDRS"), TO PROHIBIT ON-SITE DISPENSING OF CONTROLLED SUBSTANCES AT MEDICAL OFFICES; AMENDING SECTION 10-30(DD) OF THE LDRS TO PROHIBIT MOBILE PAIN MANAGEMENT CLINICS; AMENDING APPENDIX "A" MASTER USE LIST AND USE DEFINITIONS OF THE LDRS TO INCLUDE DEFINITIONS FOR "PAIN MANAGEMENT CLINICS"; PROVIDING FOR ADOPTION OF REPRESENTATIONS; REPEALING ALL ORDINANCES IN CONFLICT; PROVIDING A SEVERABILITY CLAUSE; PROVIDING FOR INCLUSION IN CODE; PROVIDING AN EFFECTIVE DATE. (SPONSORED BY COUNCILMAN OLIVER G. GILBERT)

(J) CONSENT AGENDA

J-1) A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MIAMI GARDENS, FLORIDA, AUTHORIZING THE ISSUANCE OF A CHANGE ORDER IN AN AMOUNT NOT TO EXCEED THREE THOUSAND, EIGHT HUNDRED FORTY-THREE DOLLARS AND 60/100 CENTS (\$3,843.60) TO URS CORPORATION SOUTHERN FOR CONSTRUCTION AND ADMINISTRATION SERVICES FOR THE NORWOOD POOL PIPING REPLACEMENT PROJECT; PROVIDING FOR THE ADOPTION OF REPRESENTATIONS; PROVIDING AN EFFECTIVE DATE. (SPONSORED BY THE CITY MANAGER)

J-2) A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MIAMI GARDENS, FLORIDA, AUTHORIZING THE ISSUANCE OF A CHANGE ORDER IN AN AMOUNT NOT TO EXCEED FOURTEEN THOUSAND, FIVE HUNDRED AND SEVENTY-SIX

DOLLARS AND 46/100 CENTS (\$14,576.46) TO SK QUALITY CONTRACTOR, INC., FOR THE CONSTRUCTION OF THE NORWOOD POOL PIPING REPLACEMENT PROJECT; PROVIDING FOR THE ADOPTION OF REPRESENTATIONS; PROVIDING AN EFFECTIVE DATE. (SPONSORED BY THE CITY MANAGER)

- J-3) A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MIAMI GARDENS, FLORIDA, AWARDED A BID TO FG ATHLETICS, LLC, IN AN AMOUNT NOT TO EXCEED ONE HUNDRED SEVENTY-NINE THOUSAND, ONE HUNDRED DOLLARS (\$179,100.00), FOR FOOTBALL UNIFORMS; AUTHORIZING THE CITY MANAGER TO ISSUE A PURCHASE ORDER NOT TO EXCEED THIS AMOUNT; PROVIDING FOR THE ADOPTION OF REPRESENTATIONS; PROVIDING AN EFFECTIVE DATE. (SPONSORED BY THE CITY MANAGER)**
- J-4) A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MIAMI GARDENS, FLORIDA, CREATING THE VACANT/ABANDONED PROPERTY WATCH LIST PROGRAM; PROVIDING FOR DIRECTIONS TO THE CITY MANAGER; PROVIDING FOR THE ADOPTION OF REPRESENTATIONS; PROVIDING AN EFFECTIVE DATE. (SPONSORED BY COUNCILWOMAN BARBARA WATSON)**
- J-5) A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MIAMI GARDENS, FLORIDA, AUTHORIZING THE CITY MANAGER TO TAKE ANY AND ALL STEPS NECESSARY IN ORDER TO RECEIVE A GRANT FROM THE MIAMI-DADE COUNTY LANDSCAPE COMMITTEE IN THE AMOUNT OF ONE HUNDRED SIXTY-EIGHT THOUSAND, EIGHT HUNDRED EIGHTY DOLLARS (\$168,880.00), TO LANDSCAPE ALONG N.W. 183RD STREET FROM N.W. 27TH AVENUE TO N.W. 47TH AVENUE; AUTHORIZING A MATCH OF FUNDS; PROVIDING FOR THE ADOPTION OF REPRESENTATIONS; PROVIDING AN EFFECTIVE DATE. (SPONSORED BY THE CITY MANAGER)**
- J-6) A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MIAMI GARDENS, FLORIDA, AUTHORIZING THE CITY MANAGER AND THE CITY CLERK TO EXECUTE AND ATTEST, RESPECTIVELY, THAT CERTAIN AGREEMENT WITH FLORIDA ENGINEERING AND DEVELOPMENT CORP., ATTACHED HERETO AS EXHIBIT "A," FOR STORMWATER DRAINAGE IMPROVEMENT PROJECT FOR THE BUNCHE PARK AREA, IN AN AMOUNT NOT TO EXCEED ONE HUNDRED SIXTY-EIGHT THOUSAND, FIVE HUNDRED EIGHT**

DOLLARS (\$168,508.00); PROVIDING FOR INSTRUCTIONS TO THE CITY CLERK; PROVIDING FOR THE ADOPTION OF REPRESENTATIONS; PROVIDING AN EFFECTIVE DATE. (SPONSORED BY THE CITY MANAGER)

J-7) A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MIAMI GARDENS, FLORIDA, AUTHORIZING THE CITY MANAGER TO EXECUTE THAT CERTAIN AGREEMENT WITH ROCK POWER PAVING, INC., ATTACHED HERETO AS EXHIBIT "A," FOR THE N.W. 175TH/N.W. 12TH AVENUE STORMWATER WATER DRAINAGE PROJECT, IN AN AMOUNT NOT TO EXCEED ONE HUNDRED THOUSAND, NINE HUNDRED SEVEN DOLLARS (\$100,907.00), INCLUDING A TEN PERCENT (10%) CONTINGENCY; PROVIDING FOR THE ADOPTION OF REPRESENTATIONS; PROVIDING AN EFFECTIVE DATE. (SPONSORED BY THE CITY MANAGER)

J-8) A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MIAMI GARDENS, FLORIDA ADOPTING A "HOMEOWNER'S BILL OF RIGHTS" AS ATTACHED HERETO AS EXHIBIT "A"; PROVIDING FOR DIRECTIONS TO THE CITY MANAGER; PROVIDING FOR THE ADOPTION OF REPRESENTATIONS; PROVIDING AN EFFECTIVE DATE (COUNCILMAN OLIVER GILBERT)

(K) RESOLUTIONS

(M) REPORTS OF CITY MANAGER/CITY ATTORNEY/CITY CLERK

(N) REPORTS OF MAYOR AND COUNCIL MEMBERS

(O) WRITTEN REQUESTS, PETITIONS & OTHER WRITTEN COMMUNICATIONS FROM THE PUBLIC

(P) ADJOURNMENT

IN ACCORDANCE WITH THE AMERICAN WITH DISABILITIES ACT OF 1990, ALL PERSONS WHO ARE DISABLED AND WHO NEED SPECIAL ACCOMMODATIONS TO PARTICIPATE IN THIS MEETING BECAUSE OF THAT DISABILITY SHOULD CONTACT RONETTA TAYLOR, MMC, CITY CLERK (305) 622-8000 EXT./ 2750, NO LATER THAN 48 HOURS PRIOR TO SUCH PROCEEDINGS. TDD NUMBER 1-800-955-8771.

ANYONE WISHING TO OBTAIN A COPY OF ANY AGENDA ITEM MAY CONTACT RONETTA TAYLOR, MMC, CITY CLERK (305) 622-8000 EXT. 2750. THE ENTIRE AGENDA PACKET CAN ALSO BE FOUND ON THE CITY'S WEBSITE AT www.miamigardens-fl.gov.

ANYONE WISHING TO APPEAL ANY DECISION MADE BY THE CITY OF MIAMI GARDENS WITH RESPECT TO ANY MATTER CONSIDERED AT SUCH MEETING OR HEARING WILL NEED A RECORD OF THE PROCEEDINGS AND, FOR SUCH PURPOSE, MAY NEED TO ENSURE THAT A VERBATIM RECORD OF THE PROCEEDINGS IS MADE, WHICH RECORD INCLUDES THE TESTIMONY AND EVIDENCE UPON WHICH THE APPEAL IS TO BE BASED.

Becker-Poliakoff Corporate Park
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Fort Lauderdale, Florida 33312-6525
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June 3, 2010

Reply To:
Fort Lauderdale
Yolanda Cash Jackson, Esq.
Direct dial: (954) 985-4132
YJackson@becker-poliakoff.com

TO: Honorable Shirley Gibson
Honorable Aaron Campbell
Honorable Oliver Gilbert III
Honorable Barbara Watson
Honorable André Williams
Honorable Melvin Bratton
Honorable Sharon Pritchett

Re: 2010 City of Miami Gardens Legislative Session Report

Dear Honorable Mayor and City Councilmembers:

The 2010 Florida State Legislative Session ended Sine Die on April 30, 2010. The final act was the passage of the \$70.4 Billion Florida State budget. Going into the Session, the budget deficit was over \$3.2 Billion. In the end the deficit was closed using one time federal stimulus money (American Recovery Act), new revenue from the Seminole Compact, and sweeps of dozens of State Trust funds that were established for specific purposes.

During the 2010 Regular Session, we advocated and monitored bills that addressed the City's following legislative proposals:

Cultural Arts/Recreation and Open Space Program Funding

The City of Miami Gardens supports the preservation of state funding for cultural programs and recreation and opens space programs.

Update: Due to the anticipated budget shortfall for the following fiscal year, legislators we forced again to impose additional cuts to these programs. In fact, all areas of the budget faced an average budget reduction of 7% to prepare for future State budgets.

Home Rule

The City of Miami Gardens City Council opposes legislative efforts to interfere with the governance or administration of local government.

Update: We monitored legislation that would have pre-empted the City's governance and administration. We were successful in

**ITEM F-1) PRESENTATION
2010 Legislative Session Update**

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defeating legislation, HB 301, which would have pre-empted local regulation of locksmith services. We also worked with the League to stop legislation, SB 2282, which would have imposed a mandatory reduction of officials' salaries by 5% for the 2010-11 fiscal year. The legislation was never heard or filed in the House.

Municipal Memberships

The City of Miami Gardens City Council opposes any legislation that seeks to remove a municipality's ability to pay membership dues to organizations that assist in representing municipal interests before the Florida Legislature or any other unit of Federal, State, or local government.

Update: We continued to monitor for any legislation or amendments that would have addressed the City's concerns. During the 2010 Session, this legislation was not introduced.

Municipal Revenues

The City of Miami Gardens City Council opposes any legislative action that seeks to further limit or reduce local government revenues, including additional constitutional amendments.

Update: Local Governments, as in recent Sessions, were faced with a unfunded mandates and bills that threatened the governance of local municipalities. With our strong working relationship with the Florida League of Cities, we were able to defeat many of the bills that would have impacted the City. The biggest fight dealt with legislation sponsored by the Incoming Senate President, Senator Mike Haridopolos. He once again sponsored legislation limiting local government revenues and would have required voter approval of taxes and fees. The legislation, known as TABOR, was fought by our team and the League during the entire Session. It barely passed in one Senate committee and was never filed in the House. We anticipate this legislation will be filed again. In addition, we worked hard on stopping legislation that would have impacted the property tax revenues for the City. Two additional constitutional amendments, HJR 27 and SJR 1254, were proposed revising the annual assessments of property values and providing additional homestead exemptions. These measures would have once again crippled the City's revenues. The resolutions were opposed heavily by our team and a coalition of municipal representatives. We also expect additional resolutions to be filed again.

Pari-Mutuel Gaming

The City of Miami Gardens City Council supports passage of legislation creating parity with Indian gaming casino competitors in the nature of

regulatory requirements, taxation, or revenue sharing structures and competing product offerings.

Update: We successfully worked with legislators to pass a gaming compact that would provide funding to the State's Education budget and offers parity for the pari-mutuel industry. We helped to facilitate meetings and discussions with legislative leaders and officials from the gaming industry. Below is a comprehensive summary of the Gaming Compact passed on April 19, 2010 by the Legislature and signed into law by the Governor on April 28, 2010:

SB 622 - Gaming

Governor Crist signed the bill into law on April 28, 2010.

This bill addresses gaming in two major ways:

Seminole Tribal Compact

It ratifies the Compact executed between the Governor and the Seminole Tribe of Florida (the Tribe) on April 7, 2010, and requires the Governor to cooperate with the Tribe in seeking approval of the ratified Compact by the Secretary of the United States Department of Interior.

It also amends the Governor's authority to negotiate future tribal gaming compacts, as well as the procedures for transmitting such documents to the Legislature.

Pari-Mutuels

It changes the effective date of specific pari-mutuel provisions that were enacted in the 2009 Regular Session but which have not yet taken effect; it makes those provisions effective July 1, 2010.

The Ratified Compact (Compact)

Covered Games

The Compact grants the Tribe the right to offer Class III slots (Vegas-style slots) at their facilities in Broward and the exclusive right to offer Class III slots at their tribal facilities outside Broward and Miami-Dade. The Tribe would also have the exclusive right to offer banked card games at five of its seven tribal facilities, specifically its three facilities in Broward County, its facility in Collier County, and its facility in Hillsborough County. The tribe would receive the right to offer banked card games at its remaining facilities if the State authorizes banked card games for any person for any purpose, except for another federally-recognized tribe that has land in federal trust as of February 1, 2010. Additionally, the Tribe is granted the right to offer raffles and drawings and any new game authorized by Florida law for any person for any purpose.

Term of the Compact

The Compact grants the Tribe the right to operate slot machines for 20 years and the right to operate banked card games at its facilities in Broward, Collier, and Hillsborough Counties for the first 5 years of the Compact. If the Legislature does not affirmatively renew the banked card games, the Tribe must cease operating banked card games within 90 days of the expiration of the five-year term. If the

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Tribe does not cease operations, the State is entitled to seek immediate injunctive relief in court.

Tribal Payments

The Compact provides that the Tribe agrees to make payments to the State from the Tribe's net win in consideration of the substantial exclusivity accorded to the Tribe by the State. Net win is defined in the Compact to mean the "total receipts from the play of all covered games less all prize payouts and free play or promotional credits issued by the Tribe."

The Compact also provides that the State shall be reimbursed for the cost of regulation in an amount not to exceed a \$250,000 annual oversight assessment. Additionally, it requires the Tribe to contribute \$250,000 per facility per year to the Florida Council on Compulsive Gambling.

Finally, the Compact requires the Tribe to continue making payments to the State prior to the Compact taking effect so long as the Tribe continues operating Class III gaming and provides that moneys paid by the Tribe prior to the Compact going into effect are released by the Tribe without further obligation or encumbrance.

The Compact does not designate where revenue sharing is to be deposited; however, the bill directs their deposit into the General Revenue Fund (GR). The Compact specifies that 3 percent of the Tribe's revenue share payment to the State is to offset impacts to local government as provided by the Legislature. In accordance with the ratified Compact, the bill details a schedule for the distribution of 3 percent of the revenue share payment from GR to local government.

Exclusivity & Reduction of Revenue Sharing

Under the Compact, the tribal exclusivity is considered breached and tribal revenue sharing ceases if Florida law is amended or interpreted to authorize Class III gaming or "other casino style games" not in operation on February 1, 2010. The phrase "other casino style games" is defined to include slot machines, electronically assisted bingo or electronically assisted pull tab games, table games, and VLTs or similar games.

Under the Compact, if the discontinuance of revenue share provisions is triggered by legislative act or constitutional amendment (i.e., new gaming is authorized) then revenue sharing will cease when the newly authorized gaming begins. If the discontinuance of revenue share provisions are triggered by judicial ruling or administrative act and the new gaming begins, the Tribe will continue to make payments into an escrow account. The Legislature will have 12 months to act to remedy the breach of exclusivity. If the gaming is stopped or the Legislature makes the activity illegal, the moneys will be released to the State. If the Legislature fails to act or the gaming continues beyond 12 months, then the moneys will be released to the Tribe.

The Compact further provides exceptions that would not be considered a breach of exclusivity and, therefore, would not result in a complete discontinuance in revenue sharing. These exceptions include the operation of the following games or activities:

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Slot machines at the eight presently operating licensed pari-mutuel facilities in Broward and Miami-Dade Counties provided the licenses are not transferred or moved to operate slot machines at another location; Pari-mutuel wagering activities at pari-mutuel facilities licensed by the State; Poker, including no-limit poker, at card rooms licensed by the State; Lottery games of the type authorized by law and operated by the Florida Department of Lottery (DOL) as of February 1, 2010, excluding any: Player-activated or operated machines or devices *other* than up to a maximum of 10 electronic lottery vending machines at any one facility which dispense: Instant paper tickets (i.e., scratch-offs); Paper tickets where the winner is selected at a later drawing conducted by DOL; or Electronic instant tickets where a winning ticket is selected by touch screen; however, electronic instant ticket machines may not be installed at licensed pari-mutuel facilities. Banked or banking card or table games. Games authorized by ch. 849, F.S., as of February 1, 2010, which would include bingo, penny ante poker, dominoes, et cetera; A combined total of not more than 350 restricted Historic Racing Machines and restricted Electronic Bingo Machines, as authorized by law, at each pari-mutuel facility licensed as of February 1, 2010, except for pari-mutuel facilities in Broward County or Miami-Dade County; or Class III games authorized by a State compact with another federally-recognized tribe with land in federal trust in Florida as of February 1, 2010.

Therefore, additional exceptions in the Compact that would not trigger a complete discontinuance or cessation of revenue sharing but could have the effect of reducing revenue sharing payments.

Authorization of the following gaming activities could reduce revenue sharing payments under certain conditions:

Authorization of Class III or other “casino style games” (except slots) at the eight presently operating licensed pari-mutuel facilities in Broward and Miami-Dade Counties would entitle the Broward Tribal facilities to reduce their payments by an amount equal to 50 percent of any decline in their revenues. In addition, the Tribe would no longer be subject to paying the guaranteed minimums, but instead would make payments in accordance with the percentage revenue sharing schedule.

Authorization by law or constitutional amendment of any new Class III or other casino style games at a facility in Broward or Miami-Dade Counties—other than at any of the eight presently operating licensed pari-mutuel facilities in those counties—would trigger a cessation of the revenue share derived from the Broward tribal facilities. The Tribe would also be released from making the guaranteed minimum payments; however, they would still be obligated to make payments based on the percentage revenue sharing schedule and the net win generated from the Tribe’s facilities outside of Broward.

Authorization of Internet/online gaming by the State would relieve the Tribe from making the guaranteed minimum payments if the Tribe’s net win declines more than 5 percent. However, the Tribe would still be required to make payments based on the percentage revenue sharing

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schedule. Also, the Tribe would not be relieved from paying the guaranteed minimums if the Tribe itself engages in Internet gaming or the decline in Tribal net win is actually due to acts of God, war, terrorism, fires, floods or accidents causing damage to or destruction of one or more of the Tribe's facilities.

State Oversight and Independent Audits

Under the Compact, regulatory responsibility belongs to the Tribe; however, the State has an oversight role to ensure compliance with the Compact's terms. The Tribe is responsible for ensuring that facilities and covered games are operated in compliance with the Seminole Tribal Gaming Code, the rules, regulations, procedures, specifications and standards adopted by the National Indian Gaming Commission and the Compact. The bill statutorily designates the Division of Parimutuel Wagering of the Department of Business and Professional Regulation as the state agency to carry out oversight responsibilities. The Compact authorizes the State to conduct a random inspection each month which shall not last for more than two days or 10 hours, except when substantial noncompliance is discovered, and additional time is deemed necessary by the Department. There is an annual cap of 1200 on-site hours for all random inspections and audits across all facilities. Although the Department may have access to the public areas without notice, the Department must notify the Seminole Tribe Gaming Commission at the commencement of an inspection, and at least one-hour notice is required when the inspection will include non-public areas of the facility. Additionally, the State may secure an annual independent audit of the operation of covered games and the revenues connected with covered games.

Patron Disputes and Waiver of Immunity in Tort

Under the Compact, all patron disputes related to covered games will be handled pursuant to tribal policies in the Seminole Tribal Gaming Code. Workers' Compensation claims are handled in accordance with the Tribe's Worker's Compensation Ordinance.

A patron who is injured in a facility where covered games are played must provide written notice to the Tribe of the claim. The Tribe has 30 days to respond and begin to resolve the claim. If the Tribe does not respond, the patron may seek relief in any court of competent jurisdiction. If the Tribe does respond, they have a year to resolve the claim. After one year the patron may seek relief in any court of competent jurisdiction. Patron tort claims are subject to a 4-year statute of limitations, but the patron must give notice to the Tribe within 3 years of the incident or the claim is barred.

In the Compact, the Tribe waives its sovereign immunity for tort claims in the same levels waived by the State: up to a \$100,000 per person and \$200,000 per occurrence. The Tribe must maintain insurance coverage sufficient to pay covered claims made by patrons up to the immunity waiver limits. Patron claims against the Tribe or its subordinate governmental or economic units or agents must be made solely against the Tribe as the only party in interest.

State/Tribal Dispute Resolution

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The Compact provides that if either party believes the other has breached the terms of the Compact or a dispute otherwise arises, the party asserting noncompliance or seeking an interpretation shall notify the other party in writing. The State and the Tribe shall meet within 30 days of such notice to attempt to resolve any dispute. If the matter is not resolved, the parties must seek resolution through mediation;

however, the duration of the mediation is limited to no more than 60 calendar days, unless the parties negotiate an extension. If there is no resolution after mediation, the parties may seek relief in federal court. If the federal court declines to exercise jurisdiction or if precedent exists that denies a federal court jurisdiction over the matter, the parties may seek relief in state circuit court in Broward County.

The Tribe waives its sovereign immunity from suit under the Compact, but the waiver does not extend to any third party who is joined or intervenes. If a third party's participation would result in the waiver of sovereign immunity as to that third party, the Tribe may revoke its waiver of sovereign immunity entirely.

Amendment of the Compact or Tribal Rules & Regulations

The Compact states that any amendment of the Compact must be by "written agreement of the parties" subject to approval of the Secretary of the Interior; furthermore, any amendment that alters the provisions relating to the covered games, the amount of revenue payments, the suspension or reduction of revenue payments, or the exclusivity of gaming operations must be ratified by the Florida Legislature.

Miscellaneous

The Compact requires the Tribe to maintain a minimum payout of 85 percent per facility for slot machines. The Tribe must also provide non-smoking gaming areas at all facilities within five years. The Tribe must also maintain its programs related to prevent problem gaming, drunk driving and underage drinking.

The Pari-mutuel Provisions

The bill changes the effective date of certain pari-mutuel provisions that were enacted in the 2009 Extended Regular Session. The legislation made those provisions effective only if a Seminole gaming Compact was negotiated in accordance with the legislation, was ratified by the Legislature, and then approved at the federal level. Since those contingent events never occurred, the pari-mutuel provisions have not taken effect yet. The bill specifies July 1, 2010, as the date for them to take effect and removes the contingencies related to the approval of a gaming Compact.

The major pari-mutuel provisions enacted in the 2009 Extended Regular Session contained in ch. 2009-170, Laws of Florida, which this bill makes effective July 1, 2010, include:

Reducing the tax rate on slot machine revenue from 50 percent to 35 percent but requiring the payment of tax revenue in an amount no less than the amount collected in FY 2008-2009;

Gradually reducing the slot machine annual license fee from \$3 million to \$2 million;

Allowing for slot machines to be linked using a progressive system;

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Providing that the payout percentage of a slot machine facility shall be no less than 85 percent;
Authorizing Class III slot machines in a county that has had a referendum approving slots or has a referendum approving slots that was approved by law or the Constitution provided that such facility has conducted two years of racing and complies with other requirements for slot licensure;
Providing that an initial cardroom license shall not be issued unless the permitholder has a facility and has begun racing;
Allowing for the conduct of no limit poker in cardrooms;
Extending the hours of cardroom operation from 12 hours per day to 18 hours per day Monday through Friday and 24 hours per day Saturday and Sunday.
Gradually increasing the number of performances that comprise a full schedule of live racing for quarter horses;
Allowing quarter horse permitholders to run thoroughbred races up to 50 percent of the time;
Authorizing a quarter horse permit to convert to a limited thoroughbred permit;
Restricting quarter horse permit holders to a 35-mile lease restriction;
Authorizing a jai alai permit to convert to a greyhound permit if certain requirements are satisfied;
Streamlining regulatory procedures for the pari-mutuel industry by:
Changing the term "year" to FY instead of calendar year;
Requiring monthly payment of taxes instead of weekly payments beginning on July 1, 2012;
Providing a consistent definition of the term "conviction" for purposes of licensure;
Providing flexibility for occupational license renewal and fees;
Providing enhanced fingerprint regulations;
Expanding the current cruelty to animal prohibitions; and
Providing for greater flexibility in the payment of breeders' and stallion awards.

Proportionate Share of State Funding

The City of Miami Gardens City Council supports the Florida Legislature equalizing the proportionate share amount of funding provided to each jurisdiction from state funds based on population of each region in Florida.
Update: We worked with our Delegation members on this very important issue. In Tallahassee, Miami-Dade County is often referred to as a donor county. We will continue to work with our returning and new legislators to advocate for a more equitable allocation of state funds.

Red Light Cameras

The City of Miami Gardens City Council opposes legislation that seeks to limit a municipality's ability to impose civil penalties for traffic infractions related to red light running and/or restrict a municipality's ability to impose civil penalties for traffic infractions related to red light running and/or

restrict a municipality's ability to obtain Right of way permits for the installation of red light cameras with their jurisdiction.

Update: We successfully worked with the Senate and House sponsors, Senator Jeremy Ring and Representative Ron Reagan, to finally pass this legislation. Before Session began, we joined the League and a number of municipal interests to work on drafting the legislation. We also worked with the Deputy City Manager Renee Farmer and staff to provide the sponsors with language to improve the legislation. Our lobbying efforts were aided by providing legislators with the City's reports detailing the reduction of accidents as a result of the installing red light cameras. We were also faced with defeating legislation, HB 1235, that would have prohibited the use of red light cameras throughout the State. This legislation ultimately failed. Our red light cameras legislation passed during the final week of Session on April 27, 2010. It was then signed into law by the Governor on May 13, 2010. Below is a summary of the legislation:

HB 325 - Uniform Traffic Control

Governor Crist signed the bill into law on May 13, 2010.

The bill creates the "Mark Wandall Traffic Safety Act," expressly preempting to the state regulation of the use of cameras to enforce the provisions of ch. 316, F.S., and authorizing the Department of Highway Safety and Motor Vehicles (DHSMV), counties, and municipalities to use cameras to enforce violations of ss. 316.074(1) and 316.075(1)(c)1., F.S., for a driver's failure to stop at a traffic signal.

The bill defines a "traffic infraction detector" as a vehicle sensor and a camera, working in connection with a traffic control device, to record a series of images or video of motor vehicles failing to stop at an intersection. The detector must be capable of recording only the rear of the motor vehicle, and any notification or citation issued from a detector must show the license tag of the offending vehicle and the traffic control device.

The bill requires signage at intersections using traffic infraction detectors, and provides that traffic infraction detectors may not be used to enforce violations when the driver is making a right turn in a careful and prudent manner.

The bill provides processes regarding required notifications, the issuance of citations to registered owners of motor vehicles, and defenses available to vehicle owners. Notifications and citations must include the images indicating that the motor vehicle violated a traffic control device, and must offer a physical location or an Internet address where images or video may be reviewed. When a citation is issued, it may be challenged in a judicial proceeding in the same manner as other traffic violations. A contested citation upheld by the court may result in additional court costs and fees.

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The bill increases the penalty for any violations of s. 316.074(1) or S. 316.075(1)(c)1., F.S., from \$125 to \$158, regardless of the method of enforcement, and provides for distribution of revenue collected as follows. When a citation is issued by a law enforcement officer:

\$60 is distributed to local governments and to various law enforcement, healthcare, and other areas as provided in s. 318.21, F.S.;

\$65 is distributed to the Department of Health Administrative Trust Fund;

\$30 is distributed to the General Revenue Fund; and

\$3 is distributed to the Brain and Spinal Cord Injury Trust Fund.

When a notification or citation is issued by the Department of Highway Safety and Motor Vehicles:

\$100 is distributed to the General Revenue Fund;

\$10 is distributed to the Department of Health Administrative Trust Fund;

\$3 is distributed to the Brain and Spinal Cord Injury Trust Fund; and

\$45 is distributed to the local county or municipality in which the traffic infraction detector is located.

When a notification or citation is issued by a county or municipality:

\$70 is distributed to the General Revenue Fund;

\$10 is distributed to the Department of Health Administrative Trust Fund;

\$3 is distributed to the Brain and Spinal Cord Injury Trust Fund; and

\$75 is distributed to the local county or municipality in which the traffic infraction detector is located.

Points may not be assessed against a driver's license for infractions enforced by the use of a traffic infraction detector, and violations may not be used for purposes of setting motor vehicle insurance rates.

The bill provides a transitional period for those counties and municipalities instituting a traffic infraction detector program on or before July 1, 2011. These counties and municipalities may continue to use equipment acquired under an agreement entered into on or before July 1, 2011.

The bill provides that an individual may not receive a commission or per-ticket fee from any revenue collected from violations detected through the use of a traffic infraction detector, and provides that a manufacturer or vendor may not receive a fee or remuneration based upon the number of violations detected through the use of a traffic infraction detector.

Each governmental entity that operates a traffic infraction detector must submit an annual report to DHSMV which details the results of the detectors and the procedures for enforcement. DHSMV must subsequently submit an annual summary report to the Governor and Legislature. The report must include a review of the information submitted by the counties and municipalities and any recommendations or necessary legislation.

The bill provides a severability clause.

Water Surcharge Legislation

The City of Miami Gardens City Council supports legislation that seeks to reinstate limitations on utility rates charged outside municipal boundaries

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in counties with a population of more than 1.5 million as of the most recent decennial census.

Update: We worked with Representative Braynon and legislative staff to address the concerns with the legislation. The legislation was not heard during this Session. We are working with the Representative to address this issue with officials from both Cities.

Outdoor Advertising

The City of Miami Gardens City Council opposes PCB-10-03 relating to Outdoor Advertising.

Update: We successfully worked to defeat this proposed legislation that would removed the City's ability to establish sign ordinances. The bill was temporarily postponed in committee on February 3, 2010 and failed during Session.

Foreclosures

The City of Miami Gardens City Council expressed interest in legislation that dealt with housing and foreclosures.

Update: We worked with the League, Miami-Dade County, and other interests to help pass HB 665 during the 2010 Session. HB 665 would have removed the statutory limitation on documentary stamp revenue funds that would have generated more money fro affordable housing. The legislation eventually passed unanimous in the House on April 19, 2010. The Senate passed the bill but also added an amendment which the House refused to accept. The affordable housing legislation died as Session ended.

We worked with the Senate sponsor of HB 1523, which would have created an optional nonjudicial foreclosure process modeled on the Uniform Nonjudicial Foreclosure Act. We met with the Senate sponsor, Senator Bennett, to discuss the status of the bill. He explained to us that bill's passage relied on the banking industry's willingness to provide more notification to homeowners in foreclosure. The banking industry did not offer any compromise to the Senator's legislation. The foreclosure eventually died in committee during Session.

The following legislation did pass during the 2010 Session and was signed into law by the Governor on May 27, 2010:

HB 1411 - Foreclosures

Governor Crist signed the bill into law on May 27, 2010.

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It is common to borrow money and pledge an asset as security for a loan. If the loan is not timely paid, the creditor may take the property, sell it, and apply the proceeds of sale against the debt. Where personal property is pledged, a creditor has the option of judicial or nonjudicial process for taking the property and selling it. However, current law only allows for judicial process known as foreclosure to take a timeshare interest and sell it for the benefit of the creditor.

A timeshare is a vacation product that allows multiple persons to share ownership of a vacation property where each owner is entitled to use a vacation property for a short period of time each year.

Timeshare owners often pledge the timeshare interest, usually in order to pay the purchase price. All timeshare owners owe regular assessments to the managing entity to pay their share of the continuing expenses of operating the timeshare. Current law provides that the debt for regular assessments is a lien against the timeshare.

This bill provides a trustee process for the foreclosure of liens against timeshare interests. The bill creates separate but similar procedures for the foreclosure of liens based on unpaid assessments and for mortgage liens. Under either process, a trustee is appointed to give notice of the foreclosure to the owner and all other interested parties, conduct an auction sale, distribute the proceeds of the sale, and transfer title to the prevailing bidder. In either process, the timeshare owner may object to the trustee foreclosure process and may contest the foreclosure through a judicial process. A timeshare owner that does not object is not subject to a deficiency judgment.

This process is applicable to all timeshare interests in which a default in payment of assessments occurs after the effective date of the bill. In addition, the nonjudicial process is applicable only to mortgages that include specific language and that are executed after the effective date of the bill. A mortgage may be amended after the effective date of this bill to include the specific language allowing for trustee foreclosure.

The bill also requires a nonjudicial foreclosure fee and creates new third degree felony offenses applicable to a timeshare foreclosure trustee who intentionally fails to follow the required procedures.

LEGISLATION UPDATE

From a total of 2,680 bills filed, only 301 bills passed during the 2010 Legislative Session. We closely monitored legislation that would directly impact the City of Miami Gardens. Below, we have compiled a summary of bills that the City can review and share with the constituents.

ECONOMIC DEVELOPMENT

SB 1752 - Economic Development

Governor Crist signed the bill into law on May 28, 2010.

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To continue encouraging the state's economic recovery and position the state for the future, the bill addresses several key issues: business expansion and retention; focused incentives for the space and film industries; assisting small and medium-sized businesses; providing incentives to hire the unemployed; encouraging and assisting local governments, including rural areas, with business retention and recruitment; and regulatory streamlining.

Business Expansion and Retention:

Entertainment Industry Financial Incentive Program

The bill creates a five-year, \$242 million transferable tax credit incentive program for Florida's film and entertainment industry. Generally, the credits are 20 percent of qualified expenditures, with additional amounts available in certain circumstances. The bill allows a wide range of production types to qualify.

Examples include motion pictures, television series, television pilots, and digital media projects. The bill provides that credits awarded may be used to offset corporate income tax or sales and use tax liabilities.

However, tax credits awarded may not be claimed for any tax period beginning before July 1, 2011, regardless of when the credits are applied for or awarded.

The total amount of tax credits authorized under this bill is \$53.5 million for FY 2010-11, \$74.5 million for FY 2011-12, and \$38 million per year for FYs 2012-13, 2013-14, and 2014-15.

Space Industry The bill appropriates \$29.8 million to Space Florida, including \$13.6 million to address financing, business development, and infrastructure needs; \$3.2 million for workforce development assistance; \$3 million for targeting and recruitment of new space-based enterprises. The bill also provides flexibility with a previous appropriation for space infrastructure needs.

Qualified Target Industry Tax Refund Program

The bill enhances the incentives provided through the Qualified Target Industry Tax Refund program by providing \$2,000 per-job tax refunds for high-impact businesses or businesses that increase exports of goods through Florida seaports or airports, and a \$1,000 per-job tax refund for businesses receiving matching support from a local government. In addition, the Office of Tourism, Trade, and Economic Development is authorized to waive wage requirements for new manufacturing jobs.

High Impact Performance Incentive Grants

The bill revises the High Impact Performance Incentive Grants to increase their effectiveness. The eligibility threshold for high impact businesses is reduced to a cumulative investment in the state of at least \$50 million and, at minimum, the creation of 50 new full-time jobs, which may qualify a business for a total performance grant of \$500,000 to \$1 million. The qualifying amount required for research and development facilities is also reduced from \$75 million and 75 jobs, to at least \$25 million and 25 new full-time jobs, which may qualify a business for a total performance grant of \$700,000 to \$1 million.

Quick Action Closing Fund

The bill appropriates \$15 million to the Quick Action Closing Fund contingent upon the enactment of federal law extending the enhanced Federal Medicaid Assistance Percentage (FMAP) rate. Further, the bill streamlines the Quick

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Action Closing Fund approval process by allowing projects proposed at \$2 million or below to be approved by the Speaker and President in consultation with the Governor and through the 14 day budget amendment consultation process. Project awards over \$2 million will continue to require approval by the Legislative Budget Commission.

Sales Tax on Boats

The bill caps sales tax on boats at \$18,000.

Fractional Aircraft

The bill caps the tax on purchase of a fractional aircraft share at \$300.

Additionally, the bill provides a tax exemption for aircraft purchased for use in large fractional aircraft programs.

Small and Medium-Sized Businesses:

Research Commercialization Matching Grant Program

The bill creates the Research Commercialization Matching Grant Program and provides \$3 million in grants to assist small businesses seeking federal research and development funding. These state matching grants will help Florida small businesses compete with other states for research and development funds available from federal agencies through the Small Business Innovation Research and Small Business Technology Transfer programs. Phase I grant applicants may receive up to \$50,000 per award, and Phase II grants up to \$250,000.

Early Stage Seed Capital

Through the State University Research Commercialization Assistance Grant Program, the bill dedicates \$2 million to increase commercialization of products and technologies that emerge from research taking place at state universities in Florida.

Export Finance

The bill provides \$4.9 million (\$2 million contingent upon the enactment of federal law extending the enhanced Federal Medicaid Assistance Percentage (FMAP) rate) in access to capital to assist Florida small businesses in completing short-term export sales transactions.

Economic Gardening

The bill authorizes \$2 million (\$1 million contingent upon the enactment of federal law extending the enhanced Federal Medicaid Assistance Percentage (FMAP) rate) to continue the Economic Gardening Pilot Program. The program assists qualified companies by providing specific services such as market information, leadership development, and assistance in digital media applications.

Manufacturing Machinery and Equipment

The bill provides for a two-year sales tax refund program for spaceport and manufacturing businesses.

The current sales tax exemption for machinery and equipment (M&E) used in an expanding spaceport or manufacturing business is modified by relaxing the method of measuring "expanding output" to make it easier to qualify. Further, the bill provides for refunds for M&E purchases in excess of amounts spent in 2008 by spaceport and manufacturing businesses, beginning July 1, 2010. Refunds, which are capped at

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\$50,000 per business in a single year will be allocated on a first-come, first-served basis. The total amount available for the refund is \$19 million in FY 2010-11, and \$24 million in FY 2011-12. The program will be administered by the Office of Tourism, Trade, and Economic Development.

Assistance to Florida Residents:

Jobs for the Unemployed Tax Credit

The bill authorizes a first-come, first-served, Jobs for the Unemployed Tax Credit. The program provides \$10 million in total tax credits over the next two FYs to any new or existing qualified targeted industry business that hires a new employee who is unemployed. Businesses are eligible for a \$1,000 tax credit for hiring persons unemployed at least 30 days, and that person would have to work at least 36 hours

per week for at least 12 months before the business could claim the tax credit.

Preference for Florida Residents

The bill requires public construction contractors to provide a preference in hiring Florida residents.

Florida Homebuyer Opportunity Program

The bill extends the Florida Homebuyer Opportunity Program to July 1, 2011.

The extension of this program is contingent on the U.S. Congress reauthorizing the state-assisted federal program that expired April 30, 2010.

Regulatory Streamlining:

Permit Extension

The bill provides a two-year extension of permits issued by local governments, the Department of Environmental Protection, or a water management district that expire between September 1, 2008, and January 1, 2012.

Online Self-Certification

The bill directs the Department of Environmental Protection to expand the use of online self certification for certain exemptions and permits. A local government may not specify the method or form for documenting that a project qualifies for an exemption or meets the requirements for a permit under chs. 161, 253, 373, or 403, F.S. This limitation of local government authority extends to Internet based department programs that provide for self-certification.

Local Government Delegation

The bill creates a process for the Governor and Cabinet to review local government delegation requests that have been denied by the Department of Environmental Protection for environmental resource permitting.

Reenact Provisions of Chapter 2009-96, LOF

The bill protects those actions taken in good faith under the law created by SB 360 during the 2009 legislative session (ch. 2009-96, LOF) by reenacting the provisions relating to permit extensions, DRI exemptions, and comprehensive plan amendments relating to transportation concurrency exception areas.

Underground Fuel Tanks

The bill extends the date by which certain fuel service station facilities must upgrade their fuel tanks.

These facilities must be in compliance with Department of Environmental Protection standards by September 30, 2011.

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Local Government:

Local Government Reporting of Economic Development Incentives

In order to better assess the state's economic development efforts, the bill requires local governments to report annually to the Legislature on their economic development incentives.

Economic Development Ad Valorem Tax Exemption

The bill allows local governments to extend economic development ad valorem tax exemptions in 10-year increments. This provision is subject to referendum for each 10-year period.

Admissions Tax

The bill re-enacts an admissions tax exemption for certain events sponsored by government and nonprofit entities. Further, the bill provides an admissions tax exemption for certain professional sporting events if such events are held in the state.

Spring Training Franchises

The bill directs the Office of Tourism, Trade, and Economic Development (OTTED) and its partners to develop a strategic plan to help guide the future of spring training baseball in Florida. In addition, the bill expands the scope of the incentive, which is currently restricted to "retained" spring training franchises that were based in Florida prior to 2000, to include any spring training franchise. This allows the incentive to be used by local communities to attract Arizona-based teams to Florida, should additional state funding become available. It also recognizes the validity of an agreement certified under the existing spring training provisions of law and the continued release of funding by OTTED for a certified applicant under the current law governing spring training franchises.

Beach Restoration

The bill provides an appropriation of \$1 million nonrecurring funds from the General Revenue Fund to the Department of Environmental Protection for beach restoration.

Local Government Matching Grants

The bill funds a \$3 million local government matching grants program which provides a 50-percent match of local government expenditures, up to \$50,000, that are used to attract and retain businesses in Florida.

Defense Infrastructure Grants

The bill authorizes \$4 million (\$2 million contingent upon the enactment of federal law extending the enhanced Federal Medicaid Assistance Percentage (FMAP) rate) in Defense Infrastructure Grants to local communities for support projects associated with Florida's military installations.

Regional Rural Development Grants Program

The bill authorizes economic development organizations to use regional rural development matching grants to provide technical assistance to businesses located in rural counties and communities.

Miscellaneous:

Sales Tax Exemption

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The bill exempts from sales tax on rental of commercial property any percentage-based rental by persons providing certain telecom services at civic centers or public meeting places in public lodging establishments.

Enterprise Zones

For condominiums, the bill eliminates the enterprise zone building materials sales tax exemption.

Aircraft

The bill allows temporary visits to Florida by aircraft owners without triggering sales and use tax liability on the aircraft.

Office of Tourism, Trade, and Economic Development

The bill creates and funds one position in the Office to administer the provisions of the bill that affect the Office.

Studies:

The bill requires the Office of Program Policy Analysis & Government Accountability to conduct reviews of the Enterprise Zone Program and the Research Commercialization Matching Grant Program.

HB 7109 - Tax Refund Program for Qualified Target Industry Businesses

Governor Crist signed the bill into law on May 27, 2010.

The tax refund program for qualified target industry (QTI) businesses was designed to encourage the recruitment or creation of higher-paying, higher-skilled jobs for Floridians. The QTI program awards eligible businesses tax refunds on certain state or local taxes. The amount of the refund awarded is based on the wages paid, number of jobs created, and where in the state the eligible business chooses to locate or expand. The minimum is \$3,000 per employee over the term of the incentive agreement signed by the business and the Governor's Office of Tourism, Trade, and Economic Development (OTTED). The bill makes the following changes to the QTI program to increase its efficiency and maximize its value, including: extending the program until June 30, 2020; creating a definition of return on investment; allowing leased employees to be included in the job count; directing OTTED to begin a review of terminated QTI projects to determine the reason for termination; requiring a review of the targeted industry list every three years in cooperation with economic development partners and universities; extending to 2012 the date by which QTI businesses may request economic recovery extensions; and exempting renewable-energy economic development projects from the requirement that qualified target industries must be independent of Florida resources and markets. Unless reenacted by the Legislature, the QTI program sunsets on June 30, 2010.

HB 7033 - Unemployment Compensation

Governor Crist signed the bill into law on March 2, 2010.

Businesses are responsible for the cost of unemployment compensation and fund it through payments into the Unemployment Compensation (UC) Trust Fund

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for any employees the business has laid off. Due to the severe downturn in the economy and insolvency of the UC Trust Fund, UC tax rates were set to rise dramatically. To provide temporary relief from these tax increases, the bill suspends the positive adjustment tax rate factor for the next two years, amends portions of the UC statutes, and suspends changes made in the 2009 Legislative session.

The bill reduces the taxable wage base from \$8,500 to \$7,000 for two years. In 2012, the wage base returns to \$8,500, and then reverts back to \$7,000 in 2015 unless there are outstanding loan balances owed to the federal government. The bill allows employers to pay UC for 2010 and 2011 in quarterly installments, and provides for payment of interest on federal advances through an employer assessment. Tax payments to the UC Trust Fund will be reduced by an estimated \$942 million in FY 2009-10 and \$934 million in FY 2010-11. However, this will result in greater borrowing from the federal government to pay benefits, and more interest due to the federal government than under current law.

The bill also provides for an extension of the "State Extended Benefits" (EB) program, effective January 2, 2010, through February 27, 2010. The federally funded program will cover up to 8 additional weeks for claimants, which could affect an estimated 15,000 Floridians. The total cost to state and local governments to implement EB is approximately \$612,633. (See CS/CS/SB 1736 for a further extension of the State Extended Benefits program.)

The bill appropriates \$903,642 to the Department of Revenue and \$643,862 to the Agency for Workforce Innovation for FY 2009-10 to implement the act.

The bill was effective upon becoming law March 2, 2010, except as otherwise provided, applied retroactively to June 29, 2009, and was codified as ch. 2010-1, Laws of Florida.

SB 1736 - Unemployment Compensation

Governor Crist signed the bill into law on May 17, 2010.

The bill makes several changes to laws related to unemployment compensation.

Temporary State Extended Unemployment Compensation Benefits

The bill extends temporary state extended benefits from February 27, 2010 through June 2, 2010. The extension will fund up to 14 additional weeks of benefits for claimants. Under this federal extension, temporary state extended benefits for former private sector employees are 100 percent federally funded (approximately \$128.1 million). Approximately 107,000 Floridians will be eligible to receive additional weeks through this extension.

Extended benefits for former state and local government employees do not qualify for federal funding and must be paid by the governmental entity. The cost is estimated to total \$3.6 million, of which approximately \$1.1 million is from state funds and \$2.6 million from local government funds.

Reemployment of Unemployment Compensation Claimants

To better link claimants with the state's job bank system and available job opportunities, the bill requires an unemployed person seeking benefits to register with the workforce information system (Employ Florida Marketplace) as part of

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the process for filing a claim. Claimants are also required to report to their local one-stop employment center.

Employer Response to Notice of Claim

When a claim for unemployment is first filed with the Agency for Workforce Innovation (AWI), employers of record are sent a notice of claim and an initial monetary determination of the amount of the claim. The bill requires employers to timely respond to the notice of claim within 20 days. Failure to respond will result in those benefits being charged to the employer's account. A claimant would not be required to repay any overpayments due to the employer's failure to respond, so long as there is no fraud involved. Such efforts may reduce overpayments to unemployed individuals, and in turn, reduce the burden of socialized costs on all employers' unemployment compensation tax rates.

Unemployment Compensation Trust Fund Trigger

The bill changes the trust fund balance date for the adjustment factor calculation from June 30 to September 30, which is closer to the beginning of the year to which the tax calculation applies.

Unemployment Compensation Tax Administration

This bill includes several statutory changes that may improve tax administration and improve the Department of Revenue's (DOR) enforcement of UC tax laws such as updating enforcement provisions related to delinquent UC tax collections by conforming Florida's UC tax liens to federal law, and imposing reasonable disincentives on businesses that routinely submit erroneous, incorrect or incomplete quarterly reports to DOR, or that fail to comply with the current law to submit the information in the required format.

The bill also makes changes recommended by the Division of Statutory Revision including amending s. 443.141, F.S., to update a reference to the federal bankruptcy act, and amending s. 443.1715, F.S., to replace a reference to the former Florida Department of Labor and Employment Security.

PROPERTY ASSESSMENTS

HB 7179 - Qualifying Improvements to Real Property

Governor Crist signed the bill into law on May 27, 2010.

Qualifying Improvements to Real Property

This legislation creates s. 163.08, F.S., providing supplemental authority to local governments regarding qualifying improvements to real property. Specifically, the bill authorizes a property owner to voluntarily enter into a financing agreement with a local government, which is defined in the bill as a county, a municipality, or a dependent special district, for the purpose of providing financing for qualifying improvements to residential, commercial, or industrial property. A local government may also partner with one or more local governments for the purpose of providing and financing qualifying improvements.

A "qualifying improvement" includes any:

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Energy conservation and efficiency improvement, which is a measure to reduce consumption through conservation or more efficient use of:

- Electricity;
- Natural gas;
- Propane; or
- Other forms of energy on the property.

Renewable energy improvement, which is the installation of any system in which the electrical, mechanical, or thermal energy is produced from a method that uses one or more of the following fuels or energy sources:

- Hydrogen;
- Solar energy;
- Geothermal energy;
- Bioenergy; or
- Wind energy.

Wind resistance improvement, which includes, but is not limited to:

- Improving the strength of the roof deck attachment;
- Creating a secondary water barrier to prevent water intrusion;
- Installing wind-resistant shingles;
- Installing gable-end bracing;
- Reinforcing roof-to-wall connections;
- Installing storm shutters; or
- Installing opening protections.

A qualifying improvement must be affixed to a building or facility that is part of the property. Any work requiring a license must be performed by a properly certified or registered contractor, pursuant to Part I or Part II of ch. 489, F.S. The program does not cover wind resistance improvements in buildings or facilities under new construction.

Under the program, the local government would provide the upfront funding for the qualifying improvement project through proceeds of revenue bonds or other lawful debt, which would be repaid through voluntary non-ad valorem assessments on participating property owners' tax bills.

Without the consent of the mortgage holder or loan servicer, the total amount of any non-ad valorem assessment for a property cannot exceed 20 percent of the just value of the property, as determined by the county property appraiser.

However, if an energy conservation and efficiency or a renewable energy qualifying improvement is supported by an energy audit, the amount financed is not limited to 20 percent if the audit demonstrates that the annual energy savings from the qualified improvement equals or exceeds the annual repayment amount of the assessment.

The local government may enter into a financing agreement only with the record owner of the property and this agreement or a summary memorandum of the agreement must be recorded in the public records of the county within five days after the agreement is executed. The recorded document must give constructive notice that the assessment to be levied on the property constitutes a lien of equal dignity to county taxes and assessments.

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The bill provides that, at least 30 days before entering into the financing agreement, the property owner must provide notice to the mortgage holder or loan servicer of the intent to enter into the agreement, the maximum amount to be financed, and the maximum annual assessment that will be required to repay the amount. The property owner must provide proof to the local government that this notice has been provided to the holders of the mortgage or loan.

The bill provides that "A provision in any agreement between a mortgagee or other lienholder and a property owner, or otherwise now or hereafter binding upon a property owner, which allows for acceleration of payment of the mortgage, note, or lien or other unilateral modification solely as a result of entering into a financing agreement as provided for in this section is not enforceable." However, the bill recognizes that the mortgage holder or loan servicer may increase the required monthly escrow by an amount necessary to annually pay the qualifying improvement assessment.

The bill requires a participating local government to follow the uniform method for the levy, collection, and enforcement of non-ad valorem assessments, enumerated in s. 197.3632, F.S., which requires a resolution by the local government, public hearings, published notices in the newspaper, and individual mail notices to property owners informing them of the assessment and their right to attend a public hearing. Under current law, the special assessment process must be initiated prior to January 1 of each year. The bill provides an exception to the provisions in s. 197.3632, F.S., allowing the process to start on or before August 15, if the property appraiser, tax collector, and local government agree. For purposes of bond repayment, the bill prohibits an early payment discount for the non-ad valorem assessment.

The bill provides that the authority is additional and supplemental to county and municipal home rule authority.

Loan Guaranty Program

The bill amends statutory provisions creating the Florida Development Finance Corporation (FDFC) (ss. 288.9602-288.9610, F.S.) and conforms cross-references to allow for the state's participation in the U.S. Department of Energy's 1705 Guaranteed Loan Program (s. 406 of the American Recovery and Reinvestment Act of 2009), which provides federal government loan guarantees for certain renewable energy systems, electric transmission systems, and leading edge biofuels projects.

The bill changes the definition of the term "guaranty fund" from the "Revenue Bond Guaranty Reserve Account" to the "Energy, Technology, and Economic Development Guaranty Fund," and authorizes the FDFC to issue revenue bonds or other evidence of indebtedness for the purpose of financing capital projects which promote economic development within the state. Specifically, the bill authorizes the FDFC to:

Finance the undertaking of any project within the state that promotes renewable energy as defined in s. 377.803 or s. 366.91, F.S.;

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Finance the undertaking of any project within the state that is a project contemplated or allowed under s. 406 of the American Recovery and Reinvestment Act of 2009; or

If permitted by federal law, finance qualifying improvement projects within the state, pursuant to s. 163.08, F.S.

The bill allows the FDFC to accept funds from the state, a county, or other public agency. The bill authorizes the FDFC to guarantee debt service payments for bonds or other indebtedness and limits these guarantees to no more than five percent of the total aggregate principal amount of bonds or other indebtedness relating to any one capital project. It specifically authorizes the FDFC to use moneys deposited in the guaranty agreement fund to satisfy requirements to obtain federal loan guarantees for capital projects authorized under the section. It requires that all policies, procedures, and regulations of the program that are used in conjunction with the federal program comply with the federal requirements. The bill deletes obsolete language relating to the State Transportation Trust Fund with regard to the FDFC.

Energy Economic Zone Pilot Project Study

The bill directs the Department of Community Affairs (DCA) and the Office of Tourism, Trade, and Economic Development (OTTED), in consultation with the Florida Energy and Climate Commission, to

make recommendations to the Governor, the Senate President, and the Speaker of the House of Representatives regarding appropriate incentives and statutory revisions necessary to provide the Energy Economic Zone Pilot Program (pilot program) communities with tools for accomplishing the goals of the program, which is established in s. 377.809, F.S. The deadline for the recommendations is February 1, 2011, and must include consideration of:

Fiscal and regulatory incentives;

A jobs tax credit and a corporate property tax credit; and Refunds and exemptions from sales and use taxes.

The bill directs the DCA and the OTTED to coordinate with the pilot program communities and clean technology industries to help attract those industries and investments to the state.

Renewable Energy

The bill adds "electrical energy produced using pipeline-quality synthetic gas produced from waste petroleum coke with carbon capture and sequestration" to the definition of "renewable energy" in s. 366.91, F.S.

HB 965 - Real Property Assessment

Governor Crist signed the bill into law on June 1, 2010.

The bill requires property appraisers to take into consideration the presence of tainted imported or domestic drywall in single family residential properties and the impact it has on the assessed value. If the tainted drywall was used in construction of, or improvements to, the home and it has a significant negative impact on the just value of the property or improvement to the property, the

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appraiser must adjust the assessed value. In addition, the purchaser must have been unaware of the presence of the tainted drywall at the time of purchase. If the building cannot be used for its intended purpose without remediation or repair, the value of the building shall be \$0.

Imported or domestic drywall covered in this act is defined as drywall that contains elevated levels of elemental sulfur that results in corrosion of certain metals.

If the affected property is homestead property, it will not be considered abandoned if the owner vacates the property during repairs and does not establish a new homestead.

The bill contains a provision that the law will be repealed on July 1, 2017, unless reviewed and reenacted by the Legislature before that date.

HB 927 - Real Property

Governor Crist signed the bill into law on May 26, 2010.

The Florida Constitution contains a provision that limits the assessment of homestead properties for property tax purposes. The provision is commonly referred to as Save Our Homes (SOH). Under SOH, annual increases in valuation for tax purposes on homestead property are limited during the period that a person maintains the homestead exemption. However, upon a change in ownership, the valuation must be increased to full value for tax purposes. Current law provides that certain types of real property transfers, including transfers between legal and equitable title, are not considered a change in ownership that would require an increased valuation when, subsequent to the transfer, the same person is entitled to the homestead exemption as was previously entitled.

Individuals commonly transfer their homestead from legal ownership to various forms of equitable ownership as part of their estate planning. This bill provides that transfers between different forms of equitable title are similarly not considered a change in ownership. Also, a transfer to a certain form of long-term leasehold interest will not be considered a change in ownership.

Similar to Save Our Homes, current law limits increases in property tax assessments applicable to property that is not homestead property. Because a change in ownership is not apparent when only ownership interests in a business entity are transferred, current law requires business entities to notify the property appraiser upon the sale of a majority interest in a business entity. This bill requires the Department of Revenue to create a standard notification form, provides that a recorded deed serves as the required notice, and provides that a cumulative sale of a majority of the stock of a publicly traded stock is not considered a change in ownership unless such sale is part of a merger or acquisition.

HB 1279 - Assessment of Property for Back Ad Valorem Taxes

Governor Crist signed the bill into law on May 12, 2010.

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The bill provides that the requirement to assess and collect for three years of back ad valorem taxes, if such taxes may have been lawfully assessed and have not been collected, is not applicable if:

The owner of a building, structure or improvement that has not been previously assessed complied with all necessary permitting requirements when the improvement was completed; or

The owner of real property voluntarily discloses to the property appraiser the existence of the property before January 1 of the year the property is first assessed.

PROPERTY INSURANCE

SB 2044 - Insurance

Governor Crist vetoed the bill into law on June 1, 2010.

This bill makes numerous changes to insurance laws, primarily property insurance laws. Specifically, the bill makes the following changes:

Florida Hurricane Catastrophe Fund

Exempts medical malpractice insurance from assessments levied by the Florida Hurricane Catastrophe Fund for another three years, until May 31, 2013.

Surplus for Property Insurance Companies to Maintain an Insurance License

Increases surplus for residential property insurance companies licensed after July 1, 2010 to maintain an insurance license from \$4 million to \$15 million; and Increases surplus for residential property insurance companies licensed before July 1, 2010 to maintain an insurance license from \$4 million to \$15 million over a ten-year period.

Additional Regulation of Residential Property Insurance Companies by the Office of Insurance Regulation (OIR)

Provides the OIR with additional regulatory authority to require residential property insurance companies to provide financial information to the OIR regarding the insurer's business with affiliates and to provide a risk-based capital plan to the OIR if the insurance company loses more than 15 percent of surplus on any quarterly or annual financial report or cumulatively for the calendar year.

OIR Regulation of Affiliates

Allows domestic property insurance companies to enter into management agreements, service contracts, and cost-sharing arrangements with affiliates only if the insurer gives notice to the OIR and the OIR does not disapprove the agreement, contract, or arrangement within a specified time period.

Managing General Agents

Allows the OIR to examine all managing general agents as if they were the insurer.

Annual Statement Preparation by Insurance Companies

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Prohibits any insurer from using the same accountant or partner of an accounting firm to prepare the insurer's audited financial report for more than five consecutive years.

Crop Insurance

Changes how certain crop insurance is included in the calculation of an insurance company's writing ratio.

Exemption from Examination for Customer Representative Licensure

Exempts applicants from the examination required for licensure as a property insurance customer representative if the applicant is designated a Certified Insurance Representative from the National Association of Christian Catastrophe Insurance Adjusters.

Public Adjusters

Provides specific statements that are deceptive or misleading if the statements are contained in advertising or solicitation of public adjusters such that if a public adjuster uses these statements in advertising or solicitation, the adjuster commits an unfair and deceptive trade practice;

Requires any written advertisements by public adjusters to contain a specific disclaimer in bold print and capital letters in a specific typeface that identifies the advertisement as a solicitation for business;

Specifies certain actions a public adjuster and an insurance company must take in residential property and condominium unit owner property insurance claims, primarily relating to inspection of the damaged property, meeting with the policyholder, and notifying the insurance company of the claim;

Requires continuing education in claims adjusting for public adjuster apprentices;

Specifies additional contents for public adjuster contracts;

Adds a fee cap of 20 percent of the claim payment obtained on reopened or supplemental residential and condominium unit owner claims involving public adjusters; and

Forbids contractors from adjusting property insurance claims but allows contractors to submit bids to the policyholder to repair or replace damaged property.

Timeframe for Filing A Property Insurance Claim

Requires a notice of an initial, supplemental, or reopened personal lines residential property insurance claim resulting from windstorm or a hurricane event to be filed with the insurance company within three years after the hurricane first made landfall or the windstorm caused the damage which forms the basis of the claim; and

Precludes the timeframe for filing a property insurance claim from affecting any statute of limitations applying to initial, supplemental, or reopened claims.

Insurance Company Report Card

Requires the Insurance Consumer Advocate to publish a report card each year setting forth a letter grade for each personal residential property insurance company based on valid consumer complaints and other specified information.

OIR Action Relating to Insurance Agent Costs

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Prohibits the OIR from directly or indirectly interfering in an insurance company's payment of specified costs to their insurance agents, acquisition of policyholders, advertisement, or appointment of insurance agents.

Use and File Rate Filing

Extends the prohibition on use of a "use and file" rate filing for one more year, to December 31, 2011 (from December 31, 2010).

Expedited Rate Filing

Allows more types of costs than under current law to be included in an expedited rate filing – any reinsurance costs, costs for financing products used to replace reinsurance, and an inflation trend factor can be included, rather than only reinsurance costs and costs related to the Florida Hurricane Catastrophe Fund; Deletes the current prohibition against including any expense or profit load in costs included in an expedited rate filing;

Keeps current law limiting the use of an expedited rate filing by an insurance company to once every 12 months;

Limits the expedited rate filing to increasing premiums a maximum of ten percent per policyholder in a policy year, but allows the premium to increase more than ten percent if the additional increase is due to coverage changes made by the policyholder or due to surcharges on the policy; and

Requires the OIR to annually publish an inflation trend factor for residential property insurance for use in an expedited rate filing.

Medical Malpractice Insurance Language Repeal

Repeals obsolete language requiring the OIR to establish a presumed factor for the impact the 2003 medical malpractice law changes would have on medical malpractice insurance and requiring medical malpractice insurance companies to submit a rate filing reflecting a rate decrease at least as great as the presumed factor; and Repeals current law requiring the OIR to allow medical malpractice insurance companies to adjust medical malpractice rates if any provision of the 2003 medical malpractice law changes are invalidated by a court.

Actuarial Certification of a Property Insurance Rate Filing

Provides the actuarial certification of an initial property insurance rate filing is not rendered false if the insurance company provides additional or supplementary information to the rate filing at the request of the OIR.

Mitigation Discounts

Allows debits (i.e. surcharges) for property that is not mitigated;

Allows a property insurance company to raise its base rates if the company's aggregate amount of mitigation discounts reduces the company's revenue in an amount that exceeds the company's reduction in aggregate loss expected from the mitigation features and includes legislative intent relating to the issue; and Repeals the requirement that mitigation discounts be correlated with the uniform home grading scale.

Uniform Mitigation Verification Form (Mitigation Discount Form)

Allows home inspectors with certain training in hurricane mitigation to sign the mitigation discount form;

Allows insurance companies to accept a mitigation discount form signed by any person with qualifications and experience acceptable to the insurance company;

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Requires mitigation discount forms to be signed only by those who personally inspect the home for the existence of mitigation features, except contractors are authorized to allow direct employees to inspect a home;

Prohibits misconduct in completing the mitigation discount form or conducting the inspection and defines misconduct;

Allows the licensing board of the inspector to discipline the inspector if misconduct occurs;

Allows discipline of the supervising contractor for the misconduct of a direct employee if a direct employee of a contractor does the inspection;

Requires any fraud relating to a mitigation discount inspection and the completion of a mitigation discount form to be reported to the Division of Insurance Fraud with immunity from liability given to the person reporting the fraud;

Requires the Division of Insurance Fraud to issue an investigative report if the Division of Insurance Fraud finds probable cause of intentional mitigation inspection fraud;

Requires the Division of Insurance Fraud to notify the OIR and the licensing agency of the mitigation inspector if a finding of probable cause of mitigation inspection fraud is made; and

Allows insurance companies to require mitigation inspection forms be independently verified before accepting the mitigation discount form as valid.

Website for Property Insurance Comparison

Requires the OIR to implement a website for property owners to compare various information about property insurance companies and property insurance products if an appropriation is given to the OIR for the website; and

Appropriates \$263,200 in nonrecurring funds and \$47,500 in recurring funds from the Insurance Regulatory Trust Fund and one FTE to the OIR for the website.

Citizens Property Insurance Corporation (Citizens)

Changes the name of the "high risk account" in Citizens to the "coastal account";

Directs the Division of Statutory Revision to prepare a reviser's bill next Session changing the term "high risk account" to "coastal account" to conform with the changes in the bill;

Requires a Citizens Policyholder Surcharge to be paid upon cancellation, termination, or renewal of an existing Citizens' policy or upon issuance of a new Citizens' policy within 12 months after the surcharge levy or within the period of time needed to fully collect the surcharge;

Requires Citizens to fully levy the Citizens Policyholder Surcharge before levying a regular assessment;

Makes members of the Citizens Board of Governors exempt from the conflicting employment or contractual relationship provisions for public officers and agency employees;

Requires members of the Citizens Board of Governors to abstain from voting on any measure before the Board that would provide the member a gain or loss, would provide the member's principal with a gain or loss, or would provide a family member or business associate of the member a gain or loss. Provides procedures to be followed when a voting abstention occurs; and

Extends for two years (until December 1, 2012) the time period Citizens has to reduce its 100-year probable maximum loss or be required to reduce its wind-only coverage area.

Notice of Nonrenewal or Cancellation

Allows Citizens to give 45 days' notice of nonrenewal, rather than the notice of nonrenewal under current law (generally, 100 days' notice), if the policyholder's property insurance policy issued by Citizens is being assumed by a private insurance company; and Allows property insurance companies to give 45 days' notice of nonrenewal or cancellation, rather than the notice of nonrenewal or cancellation under current law (generally, 100 days' notice), if the OIR finds the insurer's policy count needs to be reduced to protect the best interests of the public or policyholders, in part, because of the inadequate financial condition of the insurance company.

Changing Insurance Policy Terms

Allows insurance companies to change the terms of an insurance policy by providing notice to the policyholder of the change of policy terms with the policy renewal notice.

Replacement Cost Coverage

For partial dwelling losses insured for replacement cost: requires the policyholder to be paid actual cash value up front less the applicable deductible with the remaining amount (up to the replacement cost) paid as the repair/replacement work is done pursuant to a repair contract.

Prohibits the policyholder from being required to advance any moneys for repair by the insurance company, the contractor, or the subcontractor, but requires the policyholder to pay any incidental expenses to mitigate further damage to the dwelling. Allows the policyholder one year after actual cash value is paid to make a claim for replacement cost;

For total dwelling losses insured for replacement cost: requires the policyholder to be paid full replacement cost (i.e., policy limits) up front and does not require the policyholder to rebuild the dwelling to obtain such payment; and

For partial or total personal property losses insured for replacement cost: maintains current law, meaning the policyholder is paid replacement cost up front whether or not the policyholder repairs or replaces the personal property.

Time Period for Insurance Company to Pay Property Insurance Claims

Clarifies insurance companies must pay or deny an initial or supplemental property insurance claim within 90 days of receipt of notice of the claim and maintains the same exceptions under current law.

LOCAL GOVERNMENT

HB 1157 - Local Government Prompt Payment Act

Governor Crist signed the bill into law on May 26, 2010.

The bill revises provisions in Florida's Local Government Prompt Payment Act relating to the timely payment for purchases of construction services, the

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notification and completion of the list of items required to satisfactorily complete the construction services purchased by a local government (generally known as a “punch list”), and the resolution of disputes.

The bill requires local governments to provide notification to contractors to facilitate the payment for construction services. The local government must provide notification of:

The person or office to which a contractor should submit payment requests or invoices;

The date the local government will provide a single punch list of items to be completed;

The dispute resolution process to be used in the event of a disputed payment request or invoice;

A payment request or invoice rejected as improper, due in writing within 10 days of receipt; and

A payment request or invoice rejected for failure to meet contract requirements, due within 20 business days of receipt of the payment request or invoice.

The bill requires that a single punch list be compiled by the local government.

The bill provides that the final contract completion date must be at least 30 days after the delivery of the punch list. If the punch list is not provided to the contractor by the agreed upon date for delivery, the contract time for completion is extended by the number of days the local government exceeded the delivery date. In addition, damages may not be assessed against a contractor for failing to complete a project within the time required by the contract, unless the contractor failed to do so within the contract period as extended.

Under this bill, items not included in the punch list may not be used to withhold final payment of retainage. Unless the local government has provided a written notice specifying the failure of the contractor to meet contract requirements in the development of the punch list, the final, undisputed retainage payment is due within 20 business days after receipt of a proper invoice or payment request, less any amount withheld for incomplete or uncorrected work.

The bill provides that contractors may trigger a four-business-day response by local governments by issuing a notice that the local government is overdue on a payment or has failed to begin dispute resolution within the timeframes provided by law or contract.

This bill removes language related to court proceedings, which broadens the ability of the prevailing party to be awarded court costs and attorney's fees.

SB 2060 - Sovereign Immunity

Governor Crist signed the bill into law on April 27, 2010.

Sovereign immunity is a doctrine that prohibits lawsuits against the government without the government's consent.

In 1973, the Florida Legislature enacted a limited waiver of sovereign immunity in s. 768.28, F.S. This section provides that the state and its agencies and subdivisions shall be liable for tort claims in the same manner and to the same

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extent as a private individual under like circumstances. The statute imposes a \$100,000 limit per person and a \$200,000 limit per incident on the collectability of any tort judgment based on the government's liability.

The bill amends s. 768.28(5), F.S., to raise the limited waiver of sovereign immunity applicable to the state, its agencies, and subdivisions from \$100,000 per individual claim and \$200,000 per aggregate claims to \$200,000 per individual claim and \$300,000 per aggregate claim on the collectability of any tort judgment.

The effective date of this bill is October 1, 2011.

PUBLIC SAFETY

HB 11 - Crimes Against Homeless Persons

Governor Crist signed the bill into law on May 12, 2010.

Currently, s. 775.085, F.S., provides that the penalty for any felony or misdemeanor offense must be reclassified if the commission of the offense evidences prejudice based on the race, color, ancestry, ethnicity, religion, sexual orientation, national origin, mental or physical disability, or advanced age of the victim. This is commonly known as the "hate crime" statute.

HB 11 provides that the penalty for any felony or misdemeanor offense must be reclassified if the commission of the offense evidences prejudice based on the homeless status of the victim.

HB 33 - Selling, Giving, or Serving Alcoholic Beverages to Persons Under 21 Years of Age

Governor Crist signed the bill into law on May 12, 2010.

Section 562.11(1)(a)1., F.S., provides a second degree misdemeanor penalty for a person who sells, gives, serves, or permits to be served alcoholic beverages to a person under 21 years of age or permits a person under 21 years of age to consume such beverages on the premises of an alcoholic beverage licensee. CS/HB 33 amends s. 562.11(1)(a)1., F.S., to make a second or subsequent violation of the statute a first degree misdemeanor if committed within one year of a prior conviction.

The bill creates a complete defense for any person charged with a violation of s. 562.11(1)(a), F.S., if:

The buyer or recipient of the alcoholic beverage falsely evidenced that he or she was 21 years of age or older;

The appearance of the buyer or recipient was such that a prudent person would believe him or her to be 21 years of age or older; and

The person carefully checked the buyer or recipient's identification card, acted in good faith and relied upon the representation and appearance of the buyer or recipient in the belief that the buyer or recipient was 21 years of age or older.

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HB 119 - Sexual Offenders and Predators

Governor Crist signed the bill into law on May 26, 2010.

HB 119 creates restrictions for a person convicted of an offense listed in the sexual offender statute where the victim was under the age of 18 as follows: The bill makes it a first degree misdemeanor if a person convicted of such an offense commits loitering or prowling within 300 feet of a place where children were congregating;

The bill makes it a first degree misdemeanor for a person convicted of such an offense to knowingly approach, contact or communicate with a child under 18 years of age in any public park building or on real property comprising any public park or playground with intent to engage in conduct of a sexual nature or to make a communication containing content of a sexual nature;

The bill also makes it a first degree misdemeanor for a person convicted of such an offense to:

Knowingly be present in any child care facility or pre-K-12 school or on real property comprising any child care facility or pre-K-12 school when the child care facility or school is in operation unless the offender has provided written notification of his or her intent to be present to the school board, superintendent, principal or child care facility owner;

Fail to notify the child care facility owner or the school principal's office when he or she arrives and departs the child care facility or school; or

Fail to remain under the direct supervision of a school official or designated chaperone when present in the vicinity of children.

CS/CS/HB 119 adds a definition of the term "transient residence" to the sexual predator and sexual offender registration statutes and requires an offender to provide information regarding his or her transient residence during the registration process.

The bill specifies that an offender may not be forced to move if he or she is living in a residence that complies with the statutory sex offender residency restrictions and a child care facility, park, playground or school is subsequently established within 1,000 feet of the offender's residence.

The bill specifies that a person convicted of s. 827.071, F.S. (sexual performance by a child), may be considered for removal of the requirement to register as a sexual offender or sexual predator if the person was no more than four years older than the victim and the victim was at least 14 years of age.

The bill prohibits offenders on supervision for specified sexual offenses from visiting schools, child care facilities, parks and playgrounds without prior approval of the offender's supervising officer. The bill also prohibits such offenders from distributing candy to children on Halloween, wearing specified costumes, or entertaining at children's parties without prior approval of the sentencing authority.

SB 150 - Athletic Coaches

Governor Crist signed the bill into law on May 26, 2010.

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SB 150 requires an independent sanctioning authority to annually conduct a background screening of each current and prospective athletic coach of an independent youth athletic team. Such a screening must be conducted by searching a coach's name against federal and state registries of sexual predators and sexual offenders available via the Internet.

The bill requires the sanctioning authority to disqualify any athletic coach or prospective coach appearing in either registry. The bill requires the sanctioning authority to provide, within 7 business days following the background screening, written notice to the person disqualified advising him or her of the results of the background check and of disqualification. The independent sanctioning authority must maintain documentation of the results of each person screened, and the written notice of disqualification provided to each person disqualified.

In any civil suit brought against an independent sanctioning authority for harm caused by the intentional tort of an athletic coach that relates to alleged sexual misconduct, the bill creates a rebuttable presumption that the independent sanctioning authority was not negligent in authorizing the athletic coach if the sanctioning authority complied with the background screening requirements prior to authorizing a person to act as an athletic coach.

The Legislature encourages sanctioning authorities to participate in the Volunteer and Employee Criminal History System program authorized under the National Child Protection Act and s. 943.0542, F.S.

SB 768 - Luis Rivera Ortega Street Racing Act

Governor Crist signed the bill into law on June 3, 2010.

Section 316.191(2)(a), F.S., provides that a person may not:

Drive any motor vehicle, including any motorcycle, in any race, speed competition or contest,

drag race or acceleration contest, test of physical endurance, or exhibition of speed or acceleration or for the purpose of making a speed record on any highway, roadway, or parking lot;

In any manner participate in, coordinate, facilitate, or collect moneys at any location for any such race, competition, contest, test, or exhibition;

Knowingly ride as a passenger in any such race, competition, contest, test, or exhibition; or

Purposefully cause the movement of traffic to slow or stop for any such race, competition, contest, test, or exhibition.

A person who violates s. 316.191(2)(a), F.S., commits a first degree misdemeanor. In addition, the person must pay a fine of not less than \$500 and not more than \$1,000, and the person's driver license is revoked for one year. A person who commits a second violation of this section within five years after the date of a prior violation that resulted in a conviction commits a first degree misdemeanor, must pay a fine of not less than \$500 and not more than \$1,000, and the person's driver license is revoked for two years.

CS/SB 768, entitled the "Luis Rivera Ortega Street Racing Act," increases the amount of the fine a person who commits a second violation of 316.191(2), F.S.,

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within five years of a prior violation must pay to not less than \$1,000 and not more than \$3,000. The bill provides that a person who commits a third or subsequent violation within five years of the date of a prior violation must pay a fine of not less than \$2,000 and not more than \$5,000 and shall have his or her driver license revoked for four years.

RETIREMENT BENEFITS

HB 1193 - Retirement

Governor Crist signed the bill into law on June 1, 2010.

The bill revises the definition of “special risk member” to include members of the Florida Retirement System (FRS) who suffer from a qualifying injury and are no longer capable of being employed in a Special Risk Class eligible position. Any member employed in a law enforcement, firefighting, or criminal detention position who suffers a qualifying injury in the line of duty could continue membership in the FRS Special Risk Class. However, such member must continue to work for the same employer for whom they were working when they sustained the qualifying injury. In addition, the bill defines the term “qualifying injury” as the physical loss, or loss of use, of two or more limbs. This provision of the bill applies to members reaching maximum medical improvement after August 1, 2008.

This bill also revises firefighter death benefits and expands the activities that qualify firefighters to receive death benefits to include training sessions. An additional death benefit is authorized when a firefighter is injured by an unlawful and intentional act of another in the performance of his or her duties and dies as the result of such injury. Both benefit payments are adjusted to the Consumer Price Index. This provision of the bill applies to deaths of firefighters occurring on or after November 1, 2007.

CAMPAIGN FINANCING

HB 1207 - Campaign Financing

Governor Crist vetoed the bill on April 6, 2010.

On May 22, 2009, portions of ch. 106, F.S., regulating “electioneering communications,” were held unconstitutional by the United States District Court for the Northern District of Florida in Broward Coalition v. Browning. The bill reenacts and amends provisions related to electioneering communication and electioneering communications organizations (ECOs) to redefine: “Electioneering communication” to remove reference to issues, remove reference to a specific number of persons who must be targeted in a geographic area to only refer to targeting to relevant electorate in the geographic area the candidate would represent if elected, specify the allowable communication formats, regulate

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advocacy that is the functional equivalent of express advocacy, and provide timeframes for the communications;

“Electioneering communications organization” to clarify that it includes only those organizations with election-related activities that are limited to electioneering communications and that its activities would not require the group to register as a political party, political committee, or committee of continuous existence; and “Political committee” to remove the requirement that an ECO conform to specified requirements of a “political committee” when it is specifically exempt from the definition.

The bill provides separate registration and reporting requirements for ECOs. It requires an organization to register as an ECO upon receipt or expenditure of an aggregate amount exceeding \$5,000, rather than when it anticipates receipt or expenditure of money. The bill also increases the amount an individual can expend before being subject to regulation from \$100 to \$5,000. It removes provisions identified as an impermissible burden on speech.

Additionally, the bill authorizes the leader of each political party conference of the state House of Representatives and Senate to establish a separate, affiliated party committee to support the election of candidates of the leader's political party. Payment of assessments for candidates for state senator and member of the House of Representatives must be paid to the respective affiliated party committee of the Senate or House of Representatives. The bill provides that specified requirements and exemptions for political parties and state executive committees apply to an affiliated party committee.

Finally, the bill removes the 28-day time limitation prior to a general election for contributions from political parties and affiliated party committees to candidates.

EDUCATION

HB 483 & HB 469 - Tax on Sales, Use, and Other Transactions

Governor Crist signed the bill into law on May 26, 2010.

The bill establishes a three-day sales tax holiday occurring August 13-15, 2010. During the sales tax holiday, the following items that cost \$50 or less are exempt from the state sales tax and county discretionary sales surtaxes:

Books (defined as a set of printed sheets bound together and published in a volume, but does not include newspapers, magazines, or other periodicals);
Clothing and Footwear (defined as an “article of wearing apparel, including all footwear, except skis, swim fins, roller blades, and skates, intended to be worn on or about the human body,” but excluding watches, watchbands, jewelry, umbrellas, and handkerchiefs);

Wallets; and

Bags (including handbags, backpacks, fanny packs, and diaper bags, but excluding briefcases, suitcases, and other garment bags).

During the sales tax holiday, the bill also exempts school supplies that cost \$10 or less per item. School supplies exempted during the sales tax holiday are

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“pens, pencils, erasers, crayons, notebooks, notebook filler paper, legal pads, composition books, poster paper, scissors, cellophane tape, glue or paste, rulers, computer disks, protractors, compasses, and calculators, binders, lunch boxes, construction paper, markers, folders, and poster board.”

The bill provides that the sales tax holiday does not apply to sales within a theme park, entertainment complex, public lodging establishment, or airport. Thus, sales in these locations will be subject to taxation during the sales tax holiday.

The bill authorizes the Department of Revenue to adopt emergency rules to administer the sales tax holiday.

SJR 2 - Class Size Requirements for Public Schools

The constitutional amendment was filed by the Secretary of State on May 19, 2010. It will appear on the November 2, 2010 ballot.

The Joint Resolution provides voters with the opportunity to amend Section 1, Article IX of the State Constitution, relating to class size. This constitutional section currently specifies that the maximum number of students who may be assigned to a teacher in public school classrooms, by the beginning of the 2010 school year, is: (a) 18 students in prekindergarten (PreK) through grade three; (b) 22 students in grades four through eight; and (c) 25 students in grades nine through 12.

The Joint Resolution, if approved by the voters, would modify the class size requirements so that compliance, beginning with the 2010-2011 school year, would be calculated as follows:

PreK–Grade 3: The maximum number of students who could be assigned to each teacher in an individual classroom would be 21, but the average number of students assigned per class to each teacher within each public school could not exceed 18 students;

Grades 4–8: The maximum number of students who could be assigned to each teacher in an individual classroom would be 27, but the average number of students assigned per class to each teacher within each public school could not exceed 22 students; and

Grades 9–12: The maximum number of students who could be assigned to each teacher in an individual classroom would be 30, but the average number of students assigned per class to each teacher within each public school could not exceed 25 students.

Additionally, the Joint Resolution proposes revisions that would: expand the current exemption of extracurricular classes from class size requirements to also exempt virtual classes; require the Legislature to provide sufficient funding to maintain the average number of students that would be required under the modified class size requirements; and delete obsolete language that currently requires the Legislature, beginning 2003-2004, to provide sufficient funds to reduce the average number of students in each classroom by at least two students annually.

The Joint Resolution would take effect upon approval by the voters and would operate retroactively to the beginning of the 2010-2011 school year.

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SB 2126 - Florida Tax Credit Scholarship Program

Governor Crist signed the bill into law on April 22, 2010.

The Florida Tax Credit Scholarship Program provides private school scholarships to students from families that meet specified income limitations. The program is funded with contributions from corporations and insurance companies. The contributors receive a tax credit to be used against their corporate income tax or premium tax liability equal to 100 percent of their contribution. The bill makes the following changes to the program:

Tax credit cap: The bill increases the cap on the amount of credits that may be approved in a FY from \$118 million to \$140 million for FY 2010-11. For FY 2011-12 and thereafter, the cap will increase by 25 percent whenever tax credits approved in the prior FY are equal to or greater than 90 percent of the tax credit cap amount for that year.

Tax credits: The bill expands the revenue sources against which tax credits may be granted for contributions to the program to include: (1) severance taxes on oil and gas production; (2) self-accrued sales tax liabilities of direct pay permit holders; and (3) alcoholic beverage taxes.

Scholarship amount: For FY 2010-11, the bill replaces the maximum scholarship amount of \$3,950 with a variable amount stated as a percentage of the Florida Education Finance Program (FEFP) unweighted full-time equivalent (FTE) amount for that FY. For FY 2010-2011, the percentage will be 60 percent.

Beginning in FY 2011-12, the percentage increases by 4 percentage points in each FY when the tax credit cap increases, until it reaches a maximum of 80 percent.

Eligibility for certain students: The bill increases the maximum household income threshold for renewing scholarship recipients and their siblings from 200 percent of the federal poverty level to 230 percent, but reduces the maximum scholarship award available to the newly eligible scholarship recipients.

Private school accountability: The bill adds new accountability measures that: Require each private school receiving more than \$250,000 in scholarship payments in one year to submit a financial report, referred to as an agreed-upon procedures report. The report must be completed by an independent certified public accountant and must address the adequacy of the school's accounting system and financial controls;

Require student learning gains to be published for each private school that has at least 30 scholarship students with norm-referenced test scores for two consecutive years; and

Authorize the Commissioner of Education to deny, suspend, or revoke a private school's participation in the program if an owner or operator has operated an educational institution in a manner contrary to the public's health, safety, or welfare.

SB 6 - Education Personnel

Governor Crist vetoed the bill on April 15, 2010.

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The bill reforms current law regarding performance appraisal systems and salary schedules for instructional personnel and school-based administrators, contracts for newly hired classroom teachers, educator certification, and teacher preparation programs. The bill places increased emphasis on student learning when evaluating instructional personnel and school-based administrator performance and requires that performance appraisals be considered in educator recertification, determining salary increases for instructional personnel and school-based administrators, and renewing contracts with classroom teachers hired on or after July 1, 2010.

SENIOR SERVICES

SB 814 - Lifeline Telecommunications Service

Governor Crist signed the bill into law on June 3, 2010.

Lifeline Assistance is a program under the federal Universal Service Fund that, among other things, provides credits against the cost of basic local telecommunications service to qualifying low-income customers to encourage those customers to subscribe to telephone service. Carriers that are designated as eligible telecommunications carriers (ETCs) are eligible to participate in and receive benefits from the federal Universal Service Fund. All ETCs in Florida that are local exchange telecommunications companies with more than 1 million access lines must provide Lifeline services to qualifying customers or potential customers if the customer's income is 150 percent or less of the federal poverty income guidelines (the "income eligibility test").

The bill authorizes commercial mobile radio service providers (e.g., wireless service providers) designated as ETCs to utilize the income eligibility test to qualify customers for the Lifeline program.

The bill also authorizes the Department of Children and Family Services (DCF), the Department of Education (DOE), the Public Service Commission (PSC), and the Office of Public Counsel (OPC) to exchange sufficient information with appropriate ETCs, such as a person's name, date of birth, service address, and telephone number, so that the carriers can identify and enroll an eligible person in the Lifeline and Link-Up programs. The bill provides that this information will remain confidential and may only be used for purposes of determining eligibility and enrollment in Lifeline.

The bill extends until December 31, 2010, the deadline for development of procedures by DCF, DOE, PSC, and telecommunications companies to promote Lifeline participation. The bill amends the requirement for development of such procedures to specify that the telecommunications companies participating in development of these procedures are those that are "designated eligible telecommunications carriers" providing Lifeline services.

The bill also provides that by December 31, 2010, the PSC, DCF, OPC, and each eligible telecommunications carrier offering Lifeline and Link-Up services

City of Miami Gardens Legislative Report
June 3, 2010
Page 38

must convene a “Lifeline Workgroup” to discuss how eligible subscriber information will be shared, the obligations of each party with respect to that information, and the procedures to be implemented to verify eligibility in these programs.

HB 91 - Adult Protective Services

Governor Crist signed the bill into law on May 7, 2010.

HB 91 changes several definitions used in ch. 415, F.S., relating to adult protective services. The bill replaces the terms “disabled adult” and “elderly persons” with the term “vulnerable adult,” and adds “sensory” to the term “vulnerable adult.” The bill creates a definition for “activities of daily living” that conforms the phrase with its use in Part II of ch. 429, F.S., relating to adult family-care homes.

The bill provides that the central abuse hotline must transfer to the appropriate county sheriff’s office reports of known or suspected abuse of a vulnerable adult involving a person other than a relative, caregiver, or household member. This change aligns the abuse of vulnerable adult reporting requirements with the abuse of children reporting requirements.

The bill authorizes the Department of Children & Families (Department), upon a good faith belief that a vulnerable adult lacks the capacity, to file a petition to determine capacity in emergency and nonemergency adult protective proceedings, pursuant to s. 744.3201, F.S. A copy of a petition for appointment of a guardian or emergency temporary guardian can be filed along with a petition to determine capacity. The bill prohibits the Department from serving as guardian or providing legal counsel to the guardian once such petition has been filed.

The bill provides the Department with access to records of the Department of Highway Safety & Motor Vehicles for use in conducting protective investigations. The bill has no impact on state or local government.

HB 945 - Automated External Defibrillators in Assisted Living Facilities

Governor Crist signed the bill into law on June 3, 2010.

An assisted living facility (ALF) is a residential establishment for adults that provides housing, meals, and one or more personal services relating to the activities of daily living. Activities of daily living include:

ambulation, bathing, dressing, eating, grooming, toileting, and other similar tasks. Automated external defibrillators (AEDs) are computerized devices that are used by healthcare providers and by lay rescuers to revive victims who are thought to be in cardiac arrest.

The bill amends s. 429.255, F.S., effective July 1, 2011, to provide that an ALF with 17 or more beds must have on the premises at all times a functioning AED. The bill encourages the location of the AED to be registered with the medical director of the local emergency medical service.

The bill directs that facility staff may withdraw or withhold the use of an AED if presented with an order not to resuscitate in the same manner as they can now

City of Miami Gardens Legislative Report
June 3, 2010
Page 39

withdraw or withhold cardiopulmonary resuscitation. The civil immunity provisions of the Cardiac Arrest Survival Act and the Good Samaritan Act will apply to both the ALF and the facility staff.

The bill provides that the Department of Elder Affairs may adopt rules relating to the use of an automated external defibrillator in an ALF.

The bill provides an appropriation of \$11,200 in nonrecurring revenue and \$22,447 in recurring revenue in FY 2010-2011 and \$113,030 in recurring revenue in FY 2011-2012 from the General Revenue Fund to the Agency for Health Care Administration for two Health Facility Evaluators (two FTEs) to implement the provisions of the bill.

HEALTH CARE

HJR 37 - Health Care Services

The constitutional amendment was filed by the Secretary of State on May 20, 2010. It will appear on the November 2, 2010 ballot.

HJR 37 proposes to amend Section 28 of Article I of the Florida Constitution. The joint resolution prohibits any person, employer, or health care provider from being compelled to participate in any health care system. The joint resolution authorizes any person or employer to pay directly for health care services and provides that persons or employers shall not incur a penalty or fine for direct payment.

The joint resolution authorizes a health care provider to accept direct payment and prohibits penalties and fines for providers accepting direct payment.

The joint resolution permits reasonable regulation but bans any law or rule which prohibits private health insurance sales or purchases.

Nothing in the joint resolution will affect:

Which health care services a provider is required to perform;

Which health care services are permitted by law;

Worker's compensation care as provided by general law;

Laws or rules in effect as of March 1, 2010;

Negotiated provisions in any insurance contract, network agreement, or other provider agreement contractually limiting co-payments, coinsurance, deductibles, or other patient charges; and

Any general law passed by a two-thirds vote of the membership of each house, provided that the law states with specificity the public necessity justifying the exemption.

The joint resolution provides definitions and usage of its terms and includes a ballot summary.

The joint resolution was approved by three-fifths vote of the membership of each house; thus it will be presented to the electors of Florida at the November 2, 2010 general election. Approval requires a favorable vote from 60 percent or more of the electors voting on the measure.

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The joint resolution has a negative, non-recurring fiscal impact on state government of \$90,800. The Department of State must expend funds to meet constitutional publishing requirements for the proposed constitutional amendment.

If approved by the voters, the joint resolution would take effect January 4, 2011.

SB 742 - Public Safety Telecommunicators/E911

Governor Crist signed the bill into law on June 3, 2010.

SB 742 creates a mandatory certification program, effective October 1, 2012, for 911 public safety telecommunicators, whose job duties include answering, receiving, and transferring 911 calls, or dispatching emergency services throughout the state. The bill provides for education and training standards, continuing education, discipline, fees and rulemaking authority.

After October 1, 2012, individuals seeking certification must complete a 232-hour training program approved by the Department of Education, and pass an examination administered by the Department of Health. The bill creates several exceptions to these requirements:

Persons employed as 911 public safety telecommunicators, sworn state-certified law enforcement officers or state-certified firefighters before April 1, 2012, who pass the examination, are not required to complete the training program.

Trainees who work under the direct supervision of a certified dispatcher and are enrolled in a public safety telecommunication may be employed by a public safety agency, without certification, for no more than 12 months.

Individuals with three years of full-time employment as 911 public safety telecommunicators since 2002 may qualify for certification without completing an approved training program and passing an examination; however, this exemption expires October 1, 2012.

The bill requires all certified 911 public safety telecommunicators to complete 20 hours of additional training for biannual certification renewal. The Department of Health may waive the 911 public safety telecommunicator certification requirements when the Governor declares a state of emergency pursuant to s. 252.36, F.S.

The bill may require counties or municipalities to spend funds or to take an action requiring the expenditure of funds. The bill is not a prohibited local mandate because it applies to all persons similarly situated (including the state) and includes a statement of public interest pursuant to s. 18 of art. VII of the Florida Constitution. The bill will have an indeterminate negative fiscal impact on local governments.

The bill authorizes the Department of Health to charge fees for certification, certification renewal, examination, and training program approval, which must be deposited into the Emergency Medical Services Trust Fund. The bill authorizes the use of funds in the Emergency Communications Number E911 System Fund to cover dispatching functions and the certification and renewal fees for 911 public safety telecommunicators. According to the Department of Management

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June 3, 2010
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Services, the bill will have a negative fiscal impact on that Fund. The fiscal impact to other state agencies is indeterminate.

REAPPORTIONMENT

SB 2284 - Legislature

Governor Crist signed the bill into law on May 17, 2010.

This bill provides that the 2012 Regular Session of the Legislature will convene on January 10, 2012.

The next regular apportionment would occur in 2012. Traditionally, the Legislature fixes an early start date for the regular session in apportionment years—years in which the Legislature redistricts Florida's state legislative and congressional district boundary lines.

For example, ch. 2001-128, Laws of Florida, provided that the 2002 Regular Session convene on January 22, 2002. ch. 91-90, Laws of Florida, provided that the 1992 Regular Session convene on January 14, 1992.

The Legislature advances the commencement of session in apportionment years in order that the redistricting plans can be timely submitted to and reviewed by the Florida Supreme Court and the United States Department of Justice, in adequate time prior to qualifying for state and federal offices in June 2012. The bill will help reduce the possibility of voter confusion in the 2012 election cycle. The bill does not have a fiscal impact.

HJR 7231 - Standards for Establishing Legislative and Congressional District Boundaries

The constitutional amendment was filed by the Secretary of State on May 18, 2010. It will appear on the November 2, 2010 ballot

The Florida Constitution requires the Legislature, by joint resolution at its regular session in the second year after the United States Census, to apportion state legislative districts (redistricting). The United States Constitution requires the reapportionment of the United States House of Representatives every ten years, which includes the distribution of the House's 435 seats between the states and the equalization of population between districts within each state.

Two citizen initiatives, related to redistricting, have already secured placement on the 2010 General Election ballot. Amendments 5 and 6, promoted by FairDistrictsFlorida.org, would add standards for state legislative and congressional redistricting to the Florida Constitution. Those standards include a prohibition against intending to favor or disfavor incumbents or political parties, protections for minority voters, compactness, adherence to political and geographical boundary lines, and others.

However, Amendments 5 and 6 do not provide definition or instructions for most of the proposed new standards, which may have the effect of restricting the

City of Miami Gardens Legislative Report

June 3, 2010

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range of redistricting choices available under the federal Voting Rights Act (VRA). Furthermore, the amalgamation of standards in Amendments 5 and 6 is such that they are conflicting and appear to be mutually exclusive. The proposed joint resolution would create a new Section 20 to Article III of the Florida Constitution.

The new section would add new state constitutional standards for establishing legislative and congressional district boundaries. The proposed standards in the joint resolution would complement the proposed standards in Amendments 5 and 6 and provide for a balancing of the various constitutional redistricting standards.

Background on federal Voting Rights Act

The VRA protects minority communities in which a single minority group is a majority of the community (minority-minority districts). Additionally, Section 5 of the VRA also gives special protection to minorities in five Florida counties, based on very specific evidence of past voting requirements that disfavored minorities (poll taxes, literacy tests, etc.). In those cases, the courts would interpret the VRA to mandate that secondary criteria like compactness and political and geographical boundaries cannot supersede the protections provided in federal law for minority-majority districts and Section 5 counties. However, federal law also allows states to create districts that give minorities the opportunity to elect a candidate of their choice, even though the minority community is less than a majority of the district (minority access districts), but only if no other state standard exists that would impede the creation of that district. Therefore, the courts have interpreted the VRA to mean that where other state standards exist, those state standards can be read as a priority over minority access districts. In regards to Amendments 5 and 6, standards like compactness and political and geographical boundaries could prohibit what is a purely discretionary authority, the creation of a minority access district.

For Florida, minority access districts have been a fundamental building block over the last 18 years to increase opportunities for minorities to be elected. For example, two of Florida's three African-American congressional districts are minority access districts, and none of the three districts existed for the 125 years prior to the current redistricting practices. Additionally, five of the seven African-American state senate districts are minority access districts. In all, the establishment of minority access districts has doubled African-American and Hispanic representation in the Florida Legislature and in Florida's Congressional delegation since 1992.

For the courts, an essential ingredient to establishing a legally valid minority access district is "communities of interest." The courts have accepted the creation of minority access districts when states marry that goal with the creation of districts that preserve other identifiable communities of interest. These communities of interest allow the Legislature to expand allowances for race beyond the minimum obligations of the VRA. In other words, communities of interest allow the Legislature to justify a minority district for non-racial reasons, so that the state can avoid a claim that it engaged in racebased redistricting, which would violate federal law.

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June 3, 2010
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Amendments 5 and 6 do not address “communities of interest.” Therefore, minority access districts cannot be protected by the language contained in Amendments 5 and 6, because by their very nature nothing can conflict with something that is purely a matter of discretion. Furthermore, creating such districts without observing other standards in the state constitution, therefore for purely race-based reasons, would violate federal law.

Impacts of Legislation

First, HJR 7231 would require that the state apply federal requirements in its balancing and implementing of the redistricting standards in the Florida Constitution. Second, both the equal opportunity of racial and language minorities to participate in the political process and communities of interest are established as standards that may not be subordinated by any other standard in the Florida Constitution. Finally, the joint resolution asserts that districts and plans are valid if the standards in the Florida Constitution were balanced and implemented rationally and consistent with federal law.

As a result, the joint resolution ensures that communities of interest may be utilized to maximize the Legislature’s discretion to preserve and enhance minority voting rights to the greatest extent permissible under the U.S. Constitution. The joint resolution also makes Amendments 5 and 6 workable by explaining that the Legislature must balance and implement the standards as a whole. Lastly, the joint resolution clarifies the standard of review that the court must use to assess the validity of the Legislature’s plans.

Upon approval of 60 percent of the voters at the 2010 general election, this amendment to the constitution will take effect January 4, 2011.

We thank you again for the opportunity to represent the City of Miami Gardens in Tallahassee. Please feel free to contact me if you have any questions regarding any state legislative issues.

Very truly yours,

Yolanda Cash Jackson

CC: Dr. Danny Crew, City Manager
Renee Farmer, Deputy City Manager



**City of Miami Gardens
Agenda Cover Memo**

Council Meeting Date:	June 9, 2010		Item Type:	Resolution X	Ordinance	Other	
Fiscal Impact:	Yes	No	Ordinance Reading:	1st Reading		2nd Reading	
	X			Public Hearing:	Yes	No	Yes
Funding Source:	N/A		Advertising Requirement:		Yes	No	
				X			
Contract/P.O. Required:	Yes	No	RFP/RFQ/Bid #:	N/A			
		X					
Sponsor Name	Mayor Shirley Gibson		Department:	Mayor and City Council			

Short Title:

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MIAMI GARDENS, FLORIDA, AMENDING SECTION 16 OF ORDINANCE 2005-10-48, TO INCREASE THE LOCAL PREFERENCE FROM FIVE PERCENT (5%) TO TEN PERCENT (10%); PROVIDING FOR THE ADOPTION OF REPRESENTATIONS; REPEALING ALL ORDINANCES IN CONFLICT; PROVIDING A SEVERABILITY CLAUSE; PROVIDING FOR INCLUSION IN CODE; PROVIDING FOR AN EFFECTIVE DATE.

Staff Summary:

The City of Miami Gardens has a Local Preference Program whereby local businesses are allowed a five percent (5%) ranking preference when submitting responses to City solicitations.

Mayor Gibson is recommending that the Purchasing Ordinance (No. 2005-10-48) be amended to increase the local business preference from five percent (5%) to ten percent (10%) to increase the benefit to local businesses.

Proposed Action:

Mayor Shirley Gibson recommends that the City Council approve the proposed amendment to Ordinance 2005-26-64 to increase the local preference to 10%.

Attachment:

None.

**ITEM H-1) ORDINANCE
FIRST READING
Amending Ordinance 2005-10-48**

ORDINANCE NO. 2010_____

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AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MIAMI GARDENS, FLORIDA, AMENDING SECTION 16 OF ORDINANCE 2005-10-48, TO INCREASE THE LOCAL PREFERENCE FROM FIVE PERCENT (5%) TO TEN PERCENT (10%); PROVIDING FOR THE ADOPTION OF REPRESENTATIONS; REPEALING ALL ORDINANCES IN CONFLICT; PROVIDING A SEVERABILITY CLAUSE; PROVIDING FOR INCLUSION IN CODE; PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, on June 22, 2005, the City of Miami Gardens adopted Ordinance No. 2005-26-64 to amend the Purchasing Procedures Ordinance to include a Local Preference Program, and

WHEREAS, local businesses are currently allowed a five percent (5%) ranking preference when submitting responses to City solicitations, and

WHEREAS, in order to provide an incentive for local businesses to participate in the competitive bidding process, and

WHEREAS, Mayor Gibson recommends that the Purchasing Ordinance (No. 2005-10-48) be amended to increase the local business preference from five percent (5%) to ten percent (10%),

Language deleted is stricken through and language added is underlined

1 NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE
2 CITY OF MIAMI GARDENS, FLORIDA, AS FOLLOWS:

3 Section 1. ADOPTION OF REPRESENTATIONS: The foregoing
4 Whereas paragraphs are hereby ratified and confirmed as being true, and the same
5 are hereby made a specific part of this Ordinance.

6 Section 2. AMENDMENT: Section 16 of Ordinance No. 2005-10-48, as
7 amended, is hereby amended as follows:

8 **Section 16: Local Preference in Bidding.**

9 Except where federal or state law or funding source restriction mandates to the
10 contrary, in the purchase of goods, general services, or professional services
11 governed by the Procurement Code, preference shall be awarded to licensed
12 entities with physical addresses in the City of Miami Gardens ("local businesses") in
13 the following manner:

14
15 (A) Competitive Bid: When a responsive, responsible non-local business
16 submits the lowest price bid, and the bid submitted by one or more responsive,
17 responsible, local businesses is within ~~5%~~ 10% of the bid submitted by the non-
18 local business(s), then local businesses shall have the opportunity to submit, within
19 five (5) working days of the bid opening, a best and final bid equal to or lower than
20 the amount of the low bid previously submitted by the non-local business. Contract
21 award shall be made to the responsive, responsible business submitting the lowest
22 best and final bid. In the case of a tie in the best and final bid between a local
23 business and a non-local business, contract award shall be made to local business.

24
25 (B) For contract awards based upon evaluation criteria pursuant to a points
26 system, there shall be a local participation criterion of ~~5%~~ 10% of the total points
27 awarded. The points shall be awarded as follows:

<u>Local Business Participation</u>	<u>Points</u>
100%	5 <u>10</u>
50% to 99%	3 <u>8</u>

Language deleted is stricken through and language added is underlined

1	20% to 49%	2 <u>5</u>
2	5% to 19%	4 <u>3</u>
3	>5%	0

- 4 1. Maximum points will be awarded to the proposer if 100% or more of the total
5 project work is performed by a local business. Percentages reflect the
6 amount of total contract value proposed to be assigned to local businesses.
7 In the case of contracts awarded pursuant to the Consultants Competitive
8 Negotiation Act, the percentages reflect the amount of total project work,
9 which shall be equated to the project dollars, assigned to local businesses.
10
- 11 2. The percentage of local business participation will be calculated by dividing
12 the proposer's expenditures to a local business subcontractor for providing
13 direct labor or a bonified service, by the total project dollars as identified in
14 the proposal.
15
- 16 3. A proposer may count toward its local business participation, the fees or
17 commissions charged for providing direct labor or a bona fide service, such
18 as professional, technical consultant or managerial services.
19
- 20 4. The city will not count toward a proposer local business participation any
21 portion or portions of the local business subcontractor's work that is
22 subcontracted back to:
23
- 24 a. The proposer, either directly, or through any other company or firm
25 owned or controlled by the proposer.
26
- 27 b. Any non-local business.
28
- 29 5. A local business shall not be permitted to subcontract all or a majority of the
30 subcontractual portion of the work to another non-local business. A local
31 business subcontractor shall be prohibited for engaging in a subcontractual
32 agreement with the intent of collecting a broker's fee or commission. A local
33 business subcontractor shall also be prohibited from entering into a
34 subcontractual agreement with a firm whose employees perform none of the
35 direct labor or service activities specified in the contract.
36
- 37 6. Participation by a local business shall not be considered and the local
38 business shall be disqualified if the owner of the local business enters into
39 an agreement with a non-local business with the intent of securing

Language deleted is stricken through and language added is underlined

1 employment with that non-local business during the course of performing a
2 city contract.

3
4 (C) If a non-local proposer submits a bid or proposal that includes
5 subcontractors that qualify as local businesses, in order to receive local preference
6 consideration, the proposer shall identify all local businesses that will be utilized as
7 subcontractors, and delineate for each the specific elements of work each local
8 business will be responsible for performing and the dollar value of the work as a
9 percentage of the total contract value. All proposals with local business
10 participation shall contain documentation, signed by both the proposer and the local
11 business contractors, which confirms their intent to establish a business relationship
12 and confirms the local business percent.

13 (D) The location of qualified entities shall be considered in determining the
14 qualifications for professional services governed by the Consultants Competitive
15 Negotiation Act.

16
17 (E) If a tie occurs between two (2) or more local businesses, for those contracts
18 that are to be awarded by the City Manager, the City Manager shall determine to
19 whom the bid will be awarded. For those contracts to be awarded by the City
20 Council, the City Council shall determine to whom the bid will be awarded.

21
22 (F) Waiver: The application of local preference to a particular purchase,
23 contract, or category of contracts may be waived upon written recommendation of
24 the City Manager and approval of the City Council.

25
26 (G) Other preferences: The preference established herein in no way prohibits
27 the right of the City Council to compare quality of materials proposed for purchase
28 and compare qualifications, character, responsibility and fitness of all persons,
29 firms, or corporations submitting bids or proposals. Further, the preference
30 established herein in no way prohibits the right of City Council from giving any other
31 preference permitted by law instead of the preference authorized herein.

32
33 Section 3. CONFLICT: All ordinances or code provisions in conflict
34 herewith are hereby repealed.

35 Section 4. SEVERABILITY: If any section, subsection, sentence,
36 clause, phrase or portion of this Ordinance is for any reason held invalid or
37 unconstitutional by any court of competent jurisdiction, such portion shall be

Language deleted is stricken through and language added is underlined

1 deemed a separate, distinct and independent provision and such holding shall
2 not affect the validity of the remaining portions of this Ordinance.

3 Section 5. INCLUSION IN CODE: It is the intention of the City Council
4 of the City of Miami Gardens that the provisions of this Ordinance shall become
5 and be made a part of the Code of Ordinances of the City of Miami Gardens and
6 that the sections of this Ordinance may be renumbered or relettered and the
7 word "Ordinance" may be changed to "Chapter," "Section," "Article" or such other
8 appropriate word or phrase, the use of which shall accomplish the intentions
9 herein expressed; provided, however, that Section 1 hereof or the provisions
10 contemplated thereby shall not be codified.

11 Section 6. EFFECTIVE DATE: This Ordinance shall become effective
12 immediately upon its final passage.

13 PASSED ON FIRST READING ON THE _____ DAY OF _____,
14 2010.

15 PASSED ON SECOND READING ON THE _____ DAY OF _____,
16 2010.

17 ADOPTED AND PASSED BY THE CITY COUNCIL OF THE CITY OF
18 MIAMI GARDENS AT ITS REGULAR MEETING HELD ON THE _____ DAY
19 OF _____, 2010.

20
21 _____
22 SHIRLEY GIBSON, MAYOR
23
24

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ATTEST:

RONETTA TAYLOR, MMC, CITY CLERK

PREPARED BY: SONJA KNIGHTON DICKENS, CITY ATTORNEY

SPONSORED BY: MAYOR SHIRLEY GIBSON

Moved by: _____

Second by: _____

VOTE: _____

Mayor Shirley Gibson	_____ (Yes)	_____ (No)
Vice Mayor Aaron Campbell	_____ (Yes)	_____ (No)
Councilman Melvin L. Bratton	_____ (Yes)	_____ (No)
Councilman Oliver Gilbert III	_____ (Yes)	_____ (No)
Councilman Andre' Williams	_____ (Yes)	_____ (No)
Councilwoman Sharon Pritchett	_____ (Yes)	_____ (No)
Councilwoman Barbara Watson	_____ (Yes)	_____ (No)

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**City of Miami Gardens
Agenda Cover Memo**

Council Meeting Date: <i>(Enter X in box)</i>	June 9, 2010		Item Type: <i>(Enter X in box)</i>	Resolution	Ordinance	Other	
					X		
Fiscal Impact: <i>(Enter X in box)</i>	Yes	No	Ordinance Reading: <i>(Enter X in box)</i>	1st Reading		2nd Reading	
		X			X		
				Public Hearing: <i>(Enter X in box)</i>	Yes	No	Yes
					X		X
Funding Source:	N/A		Advertising Requirement:	Yes		No	
						X	
Contract/P.O. Required: <i>(Enter X in box)</i>	Yes	No	RFP/RFQ/Bid #:	N/A			
		X					
Sponsor Name	Dr. Danny Crew, City Manager		Department:	City Manager			

Short Title:

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MIAMI GARDENS, FLORIDA, AMENDING ORDINANCE NO. 2007-26-132, REGULATING INTERSECTIONS DETERMINED TO BE DANGEROUS; PROVIDING FOR RECORDED IMAGE MONITORING AND ENFORCEMENT OF RED LIGHT TRAFFIC CONTROL SIGNALS CONSISTENT WITH CHAPTER 2010-80, LAWS OF FLORIDA (2010) ("THE MARK WANDALL TRAFFIC SAFETY ACT"); PROVIDING FOR ADOPTION OF REPRESENTATIONS; REPEALING ALL ORDINANCES IN CONFLICT; PROVIDING A SEVERABILITY CLAUSE; PROVIDING FOR INCLUSION IN CODE; PROVIDING FOR SAVINGS, RATIFICATION AND RESERVATION OF RIGHTS; PROVIDING AN EFFECTIVE DATE.

Staff Summary:

On May 13, 2010, Governor Charlie Crist signed the Mark Wandall Traffic Safety Act resulting in Chapter 2010-80, Laws of Florida (2010). The new law becomes effective on July 1, 2010. Therefore, it is necessary to amend Ordinance No. 2007-26-132, commonly known as the "Dangerous Intersections Ordinance" to make the provisions consistent with general law. The following is a summary of the major changes in the new law:

- The civil penalty will increase from \$125.00 to \$158.00. However, the amount of money paid to the City will decrease because for violations committed within the City's

**ITEM H-2) ORDINANCE
FIRST READING
Amending Ordinance 2007-26-132**

boundaries, the fee will be apportioned between the City, the State's General Revenue Fund and the State's Brain and Spinal Injury Cord Trust Fund.

- All due process procedures associated with a red light camera infractions will be handled by the Miami-Dade County Clerk of Courts.
- The general oversight of the red light camera program has been preempted to the State of Florida.
- Red light cameras are permitted on state roadways and rights-of way through a permitting process governed by Florida Department of Transportation (FDOT).
- The new legislation also permits the use of traffic infraction enforcement officers, instead of police officers, to review video images to determine whether a red light camera infraction has occurred.

As a result of the new legislation, in the upcoming weeks, staff will bring before Council a contract amendment with the City's current Red Light Camera System vendor, American Traffic Solutions (ATS). This contract amendment will revise the current compensation structure to put the City's third party vendor contract with ATS in line with new statutory requirements.

Proposed Action:

That the City Council approve an amendment to Ordinance No. 2007-26-132 , as amended, commonly referred to as the "Dangerous Intersections Ordinance".

Attachment:

- 1- Chapter 2010-80, Laws of Florida

ORDINANCE NO. 2010 _____

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MIAMI GARDENS, FLORIDA, AMENDING ORDINANCE NO. 2007-26-132, REGULATING INTERSECTIONS DETERMINED TO BE DANGEROUS; PROVIDING FOR RECORDED IMAGE MONITORING AND ENFORCEMENT OF RED LIGHT TRAFFIC CONTROL SIGNALS CONSISTENT WITH CHAPTER 2010-80, LAWS OF FLORIDA (2010) ("THE MARK WANDALL TRAFFIC SAFETY ACT"); PROVIDING FOR ADOPTION OF REPRESENTATIONS; REPEALING ALL ORDINANCES IN CONFLICT; PROVIDING A SEVERABILITY CLAUSE; PROVIDING FOR INCLUSION IN CODE; PROVIDING FOR SAVINGS, RATIFICATION AND RESERVATION OF RIGHTS; PROVIDING AN EFFECTIVE DATE.

WHEREAS, the Florida Legislature adopted CS/CS/HB325 during the 2010 Legislative Session, authorizing the use of traffic infraction detectors to enforce certain provisions of Chapter 316 of the Florida Statutes, and

WHEREAS, the Governor of the State of Florida signed CS/CS/HB325 into law on May 13, 2010, resulting in the creation of Chapter 2010-80, Laws of Florida (2010) (the "Mark Wandall Traffic Safety Act" or the "Act") taking effect on July 1, 2010, and

WHEREAS, the running of red lights continues to be a safety hazard affecting every citizen and traveler in the City of Miami Gardens, and

WHEREAS, as of July 1, 2010, the Mark Wandall Traffic Safety Act, and

WHEREAS, the City Council desires to amend Ordinance No. 2007-26-132 to conform with and implement the Act,

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF MIAMI GARDENS, FLORIDA, AS FOLLOWS:

Language deleted is stricken through and language added is underlined

1 Section 1. ADOPTION OF REPRESENTATIONS: The foregoing
2 Whereas paragraphs are hereby ratified and confirmed as being true, and the same
3 are hereby made a specific part of this Ordinance.

4 Section 2. AMENDMENT: Ordinance No. 2007-26-132 is hereby
5 amended as follows:

6 A. Intent.

7
8 The purpose of this Ordinance is to authorize the use of ~~an unmanned~~
9 ~~cameras/monitoring system~~ traffic infraction detectors to promote compliance
10 with red light signal directives ~~as prescribed by this Ordinance~~, and to adopt a
11 civil enforcement system for red light signal violations, in accordance with
12 Chapter 2010-80, Laws of Florida (2010) (the "Mark Wandall Traffic Safety Act"
13 or the "Act"). This Ordinance will ~~also~~ supplement law enforcement personnel in
14 the enforcement of red light signal violations and shall not prohibit law
15 enforcement officers from issuing a citation for a red light signal violation in
16 accordance with other routine statutory traffic enforcement techniques. The City
17 intends that the Mark Wandall Traffic Safety Act govern the City's Dangerous
18 Intersection Program.

19
20 B. Use of Image Capture Technologies.

21 The City shall utilize ~~image capture technologies~~ traffic infraction
22 detectors as a supplemental pursuant to the Mark Wandall Traffic Safety Act as a
23 means of monitoring compliance with laws related to traffic control signals, while
24 assisting law enforcement personnel in the enforcement of such laws, which are
25 designed to protect and improve public health, safety and welfare. This
26 Ordinance shall not supersede, infringe, curtail or impinge upon state or county
27 laws related to red light signal violations or conflict with such laws. This
28 Ordinance shall serve to enable the City to provide enhanced enforcement and
29 respect for authorized traffic signal devices pursuant to Florida Statutes. The
30 City shall utilize ~~image capture technologies~~ traffic infraction detectors as an
31 ancillary deterrent to traffic control signal violations and to thereby reduce
32 accidents and injuries associated with such violations. ~~Notices of infractions~~
33 ~~issued pursuant to this article shall be addressed using the City's own Special~~
34 ~~Magistrates pursuant to Article V of Chapter 2 of the City Code and not through~~
35 ~~uniform traffic citations or county courts.~~

36
37 C. Definitions.

Language deleted is stricken through and language added is underlined

The following definitions shall apply to this Ordinance:

- 1. *Intersection* shall mean the area embraced within the prolongation or connection of the lateral curb line; or, if none, then the lateral boundary lines, of the roadways of two roads which join or intersect one another at, or approximately at, right angles; or the area within which vehicles traveling upon different roads joining at any other angle may come in conflict.
- 2. *Motor vehicle* shall mean any self-propelled vehicle not operated upon rails or guideways, but not including any bicycle, motorized scooter, electric personal assisted mobility device, or moped.
- 3. *Notice of ~~Infraction~~ Violation or Traffic Citation* shall mean a citation issued for a red zone infraction.
- 4. *Owner/vehicle Owner* shall mean the person or entity identified by the Florida Department of Motor Vehicles, or other state vehicle registration office, as the registered owner of a vehicle. ~~Such term shall also mean a lessee of a motor vehicle pursuant to a lease of six months or more.~~
- 5. *Recorded Images* shall mean images recorded by a traffic control ~~signal monitoring system/device on:~~ infraction detector which is operated in accordance with this Ordinance.
 - a. ~~Two or more photographs; or
Two or more electronic images; or
Two or more digital images; or
Digital or Video movies; or
Any other medium that can display a violation; and~~
 - b. ~~Showing the rear of a motor vehicle and on at least one image, clearly identifying the license plate number of the vehicle.~~
- 6. *Red Zone infraction* shall mean a traffic offense whereby a traffic ~~control signal monitoring system established that a vehicle entered an intersection controlled by a duly erected traffic control device at a time when the traffic control signal for such vehicle's direction of travel was emitting a steady red signal~~ infraction detector indicates a violation of this Ordinance.
- 7. ~~*Special Master* shall mean the City's Code Enforcement Special~~

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1 Master

2 Traffic Control Signal shall mean a device exhibiting different
3 colored lights or colored lighted arrows, successively one at a time
4 or in combination, using only the colors green, yellow, and red
5 which indicate and apply to drivers of motor vehicles as provided in
6 Florida Statutes §316.075.
7

8 8. ~~Traffic Control Signal Monitoring System/Device shall mean an~~
9 ~~electronic system consisting of one or more vehicle sensors,~~
10 ~~working in conjunction with a traffic control signal, still camera and~~
11 ~~video recording device, to capture and produce recorded images of~~
12 ~~motor vehicles entering an intersection against a steady red light~~
13 ~~signal indication.~~
14

15 Traffic Infraction Detector. A vehicle sensor(s) installed to work
16 in conjunction with a traffic control signal and a camera or
17 cameras synchronized to automatically record two or more
18 sequenced photographic or electronic images or streaming
19 video of only the rear of a motor vehicle at the time the vehicle
20 fails to stop behind the stop bar or clearly marked stop line
21 when facing a traffic control signal steady red light.
22

23 9. Traffic Infraction Review Officer. The City of Miami Gardens
24 employee designated, in accordance with the Mark Wandall
25 Traffic Safety Act, to review recorded images and issue red
26 zone infractions based upon those images.
27

28 D. Adherence to Red Light Traffic Control Signals.
29

30 Pursuant to the Mark Wandall Traffic Safety Act, ~~M~~motor vehicle traffic
31 facing a traffic control signal's steady red light indication shall stop before
32 entering the crosswalk on the near side of an intersection or if none, then before
33 entering the intersection, and shall remain standing until a green indication is
34 shown on the traffic control signal. However, the driver of a vehicle that is
35 approaching ~~stopped~~ at a clearly marked stop line, but if none, is approaching
36 ~~before entering~~ the crosswalk on the near side of the intersection or, if none, then
37 is approaching at the point nearest the intersecting roadway where the driver has
38 a view of approaching traffic on the intersecting roadway before entering the
39 intersection in obedience of a steady red traffic control signal, may make a right
40 turn in a careful and prudent manner (unless such turn is otherwise prohibited by
41 posted sign or other traffic control device) but shall yield right-of-way to
42 pedestrians and other traffic proceeding as directed by the traffic control signal at
43 the intersection.
44

Language deleted is stricken through and language added is underlined

1 E. Violation.

2
3 A violation of this Ordinance, known as a Red Zone Infraction, shall occur
4 when a vehicle does not comply with the requirements of Section ~~G~~ D. Violations
5 shall be enforced pursuant to ~~paragraph (7) herein~~ the Mark Wandall Traffic
6 Safety Act.

7
8 F. ~~Six-month notice: introductory period.~~

9
10 ~~For the first two months of this Ordinance, unless the driver of a~~
11 ~~vehicle received a citation from a police officer at the time of a Red~~
12 ~~Zone Infraction in accordance with normal traffic enforcement~~
13 ~~techniques, the vehicle owner shall receive a courtesy notice of the~~
14 ~~violation. Commencing two months after the effective date of the~~
15 ~~Ordinance, the vehicle owner is subject to the enforcement provision~~
16 ~~as provided herein.~~

17
18 Implementation of the Mark Wandall Traffic Safety Act.

19
20 The City Manager is authorized to implement the provisions and
21 requirements of Chapter 2010-80, Laws of Florida (2010), as may be
22 amended from time to time, and may take any action which is necessary for
23 such purpose.

24
25 G. Review of Recorded Images.

- 26
27 1. The owner of the vehicle which is observed by Recorded
28 Images committing a Red Zone Infraction, shall be issued a
29 Notice of violation in accordance with the Mark Wandall Traffic
30 Safety Act. ~~The Recorded Image shall be sufficient grounds to~~
31 ~~issue a City Notice of Infraction.~~
32
33 2. The City may utilize Law Enforcement Officers and/or The City may
34 designate a Traffic Control Infraction Review Infraction
35 Enforcement Officer(s), who shall meet the qualifications set forth in
36 §316.640(5)(A), Florida Statutes, or any other relevant statute the
37 Mark Wandall Traffic Safety Act. ~~The Traffic Control Infraction~~
38 ~~Review Officer(s) shall review Recorded Images prior to the~~
39 ~~issuance of a Notice of Violation/Infraction to ensure accuracy and~~
40 ~~the integrity of the Recorded Images. The Traffic Control Infraction~~
41 ~~Officer(s), or the City's agent, shall also verify that the recorded~~
42 ~~Traffic Control Monitoring System/Devices that captured the~~
43 ~~Recorded Images was functioning properly at the time the~~
44 ~~Recorded Images were captured~~ the accuracy and integrity of the

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recorded image. Once the ~~Traffic Control Infraction Review Officer~~ has verified the accuracy of the Recorded Images and functionality of the ~~Traffic Control Monitoring System/Devices,~~ a Notice of Violation/Infraction shall be sent to the Vehicle Owner at the address on record with the Florida Department of Highway Safety and Motor Vehicles or the address on record with the appropriate agency having such information in another state.

H. Notice of Violation/Infractions/ Hearings.

The All Notices of Violation/Infraction and hearings shall be issued and heard in accordance with the Mark Wandall Traffic Safety Act. include:

- ~~1. The name of the vehicle owner, and the current address as listed on the vehicle registration with the Department of Highway Safety and Motor Vehicles;~~
- ~~2. The license Plate number and registration number of the vehicle;~~
- ~~3. The make and year of the vehicle;~~
- ~~4. Notice that the violation charged is pursuant to this Ordinance;~~
- ~~5. The location of the intersection where the violation occurred;~~
- ~~6. The date and time of the red zone infraction;~~
- ~~7. Notice that the Recorded Images relating to the vehicle and a statement that the recorded images are evidence of a red zone infraction;~~
- ~~8. The civil penalty imposed;~~
- ~~9. Images depicting violation;~~
- ~~10. The procedures for payment of the civil penalty and contesting the notice of infraction;~~
- ~~11. The name of the Traffic Control Infraction Officer(s) that, based on inspection of recorded images, the vehicle was involved in a Red Zone Infraction;~~
- ~~12. Information advising the person alleged to be liable under this Section of the manner and time in which liability as alleged in the~~

Language deleted is stricken through and language added is underlined

1 Notice of Infraction may be appealed, and warning that failure to
2 pay the civil penalty or to contest liability in a timely manner is an
3 admission of liability.
4

5 I. ~~Vehicle Owner Responsibilities.~~

6
7 A vehicle Owner receiving a Notice of Infraction may, within twenty one
8 (21) days of the date of the Notice of Infraction:
9

- 10 1. ~~Pay the assessed civil penalty pursuant to instructions on the notice of~~
11 ~~infraction; or~~
- 12
- 13 2. ~~Request an appeal pursuant with procedures as outlined in this~~
14 ~~Ordinance~~

15 Signage.

16
17
18 When the City installs a traffic infraction detector at an intersection, it
19 shall erect signage at the intersection sufficient to notify the public that
20 a traffic infraction detector may be in use at the intersection and shall
21 include specific notification of intersection safety camera enforcement
22 of violations concerning right turns. Such signage shall meet the
23 specifications for uniform signals and devices adopted by the
24 Department of Transportation pursuant to §316.0745, Florida Statutes.
25

26 J. ~~Appeals to Special Master.~~

- 27
- 28 1. ~~The City's Code Enforcement Special Masters are authorized to~~
29 ~~consider appeals under this Chapter within twenty one (21) days of~~
30 ~~the date of the Notice of Infraction; the Vehicle Owner may file an~~
31 ~~appeal with the City pursuant to the directions in the Notice of~~
32 ~~Infraction. A hearing on the appeal shall be scheduled for all~~
33 ~~appeals except those in which the Vehicle Owner submits an~~
34 ~~affidavit pursuant to Section K of this Ordinance in which the~~
35 ~~Vehicle Owner affirms under penalty of perjury that the vehicle was~~
36 ~~not under his or her care, custody or control, or that of someone~~
37 ~~with Vehicle Owner's consent.~~
- 38
- 39 2. ~~Upon receipt of the appeal, the City shall schedule a hearing before~~
40 ~~the Special Master but in no event shall a hearing be scheduled for~~
41 ~~a date that is more than six (6) months from the date that the Notice~~
42 ~~of Appeal was received. A Notice of Hearing shall be provided to~~
43 ~~the Vehicle Owner no less than five (5) days prior to the hearing,~~
44 ~~and shall be provided by U.S. mail to the current address as listed~~

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on the vehicle registration with the Department of Highway Safety and Motor Vehicles

3. ~~The following shall be permissible grounds for an appeal:~~

a. ~~At the time of the infraction, the vehicle was not under the care, custody, or control of the Vehicle Owner or an individual with Vehicle Owner's consent, established pursuant to affidavit as provided in Section K of this Ordinance;~~

b. ~~The motor vehicle driver was issued a citation by a law enforcement officer, which was separate and distinct from the citation issued under this Section, for violating the steady red traffic control signal;~~

c. ~~The motor vehicle driver was required to violate the steady red traffic control signal in order to comply with other governing laws;~~

d. ~~The motor vehicle driver was required to violate the steady red traffic control signal in order to reasonably protect the property or person of another'~~

e. ~~The steady red traffic control signal was inoperable or malfunctioning.~~

f. ~~The Special Master determines that the City violated a provision of the Ordinance.~~

4. ~~The hearing shall be conducted in accordance with Ordinance No. 2004-11-27, as amended.~~

5. ~~Recorded Images indicating a Red Zone Infraction, verified by the Traffic Control Infraction Review Officer, are admissible in any proceeding before the City's Special Master to enforce the provisions of this Chapter and shall constitute prima facie evidence of the violation.~~

6. ~~Unless an affidavit is provided pursuant to Section K of this Ordinance, it is presumed the person registered as the vehicle owner with the Florida Department of Motor Vehicles or any other state vehicle registration office, or an individual having the owner's~~

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1 consent, was operating the vehicle at the time of a Red Zone
2 Infraction.

3
4 ~~K. Vehicle Owner Affidavit of Non-responsibility.~~

5
6 In order to for the Vehicle Owner to establish that the motor vehicle was at
7 the time of the Red Zone Infraction, in the care, custody, or control of another
8 person without the consent of the registered owner, the Vehicle Owner is
9 required, within twenty one (21) days from the date listed on the Notice of
10 Infraction, to furnish to the City, an affidavit setting forth the circumstances
11 demonstrating that the motor vehicle was not in the Vehicle Owner's care
12 custody or control, or that of a person with Vehicle Owner's consent. The affidavit
13 must be executed in the presence of a notary, and include:

14
15 a. ~~If known to the Vehicle Owner, the name, address, and the driver~~
16 ~~license number of the person who leased, rented or otherwise had~~
17 ~~care, custody, or control of the motor vehicle at the time of the~~
18 ~~alleged Red Zone Infraction; or~~

19
20 b. ~~If the vehicle was stolen, the police report indicating the vehicle was~~
21 ~~stolen at the time of the alleged Red Zone Infraction.~~

22
23 c. ~~The following language must be placed immediately above the~~
24 ~~signature line:~~

25
26 ~~Under penalties of perjury, I declare that I have read the foregoing~~
27 ~~affidavit and that the facts stated in it are true."~~

28
29 d. ~~Upon receipt of an affidavit pursuant to this section, any~~
30 ~~prosecution of the Notice of Infraction issued to the vehicle owner~~
31 ~~shall be terminated.~~

32
33 ~~L-J. Penalties and Costs.~~

34
35 A violation of this Ordinance shall be deemed a non-criminal, non-moving
36 violation for which a civil penalty in the amount of \$125.00 shall be assessed. As
37 the violation relates to this Ordinance and not the State Statutes, no points as
38 provided in §322.27, Florida Statutes, shall be recorded on the driving record of
39 the vehicle owner or responsible party.

40
41 All penalties and costs shall be collected in accordance with the Mark Wandall
42 Traffic Safety Act.

43
44 ~~M. Administrative Charges.~~

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1
2 ~~In addition to the assessment, administrative charges may be assessed in~~
3 ~~the event of an appeal or the necessity to institute collection procedures.~~

4
5 ~~N. Collection of Fines.~~

6
7 ~~The City may collect a penalty in accordance with Florida Statutes and~~
8 ~~the City's Code Enforcement Procedures. In addition, the City may enforce such~~
9 ~~penalty by civil action in the nature of debt.~~

10
11 ~~O. Exceptions.~~

12
13 ~~This Ordinance shall not apply to Red Zone Infractions involving vehicle~~
14 ~~collisions or to any authorized emergency vehicle responding to a bonafide~~
15 ~~emergency; nor shall a Notice of Infraction be issued in any case where the~~
16 ~~operator of the vehicle was issued a citation for violating the State Statute~~
17 ~~regarding the failure to stop at a red light.~~

18
19 Section 3. CONFLICT: Sections "A" through "O" of Ordinance No.
20 2007-26-132, as amended, are hereby repealed.

21 Section 4. SEVERABILITY: If any section, subsection, sentence,
22 clause, phrase or portion of this Ordinance is for any reason held invalid or
23 unconstitutional by any court of competent jurisdiction, such portion shall be
24 deemed a separate, distinct and independent provision and such holding shall
25 not affect the validity of the remaining portions of this Ordinance.

26 Section 5. INCLUSION IN CODE: It is the intention of the City
27 Council of the City of Miami Gardens that the provisions of this Ordinance shall
28 become and be made a part of the Code of Ordinances of the City of Miami
29 Gardens and that the section of this Ordinance may be renumbered or relettered
30 and the word "Ordinance" may be changed to "Chapter," "Section," "Article" or

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1 such other appropriate word or phrase, the use of which shall accomplish the
2 intentions herein expressed.

3 Section 6. SAVINGS, RATIFICATION AND RESERVATION OF
4 RIGHTS.

5 A. In accordance with paragraph (C) below of this Section 6, all fines,
6 penalties, fees and costs imposed pursuant to the provisions of Ordinance No.
7 2007-26-132, which provisions existed immediately prior to July 1, 2010, are
8 hereby authorized, approved, ratified and confirmed, and shall continue to be due
9 and owing until paid to the City.

10
11 B. The Special Master operating pursuant to Ordinance No. 2004-11-
12 27, as amended, shall continue to have jurisdiction over any violations for which
13 a hearing has been timely requested by the violator pursuant to the provisions of
14 Ordinance No. 2007-26-132 which existed immediately prior to July 1, 2010.

15
16 C. Notwithstanding any other provision of this Ordinance above, the
17 provisions of Ordinance No. 2007-26-132, which existed immediately prior to July
18 1, 2010, shall remain in full force and effect solely to the extent necessary to
19 effectuate paragraphs (A) and (B) above of this Section 6, but shall not be
20 applicable to any violation that occurred from and after July 1, 2010.

21
22 D. The City hereby preserves and reserves each and every right,
23 power, authority, benefit and exemption bestowed upon City and City's
24 Dangerous Intersection Safety Program (the "Program") pursuant to CS/HB 325
25 as enacted by Chapter 2010-80, Laws of Florida (2010), including but not limited
26 to any right, power, authority, benefit and/or exemption vested in City or City's
27 Program as having been established prior to July 1, 2010 or before other
28 deadlines established by the Mark Wandall Traffic Safety Act.

29
30 Section 7. EFFECTIVE DATE: This Ordinance shall become effective
31 on July 1, 2010.

32 PASSED ON FIRST READING ON THE _____ DAY OF _____,
33 2010.

34 PASSED ON SECOND READING ON THE _____ DAY OF _____,
35 2010.

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1 ADOPTED AND PASSED BY THE CITY COUNCIL OF THE CITY OF
2 MIAMI GARDENS AT ITS REGULAR MEETING HELD ON THE _____ DAY OF
3 _____, 2010.

4
5
6 _____
7 SHIRLEY GIBSON, MAYOR
8

9
10 ATTEST:

11
12
13 _____
14 RONETTA TAYLOR, MMC, CITY CLERK

15
16 PREPARED BY SONJA K. DICKENS, CITY ATTORNEY

17
18
19 SPONSORED BY: DR. DANNY CREW, CITY MANAGER

20
21
22 Moved by: _____

23
24 Second by: _____

25
26 VOTE: _____

27
28
29
30 Mayor Shirley Gibson _____ (Yes) _____(No)
31 Vice Mayor Aaron Campbell _____ (Yes) _____(No)
32 Councilman Melvin L. Bratton _____(Yes) _____(No)
33 Councilman Oliver Gilbert, III _____ (Yes) _____(No)
34 Councilman Andre' Williams _____(Yes) _____(No)
35 Councilwoman Sharon Pritchett _____ (Yes) _____(No)
36 Councilwoman Barbara Watson _____ (Yes) _____(No)

37
38
39

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CHAPTER 2010-80

Council Substitute for
Committee Substitute for House Bill No. 325

An act relating to uniform traffic control; providing a short title; amending s. 316.003, F.S.; defining the term "traffic infraction detector"; creating s. 316.0076, F.S.; preempting to the state the use of cameras to enforce traffic laws; amending s. 316.008, F.S.; authorizing counties and municipalities to use traffic infraction detectors under certain circumstances; creating s. 316.0083, F.S.; creating the Mark Wandall Traffic Safety Program; authorizing the Department of Highway Safety and Motor Vehicles, a county, or a municipality to use a traffic infraction detector to identify a motor vehicle that fails to stop at a traffic control signal steady red light; requiring authorization of a traffic infraction enforcement officer to issue and enforce a citation for such violation; requiring notification to be sent to the registered owner of the motor vehicle involved in the violation; requiring the notification to include certain information about the owner's right to review evidence; providing requirements for the notification; providing for collection of penalties; providing for distribution of penalties collected; providing that an individual may not receive a commission or per-ticket fee from any revenue collected from violations detected through the use of a traffic infraction detector and a manufacturer or vendor may not receive a fee or remuneration based upon the number of violations detected through the use of a traffic infraction detector; providing procedures for issuance, disposition, and enforcement of citations; providing for exemptions; providing that certain evidence is admissible for enforcement; providing penalties for submission of a false affidavit; prohibiting the use of such detectors to enforce a violation when a driver fails to stop prior to making a right or left turn; providing that the act does not preclude the issuance of citations by law enforcement officers; requiring reports from participating municipalities and counties to the department; requiring the department to make reports to the Governor and Legislature; amending s. 316.0745, F.S.; revising a provision that requires certain remotely operated traffic control devices to meet certain specifications; creating s. 316.07456, F.S.; requiring traffic infraction detectors to meet specifications established by the Department of Transportation; providing that a traffic infraction detector acquired by purchase, lease, or other arrangement under an agreement entered into by a county or municipality on or before a specified date is not required to meet the established specifications until a specified date; creating s. 316.0776, F.S.; providing for the placement and installation of detectors on certain roads when permitted by and under the specifications of the department; requiring that if the state, county, or municipality installs a traffic infraction detector at an intersection, the state, county, or municipality shall notify the public that a traffic infraction device may be in use at that intersection; requiring that such signage posted at the intersection meet the specifications for uniform signals and devices

adopted by the Department of Transportation; requiring that traffic infraction detectors meet specifications established by the Department of Transportation; requiring a public awareness campaign if such detectors are to be used; amending s. 316.640, F.S.; requiring the Department of Transportation to develop training and qualification standards for traffic infraction enforcement officers; authorizing counties and municipalities to use independent contractors as traffic infraction enforcement officers; amending s. 316.650, F.S.; requiring a traffic enforcement officer to provide to the court a replica of the citation data by electronic transmission under certain conditions; amending s. 318.14, F.S.; providing an exception from provisions requiring a person cited for an infraction for failing to stop at a traffic control signal steady red light to sign and accept a citation indicating a promise to appear; amending s. 318.18, F.S.; increasing certain fines; providing for penalties for infractions enforced by a traffic infraction enforcement officer; providing for distribution of fines; allowing the clerk of court to dismiss certain cases upon receiving documentation that the uniform traffic citation was issued in error; providing that an individual may not receive a commission or per-ticket fee from any revenue collected from violations detected through the use of a traffic infraction detector and a manufacturer or vendor may not receive a fee or remuneration based upon the number of violations detected through the use of a traffic infraction detector; creating s. 321.50, F.S.; authorizing the Department of Highway Safety and Motor Vehicles to use traffic infraction detectors under certain circumstances; amending s. 322.27, F.S.; providing that no points may be assessed against the driver's license for infractions enforced by a traffic infraction enforcement officer; providing that infractions enforced by a traffic infraction enforcement officer may not be used for purposes of setting motor vehicle insurance rates; requiring the retention of certain penalty proceeds collected prior to the Department of Revenue's ability to receive and distribute such funds; providing an appropriation and for carryforward of any unexpended balance; providing for severability; providing effective dates.

Be It Enacted by the Legislature of the State of Florida:

Section 1. This act may be cited as the "Mark Wandall Traffic Safety Act."

Section 2. Subsection (86) is added to section 316.003, Florida Statutes, to read:

316.003 Definitions.—The following words and phrases, when used in this chapter, shall have the meanings respectively ascribed to them in this section, except where the context otherwise requires:

(86) TRAFFIC INFRACTION DETECTOR.—A vehicle sensor installed to work in conjunction with a traffic control signal and a camera or cameras synchronized to automatically record two or more sequenced photographic or electronic images or streaming video of only the rear of a motor vehicle at the time the vehicle fails to stop behind the stop bar or clearly marked stop line when facing a traffic control signal steady red light. Any notification under s.

316.0083(1)(b) or traffic citation issued by the use of a traffic infraction detector must include a photograph or other recorded image showing both the license tag of the offending vehicle and the traffic control device being violated.

Section 3. Section 316.0076, Florida Statutes, is created to read:

316.0076 Regulation and use of cameras.—Regulation of the use of cameras for enforcing the provisions of this chapter is expressly preempted to the state. The regulation of the use of cameras for enforcing the provisions of this chapter is not required to comply with provisions of chapter 493.

Section 4. Subsection (7) is added to section 316.008, Florida Statutes, to read:

316.008 Powers of local authorities.—

(7)(a) A county or municipality may use traffic infraction detectors to enforce s. 316.074(1) or s. 316.075(1)(c)1. when a driver fails to stop at a traffic signal on streets and highways under their jurisdiction under s. 316.0083. Only a municipality may install or authorize the installation of any such detectors within the incorporated area of the municipality. Only a county may install or authorize the installation of any such detectors within the unincorporated area of the county.

(b) Pursuant to paragraph (a), a municipality may install or, by contract or interlocal agreement, authorize the installation of any such detectors only within the incorporated area of the municipality, and a county may install or, by contract or interlocal agreement, authorize the installation of any such detectors only within the unincorporated area of the county. A county may authorize installation of any such detectors by interlocal agreement on roads under its jurisdiction.

Section 5. Section 316.0083, Florida Statutes, is created to read:

316.0083 Mark Wandall Traffic Safety Program; administration; report.

(1)(a) For purposes of administering this section, the department, a county, or a municipality may authorize a traffic infraction enforcement officer under s. 316.640 to issue a traffic citation for a violation of s. 316.074(1) or s. 316.075(1)(c)1. A notice of violation and a traffic citation may not be issued for failure to stop at a red light if the driver is making a right-hand turn in a careful and prudent manner at an intersection where right-hand turns are permissible. This paragraph does not prohibit a review of information from a traffic infraction detector by an authorized employee or agent of the department, a county, or a municipality before issuance of the traffic citation by the traffic infraction enforcement officer. This paragraph does not prohibit the department, a county, or a municipality from issuing notification as provided in paragraph (b) to the registered owner of the motor vehicle involved in the violation of s. 316.074(1) or s. 316.075(1)(c)1.

(b)1.a. Within 30 days after a violation, notification must be sent to the registered owner of the motor vehicle involved in the violation specifying the remedies available under s. 318.14 and that the violator must pay the penalty of \$158 to the department, county, or municipality, or furnish an affidavit in accordance with paragraph (d), within 30 days following the date of the notification in order to avoid court fees, costs, and the issuance of a traffic citation. The notification shall be sent by first-class mail.

b. Included with the notification to the registered owner of the motor vehicle involved in the infraction must be a notice that the owner has the right to review the photographic or electronic images or the streaming video evidence that constitutes a rebuttable presumption against the owner of the vehicle. The notice must state the time and place or Internet location where the evidence may be examined and observed.

2. Penalties assessed and collected by the department, county, or municipality authorized to collect the funds provided for in this paragraph, less the amount retained by the county or municipality pursuant to subparagraph 3., shall be paid to the Department of Revenue weekly. Payment by the department, county, or municipality to the state shall be made by means of electronic funds transfers. In addition to the payment, summary detail of the penalties remitted shall be reported to the Department of Revenue.

3. Penalties to be assessed and collected by the department, county, or municipality are as follows:

a. One hundred fifty-eight dollars for a violation of s. 316.074(1) or s. 316.075(1)(c)1. when a driver has failed to stop at a traffic signal if enforcement is by the department's traffic infraction enforcement officer. One hundred dollars shall be remitted to the Department of Revenue for deposit into the General Revenue Fund, \$10 shall be remitted to the Department of Revenue for deposit into the Department of Health Administrative Trust Fund, \$3 shall be remitted to the Department of Revenue for deposit into the Brain and Spinal Cord Injury Trust Fund, and \$45 shall be distributed to the municipality in which the violation occurred, or, if the violation occurred in an unincorporated area, to the county in which the violation occurred. Funds deposited into the Department of Health Administrative Trust Fund under this sub-subparagraph shall be distributed as provided in s. 395.4036(1). Proceeds of the infractions in the Brain and Spinal Cord Injury Trust Fund shall be distributed quarterly to the Miami Project to Cure Paralysis and shall be used for brain and spinal cord research.

b. One hundred fifty-eight dollars for a violation of s. 316.074(1) or s. 316.075(1)(c)1. when a driver has failed to stop at a traffic signal if enforcement is by a county or municipal traffic infraction enforcement officer. Seventy dollars shall be remitted by the county or municipality to the Department of Revenue for deposit into the General Revenue Fund, \$10 shall be remitted to the Department of Revenue for deposit into the Department of Health Administrative Trust Fund, \$3 shall be remitted to the Department

of Revenue for deposit into the Brain and Spinal Cord Injury Trust Fund, and \$75 shall be retained by the county or municipality enforcing the ordinance enacted pursuant to this section. Funds deposited into the Department of Health Administrative Trust Fund under this sub-subparagraph shall be distributed as provided in s. 395.4036(1). Proceeds of the infractions in the Brain and Spinal Cord Injury Trust Fund shall be distributed quarterly to the Miami Project to Cure Paralysis and shall be used for brain and spinal cord research.

4. An individual may not receive a commission from any revenue collected from violations detected through the use of a traffic infraction detector. A manufacturer or vendor may not receive a fee or remuneration based upon the number of violations detected through the use of a traffic infraction detector.

(c)1.a. A traffic citation issued under this section shall be issued by mailing the traffic citation by certified mail to the address of the registered owner of the motor vehicle involved in the violation when payment has not been made within 30 days after notification under subparagraph (b)1.

b. Delivery of the traffic citation constitutes notification under this paragraph.

c. In the case of joint ownership of a motor vehicle, the traffic citation shall be mailed to the first name appearing on the registration, unless the first name appearing on the registration is a business organization, in which case the second name appearing on the registration may be used.

d. The traffic citation shall be mailed to the registered owner of the motor vehicle involved in the violation no later than 60 days after the date of the violation.

2. Included with the notification to the registered owner of the motor vehicle involved in the infraction shall be a notice that the owner has the right to review, either in person or remotely, the photographic or electronic images or the streaming video evidence that constitutes a rebuttable presumption against the owner of the vehicle. The notice must state the time and place or Internet location where the evidence may be examined and observed.

(d)1. The owner of the motor vehicle involved in the violation is responsible and liable for paying the uniform traffic citation issued for a violation of s. 316.074(1) or s. 316.075(1)(c)1. when the driver failed to stop at a traffic signal, unless the owner can establish that:

a. The motor vehicle passed through the intersection in order to yield right-of-way to an emergency vehicle or as part of a funeral procession;

b. The motor vehicle passed through the intersection at the direction of a law enforcement officer;

c. The motor vehicle was, at the time of the violation, in the care, custody, or control of another person; or

d. A uniform traffic citation was issued by a law enforcement officer to the driver of the motor vehicle for the alleged violation of s. 316.074(1) or s. 316.075(1)(c)1.

2. In order to establish such facts, the owner of the motor vehicle shall, within 30 days after the date of issuance of the traffic citation, furnish to the appropriate governmental entity an affidavit setting forth detailed information supporting an exemption as provided in this paragraph.

a. An affidavit supporting an exemption under sub-subparagraph 1.c. must include the name, address, date of birth, and, if known, the driver's license number of the person who leased, rented, or otherwise had care, custody, or control of the motor vehicle at the time of the alleged violation. If the vehicle was stolen at the time of the alleged offense, the affidavit must include the police report indicating that the vehicle was stolen.

b. If a traffic citation for a violation of s. 316.074(1) or s. 316.075(1)(c)1. was issued at the location of the violation by a law enforcement officer, the affidavit must include the serial number of the uniform traffic citation.

3. Upon receipt of an affidavit, the person designated as having care, custody, and control of the motor vehicle at the time of the violation may be issued a traffic citation for a violation of s. 316.074(1) or s. 316.075(1)(c)1. when the driver failed to stop at a traffic signal. The affidavit is admissible in a proceeding pursuant to this section for the purpose of providing proof that the person identified in the affidavit was in actual care, custody, or control of the motor vehicle. The owner of a leased vehicle for which a traffic citation is issued for a violation of s. 316.074(1) or s. 316.075(1)(c)1. when the driver failed to stop at a traffic signal is not responsible for paying the traffic citation and is not required to submit an affidavit as specified in this subsection if the motor vehicle involved in the violation is registered in the name of the lessee of such motor vehicle.

4. The submission of a false affidavit is a misdemeanor of the second degree, punishable as provided in s. 775.082 or s. 775.083.

(e) The photographic or electronic images or streaming video attached to or referenced in the traffic citation is evidence that a violation of s. 316.074(1) or s. 316.075(1)(c)1. when the driver failed to stop at a traffic signal has occurred and is admissible in any proceeding to enforce this section and raises a rebuttable presumption that the motor vehicle named in the report or shown in the photographic or electronic images or streaming video evidence was used in violation of s. 316.074(1) or s. 316.075(1)(c)1. when the driver failed to stop at a traffic signal.

(2) A notice of violation and a traffic citation may not be issued for failure to stop at a red light if the driver is making a right-hand turn in a careful and prudent manner at an intersection where right-hand turns are permissible.

(3) This section supplements the enforcement of s. 316.074(1) or s. 316.075(1)(c)1. by law enforcement officers when a driver fails to stop at a traffic signal and does not prohibit a law enforcement officer from issuing a traffic citation for a violation of s. 316.074(1) or s. 316.075(1)(c)1. when a driver fails to stop at a traffic signal in accordance with normal traffic enforcement techniques.

(4)(a) Each county or municipality that operates a traffic infraction detector shall submit a report by October 1, 2012, and annually thereafter, to the department which details the results of using the traffic infraction detector and the procedures for enforcement for the preceding state fiscal year. The information submitted by the counties and municipalities must include statistical data and information required by the department to complete the report required under paragraph (b).

(b) On or before December 31, 2012, and annually thereafter, the department shall provide a summary report to the Governor, the President of the Senate, and the Speaker of the House of Representatives regarding the use and operation of traffic infraction detectors under this section, along with the department's recommendations and any necessary legislation. The summary report must include a review of the information submitted to the department by the counties and municipalities and must describe the enhancement of the traffic safety and enforcement programs.

Section 6. Subsection (6) of section 316.0745, Florida Statutes, is amended to read:

316.0745 Uniform signals and devices.—

(6) Any system of traffic control devices controlled and operated from a remote location by electronic computers or similar devices must shall meet all requirements established for the uniform system, and, if where such a system affects systems affect the movement of traffic on state roads, the design of the system shall be reviewed and approved by the Department of Transportation.

Section 7. Section 316.07456, Florida Statutes, is created to read:

316.07456 Transitional implementation.—Any traffic infraction detector deployed on the highways, streets, and roads of this state must meet specifications established by the Department of Transportation, and must be tested at regular intervals according to specifications prescribed by the Department of Transportation. The Department of Transportation must establish such specifications on or before December 31, 2010. However, any such equipment acquired by purchase, lease, or other arrangement under an agreement entered into by a county or municipality on or before July 1, 2011,

or equipment used to enforce an ordinance enacted by a county or municipality on or before July 1, 2011, is not required to meet the specifications established by the Department of Transportation until July 1, 2011.

Section 8. Section 316.0776, Florida Statutes, is created to read:

316.0776 Traffic infraction detectors; placement and installation.—

(1) Traffic infraction detectors are allowed on state roads when permitted by the Department of Transportation and under placement and installation specifications developed by the Department of Transportation. Traffic infraction detectors are allowed on streets and highways under the jurisdiction of counties or municipalities in accordance with placement and installation specifications developed by the Department of Transportation.

(2)(a) If the department, county, or municipality installs a traffic infraction detector at an intersection, the department, county, or municipality shall notify the public that a traffic infraction device may be in use at that intersection and must specifically include notification of camera enforcement of violations concerning right turns. Such signage used to notify the public must meet the specifications for uniform signals and devices adopted by the Department of Transportation pursuant to s. 316.0745.

(b) If the department, county, or municipality begins a traffic infraction detector program in a county or municipality that has never conducted such a program, the respective department, county, or municipality shall also make a public announcement and conduct a public awareness campaign of the proposed use of traffic infraction detectors at least 30 days before commencing the enforcement program.

Section 9. Paragraph (b) of subsection (1) and subsection (5) of section 316.640, Florida Statutes, are amended to read:

316.640 Enforcement.—The enforcement of the traffic laws of this state is vested as follows:

(1) STATE.—

(b)1. The Department of Transportation has authority to enforce on all the streets and highways of this state all laws applicable within its authority.

2.a. The Department of Transportation shall develop training and qualifications standards for toll enforcement officers whose sole authority is to enforce the payment of tolls pursuant to s. 316.1001. Nothing in this subparagraph shall be construed to permit the carrying of firearms or other weapons, nor shall a toll enforcement officer have arrest authority.

b. For the purpose of enforcing s. 316.1001, governmental entities, as defined in s. 334.03, which own or operate a toll facility may employ

independent contractors or designate employees as toll enforcement officers; however, any such toll enforcement officer must successfully meet the training and qualifications standards for toll enforcement officers established by the Department of Transportation.

3. For the purpose of enforcing s. 316.0083, the department may designate employees as traffic infraction enforcement officers. A traffic infraction enforcement officer must successfully complete instruction in traffic enforcement procedures and court presentation through the Selective Traffic Enforcement Program as approved by the Division of Criminal Justice Standards and Training of the Department of Law Enforcement, or through a similar program, but may not necessarily otherwise meet the uniform minimum standards established by the Criminal Justice Standards and Training Commission for law enforcement officers or auxiliary law enforcement officers under s. 943.13. This subparagraph does not authorize the carrying of firearms or other weapons by a traffic infraction enforcement officer and does not authorize a traffic infraction enforcement officer to make arrests. The department's traffic infraction enforcement officers must be physically located in the state.

(5)(a) Any sheriff's department or police department of a municipality may employ, as a traffic infraction enforcement officer, any individual who successfully completes instruction in traffic enforcement procedures and court presentation through the Selective Traffic Enforcement Program as approved by the Division of Criminal Justice Standards and Training of the Department of Law Enforcement, or through a similar program, but who does not necessarily otherwise meet the uniform minimum standards established by the Criminal Justice Standards and Training Commission for law enforcement officers or auxiliary law enforcement officers under s. 943.13. Any such traffic infraction enforcement officer who observes the commission of a traffic infraction or, in the case of a parking infraction, who observes an illegally parked vehicle may issue a traffic citation for the infraction when, based upon personal investigation, he or she has reasonable and probable grounds to believe that an offense has been committed which constitutes a noncriminal traffic infraction as defined in s. 318.14. In addition, any such traffic infraction enforcement officer may issue a traffic citation under s. 316.0083. For purposes of enforcing s. 316.0083, any sheriff's department or police department of a municipality may designate employees as traffic infraction enforcement officers. The traffic infraction enforcement officers must be physically located in the county of the respective sheriff's or police department.

(b) The traffic infraction enforcement officer shall be employed in relationship to a selective traffic enforcement program at a fixed location or as part of a crash investigation team at the scene of a vehicle crash or in other types of traffic infraction enforcement under the direction of a fully qualified law enforcement officer; however, it is not necessary that the traffic infraction enforcement officer's duties be performed under the immediate supervision of a fully qualified law enforcement officer.

(c) This subsection does not permit the carrying of firearms or other weapons, nor do traffic infraction enforcement officers have arrest authority other than the authority to issue a traffic citation as provided in this subsection.

Section 10. Subsection (3) of section 316.650, Florida Statutes, is amended to read:

316.650 Traffic citations.—

(3)(a) Except for a traffic citation issued pursuant to s. 316.1001 or s. 316.0083, each traffic enforcement officer, upon issuing a traffic citation to an alleged violator of any provision of the motor vehicle laws of this state or of any traffic ordinance of any municipality or town, shall deposit the original traffic citation or, in the case of a traffic enforcement agency that has an automated citation issuance system, the chief administrative officer shall provide by an electronic transmission a replica of the citation data to a court having jurisdiction over the alleged offense or with its traffic violations bureau within 5 days after issuance to the violator.

(b) If a traffic citation is issued pursuant to s. 316.1001, a traffic enforcement officer may deposit the original traffic citation or, in the case of a traffic enforcement agency that has an automated citation system, may provide by an electronic transmission a replica of the citation data to a court having jurisdiction over the alleged offense or with its traffic violations bureau within 45 days after the date of issuance of the citation to the violator. If the person cited for the violation of s. 316.1001 makes the election provided by s. 318.14(12) and pays the \$25 fine, or such other amount as imposed by the governmental entity owning the applicable toll facility, plus the amount of the unpaid toll that is shown on the traffic citation directly to the governmental entity that issued the citation, or on whose behalf the citation was issued, in accordance with s. 318.14(12), the traffic citation will not be submitted to the court, the disposition will be reported to the department by the governmental entity that issued the citation, or on whose behalf the citation was issued, and no points will be assessed against the person's driver's license.

(c) If a traffic citation is issued under s. 316.0083, the traffic infraction enforcement officer shall provide by electronic transmission a replica of the traffic citation data to the court having jurisdiction over the alleged offense or its traffic violations bureau within 5 days after the date of issuance of the traffic citation to the violator.

Section 11. Subsection (2) of section 318.14, Florida Statutes, is amended to read:

318.14 Noncriminal traffic infractions; exception; procedures.—

(2) Except as provided in ss. s. 316.1001(2) and 316.0083, any person cited for an infraction under this section must sign and accept a citation

indicating a promise to appear. The officer may indicate on the traffic citation the time and location of the scheduled hearing and must indicate the applicable civil penalty established in s. 318.18.

Section 12. Subsection (15) of section 318.18, Florida Statutes, is amended to read:

318.18 Amount of penalties.—The penalties required for a noncriminal disposition pursuant to s. 318.14 or a criminal offense listed in s. 318.17 are as follows:

(15)(a)1. One hundred ~~fifty-eight~~ ~~twenty-five~~ dollars for a violation of s. 316.074(1) or s. 316.075(1)(c)1. when a driver has failed to stop at a traffic signal and when enforced by a law enforcement officer. Sixty dollars shall be distributed as provided in s. 318.21, \$30 shall be distributed to the General Revenue Fund, \$3 shall be remitted to the Department of Revenue for deposit into the Brain and Spinal Cord Injury Trust Fund, and the remaining \$65 shall be remitted to the Department of Revenue for deposit into the Administrative Trust Fund of the Department of Health.

2. One hundred and fifty-eight dollars for a violation of s. 316.074(1) or s. 316.075(1)(c)1. when a driver has failed to stop at a traffic signal and when enforced by the department's traffic infraction enforcement officer. One hundred dollars shall be remitted to the Department of Revenue for deposit into the General Revenue Fund, \$45 shall be distributed to the county for any violations occurring in any unincorporated areas of the county or to the municipality for any violations occurring in the incorporated boundaries of the municipality in which the infraction occurred, \$10 shall be remitted to the Department of Revenue for deposit into the Department of Health Administrative Trust Fund for distribution as provided in s. 395.4036(1), and \$3 shall be remitted to the Department of Revenue for deposit into the Brain and Spinal Cord Injury Trust Fund.

3. One hundred and fifty-eight dollars for a violation of s. 316.074(1) or s. 316.075(1)(c)1. when a driver has failed to stop at a traffic signal and when enforced by a county's or municipality's traffic infraction enforcement officer. Seventy five dollars shall be distributed to the county or municipality issuing the traffic citation, \$70 shall be remitted to the Department of Revenue for deposit into the General Revenue Fund, \$10 shall be remitted to the Department of Revenue for deposit into the Department of Health Administrative Trust Fund for distribution as provided in s. 395.4036(1), and \$3 shall be remitted to the Department of Revenue for deposit into the Brain and Spinal Cord Injury Trust Fund.

(b) Amounts deposited into the Brain and Spinal Cord Injury Trust Fund pursuant to this subsection shall be distributed quarterly to the Miami Project to Cure Paralysis and shall be used for brain and spinal cord research.

(c) If a person who is cited for a violation of s. 316.074(1) or s. 316.075(1)(c)1., as enforced by a traffic infraction enforcement officer under s. 316.0083, presents documentation from the appropriate governmental entity that the traffic citation was in error, the clerk of court may dismiss the case. The clerk of court shall not charge for this service.

(d) An individual may not receive a commission or per-ticket fee from any revenue collected from violations detected through the use of a traffic infraction detector. A manufacturer or vendor may not receive a fee or remuneration based upon the number of violations detected through the use of a traffic infraction detector.

(e) Funds deposited into the Department of Health Administrative Trust Fund under this subsection shall be distributed as provided in s. 395.4036(1).

Section 13. Section 321.50, Florida Statutes, is created to read:

321.50 Authorization to use traffic infraction detectors.—The Department of Highway Safety and Motor Vehicles is authorized to use traffic infraction detectors to enforce s. 316.074(1) or s. 316.075(1)(c)1. when a driver fails to stop on state roads as defined in chapter 316 which are under the original jurisdiction of the Department of Transportation, when permitted by the Department of Transportation, and under s. 316.0083.

Section 14. Paragraph (d) of subsection (3) of section 322.27, Florida Statutes, is amended to read:

322.27 Authority of department to suspend or revoke license.—

(3) There is established a point system for evaluation of convictions of violations of motor vehicle laws or ordinances, and violations of applicable provisions of s. 403.413(6)(b) when such violations involve the use of motor vehicles, for the determination of the continuing qualification of any person to operate a motor vehicle. The department is authorized to suspend the license of any person upon showing of its records or other good and sufficient evidence that the licensee has been convicted of violation of motor vehicle laws or ordinances, or applicable provisions of s. 403.413(6)(b), amounting to 12 or more points as determined by the point system. The suspension shall be for a period of not more than 1 year.

(d) The point system shall have as its basic element a graduated scale of points assigning relative values to convictions of the following violations:

1. Reckless driving, willful and wanton—4 points.
2. Leaving the scene of a crash resulting in property damage of more than \$50—6 points.
3. Unlawful speed resulting in a crash—6 points.
4. Passing a stopped school bus—4 points.

5. Unlawful speed:
 - a. Not in excess of 15 miles per hour of lawful or posted speed—3 points.
 - b. In excess of 15 miles per hour of lawful or posted speed—4 points.
6. A violation of a traffic control signal device as provided in s. 316.074(1) or s. 316.075(1)(c)1.—4 points. However, no points shall be imposed for a violation of s. 316.074(1) or s. 316.075(1)(c)1. when a driver has failed to stop at a traffic signal and when enforced by a traffic infraction enforcement officer. In addition, a violation of s. 316.074(1) or s. 316.075(1)(c)1. when a driver has failed to stop at a traffic signal and when enforced by a traffic infraction enforcement officer may not be used for purposes of setting motor vehicle insurance rates.
7. All other moving violations (including parking on a highway outside the limits of a municipality)—3 points. However, no points shall be imposed for a violation of s. 316.0741 or s. 316.2065(12).
8. Any moving violation covered above, excluding unlawful speed, resulting in a crash—4 points.
9. Any conviction under s. 403.413(6)(b)—3 points.
10. Any conviction under s. 316.0775(2)—4 points.

Section 15. The Department of Highway Safety and Motor Vehicles or any county or municipality authorized to issue a notification and impose a penalty under s. 316.0083(1)(b), Florida Statutes, that collects any such penalty after the effective date of this act, but prior to notification by the Department of Revenue of its ability to receive and distribute the penalties collected, must retain the portion of the penalty required to be remitted to the Department of Revenue until the Department of Highway Safety and Motor Vehicles, county, or municipality is notified by the Department of Revenue that it is able to receive and distribute the retained funds. The portion of the penalty required to be remitted to the Department of Revenue for any penalty collected after such notification is provided to the Department of Highway Safety and Motor Vehicles, county, or municipality must be remitted to the Department of Revenue as provided in s. 316.0083, Florida Statutes. This section shall take effect upon this act becoming a law.

Section 16. For the 2009-2010 state fiscal year, the sum of \$100,000 in nonrecurring funds from the General Revenue Fund is appropriated to the Department of Revenue for the purpose of implementing the provisions of this act. Any unexpended funds from this appropriation shall be reappropriated for fiscal year 2010-2011. This section shall take effect upon this act becoming a law.

Section 17. If any provision of this act or its application to any person or circumstance is held invalid, the invalidity does not affect other provisions or

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applications of this act which can be given effect without the invalid provision or application, and to this end the provisions of this act are severable.

Section 18. Except as otherwise expressly provided in this act, and except for this section which shall take effect upon this act becoming a law, this act shall take effect July 1, 2010.

Approved by the Governor May 13, 2010.

Filed in Office Secretary of State May 13, 2010.



**City of Miami Gardens
Agenda Cover Memo**

Council Meeting Date:	June 9, 2010		Item Type:	Resolution	Ordinance	Other		
			(Enter X in box)		X			
Fiscal Impact: (Enter X in box)	Yes	No	Ordinance Reading: (Enter X in box)	1st Reading		2nd Reading		
		X			X			
Funding Source:	N/A		Public Hearing: (Enter X in box)	Yes	No	Yes	No	
					X		X	
Contract/P.O. Required: (Enter X in box)	Yes	No	Advertising Requirement: (Enter X in box)	Yes		No		
		X					X	
RFP/RFQ/Bid #:								
Sponsor Name	Councilwoman Barbara Watson		Department:	Mayor and City Council				

Short Title:

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MIAMI GARDENS, FLORIDA, AMENDING SECTION 4 AND 15 OF ORDINANCE 2005-13-51, THE "PROPERTY MAINTENANCE" ORDINANCE TO INCLUDE REQUIREMENTS FOR THE STORAGE OF SOLID WASTE RECEPTACLES; PROVIDING FOR THE ADOPTION OF REPRESENTATIONS; REPEALING ALL ORDINANCES IN CONFLICT; PROVIDING A SEVERABILITY CLAUSE; PROVIDING FOR INCLUSION IN CODE; PROVIDING FOR AN EFFECTIVE DATE.

Staff Summary:

On March 5, 2005, the City Council of the City of Miami Gardens, adopted Ordinance No. 2005-13-51 to establish standards of maintenance of properties and to improve and enhance the aesthetic environment throughout the City. Since the adoption of the Property Maintenance Ordinance, the City has encountered many cases in which property owners have left solid waste receptacles along the public right-of-ways for extended periods of time prior to and after trash pick-up. As such, Councilwoman Watson is recommending that the City Council amend the Property Maintenance Ordinance to impose requirements for the inconspicuous storage of solid waste receptacles, and to establish a time for removal of receptacles after scheduled solid waste collection.

Recommendation:

Councilwoman Watson recommends that the City Council approve an amendment to Sections 4 and 15 of the Property Maintenance Ordinance.

**ITEM H-3) ORDINANCE
FIRST READING
Amending the
Property Maintenance Ordinance**

Attachment:

None

ORDINANCE NO. 2010_____

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AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MIAMI GARDENS, FLORIDA, AMENDING SECTION 4 AND 15 OF ORDINANCE 2005-13-51, THE "PROPERTY MAINTENANCE" ORDINANCE TO INCLUDE REQUIREMENTS FOR THE STORAGE OF SOLID WASTE RECEPTACLES; PROVIDING FOR THE ADOPTION OF REPRESENTATIONS; REPEALING ALL ORDINANCES IN CONFLICT; PROVIDING A SEVERABILITY CLAUSE; PROVIDING FOR INCLUSION IN CODE; PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, on March 9, 2005, the City Council of the City of Miami Gardens adopted Ordinance No. 2005-13-51 to establish standards for the maintenance of properties and to improve and enhance the aesthetic environment throughout the City, and

WHEREAS, enforcing proper maintenance standards serves a public purpose in creating safe, sanitary and litter-free neighborhoods within the City of Miami Gardens, and

WHEREAS, the City has encountered problems whereby property owners are leaving solid waste receptacles along public rights-of-way for extended periods of time, and

WHEREAS, the placement and abandonment of waste receptacles for extended periods of time creates blight, litter and animal scavenger problems which poses a threat to the environment and public health, and

WHEREAS, the City would like to amend the "Property Maintenance Ordinance" to include requirements for the storage of solid waste receptacles and

Language deleted is stricken through and language added is underlined

1 to establish a time for the removal of receptacles from rights-of-way after scheduled
2 solid waste collection,

3 NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE
4 CITY OF MIAMI GARDENS, FLORIDA, AS FOLLOWS:

5 Section 1. ADOPTION OF REPRESENTATIONS: The foregoing
6 Whereas paragraphs are hereby ratified and confirmed as being true, and the same
7 are hereby made a specific part of this Ordinance.

8 Section 2. REPEAL: Section 15-5 of the Miami-Dade County Code of
9 Ordinances, as made applicable to the City of Miami Gardens is hereby repealed.

10 Section 3. AMENDMENT: Section 4 of Ordinance No. 2005-13-51 as
11 amended, is hereby amended to include the following definition:

12 V. Solid waste. Garbage, trash, yard trash (except for compost piles),
13 litter, cuttings from vegetation, refuse, paper, bottles, rags, hazardous waste,
14 construction and demolition debris, industrial waste, or other discarded materials,
15 including material or containers from domestic, commercial or agricultural
16 operations, as defined in the City Code of Ordinances.

17
18 W. Solid waste receptacle. A container constructed of such material
19 and in such manner as to hold solid waste and trash and other such items
20 without breaking or collapsing. "Receptacles" shall have handles and covers so
21 that the contents therein are not exposed to weather, animals and vermin. A
22 disposable plastic bag shall constitute a receptacle if it is of sufficient strength
23 and durability to hold its contents of solid waste, garbage, rubbish and trash,
24 without breaking when collected.

25
26 ~~W-X~~ *Structure.* Anything constructed or erected the use of which
27 requires rigid location on the ground, or attachment to something having a
28 permanent location on the ground, including buildings, walls, fences, signs, light
29 stands, towers, tanks, etc.

30
31 ~~X-Y~~ *Unimproved lot.* Any vacant lot or any lot without structure.
32

Language deleted is stricken through and language added is underlined

1 ~~YZ~~ *Vacant Land.* Any parcel of land, whether divided or undivided, upon
2 which there are no structures.

3
4 Section 4. AMENDMENT: Section 15 of Ordinance No. 2005-13-51 is
5 amended as follows:

6 SECTION 15. ~~PREMISES ENTRANCE AND EGRESS; EXTERIOR PEDESTRIAN~~
7 ~~WALKWAYS, PARKING LOTS, GREEN AREAS AND PUBLIC RIGHTS-~~
8 ~~OF-WAY.~~

9
10 (1) Premises entrances and egresses, including lighting, signage, and
11 landscaping, shall be maintained so as not to cause visibility hazards to motorists
12 or pedestrians. Entrances and egresses shall be maintained in accordance with
13 the approved site plan.

14
15 (2) Exterior pedestrian walkways, parking lots, green areas and public rights-of-
16 way shall remain free of obstructions, including but not limited to tables and chairs,
17 merchandise displays, and store merchandise.

18
19 (3) Solid waste receptacles shall be stored in the rear or along the side of
20 residential property in an inconspicuous manner, except during scheduled solid
21 waste collection. In the event of solid waste collection, receptacles shall not be
22 placed in any public right-of-way prior to 7:00 p.m. the day before a solid waste
23 collection, and all solid waste receptacles shall removed by 11:59 p.m. on the date
24 of the solid waste collection.

25
26 Section 5. CONFLICT: All ordinances or code provisions in conflict
27 herewith are hereby repealed.

28 Section 6. SEVERABILITY: If any section, subsection, sentence,
29 clause, phrase or portion of this Ordinance is for any reason held invalid or
30 unconstitutional by any court of competent jurisdiction, such portion shall be
31 deemed a separate, distinct and independent provision and such holding shall
32 not affect the validity of the remaining portions of this Ordinance.

33 Section 7. INCLUSION IN CODE: It is the intention of the City Council
34 of the City of Miami Gardens that the provisions of this Ordinance shall become

Language deleted is stricken through and language added is underlined

1 and be made a part of the Code of Ordinances of the City of Miami Gardens and
2 that the sections of this Ordinance may be renumbered or relettered and the
3 word "Ordinance" may be changed to "Chapter," "Section," "Article" or such other
4 appropriate word or phrase, the use of which shall accomplish the intentions
5 herein expressed; provided, however, that Section 1 hereof or the provisions
6 contemplated thereby shall not be codified.

7 Section 8. EFFECTIVE DATE: This Ordinance shall become effective
8 immediately upon its final passage.

9 PASSED ON FIRST READING ON THE ___ DAY OF ___, 2010.

10 PASSED ON SECOND READING ON THE ___ DAY OF ___, 2010.

11 ADOPTED AND PASSED BY THE CITY COUNCIL OF THE CITY OF
12 MIAMI GARDENS AT ITS REGULAR MEETING HELD ON THE ___ DAY OF
13 _____, 2010.

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17 SHIRLEY GIBSON, MAYOR

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20 **ATTEST:**

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24 RONETTA TAYLOR, MMC, CITY CLERK

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26 PREPARED BY: SONJA K. DICKENS, CITY ATTORNEY

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28 SPONSORED BY: COUNCILWOMAN BARBARA WATSON

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Language deleted is stricken through and language added is underlined

1 Moved by: _____

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7 **VOTE:** _____

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11	Mayor Shirley Gibson	_____ (Yes)	_____ (No)
12	Vice Mayor Aaron Campbell	_____ (Yes)	_____ (No)
13	Councilman Melvin L. Bratton	_____ (Yes)	_____ (No)
14	Councilman Oliver Gilbert III	_____ (Yes)	_____ (No)
15	Councilman Andre' Williams	_____ (Yes)	_____ (No)
16	Councilwoman Sharon Pritchett	_____ (Yes)	_____ (No)
17	Councilwoman Barbara Watson	_____ (Yes)	_____ (No)

Language deleted is stricken through and language added is underlined



**City of Miami Gardens
Agenda Cover Memo**

Council Meeting Date: <i>(Enter X in box)</i>	June 9, 2010		Item Type: <i>(Enter X in box)</i>	Resolution	Ordinance	Other	
					X		
Fiscal Impact: <i>(Enter X in box)</i>	Yes	No	Ordinance Reading: <i>(Enter X in box)</i>	1st Reading		2nd Reading	
		X				X	
Funding Source:	N/A		Advertising Requirement:	Yes	No		
				X			
Contract/P.O. Required: <i>(Enter X in box)</i>	Yes	No	RFP/RFQ/Bid #:	N/A			
		X					
Sponsor Name	Councilman Oliver G. Gilbert III		Department:	Mayor and City Council			

Short Title:

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MIAMI GARDENS, FLORIDA, AMENDING THE CITY'S CODE OF ORDINANCES TO PROHIBIT PAIN MANAGEMENT CLINICS FROM DISPENSING DRUGS ON-SITE; AMENDING SECTION 9-20 OF ORDINANCE NO. 2010-10-218 OF THE LAND DEVELOPMENT REGULATIONS ("LDRS"), TO PROHIBIT ON-SITE DISPENSING OF CONTROLLED SUBSTANCES AT MEDICAL OFFICES; AMENDING SECTION 10-30(DD) OF THE LDRS TO PROHIBIT MOBILE PAIN MANAGEMENT CLINICS; AMENDING APPENDIX "A" MASTER USE LIST AND USE DEFINITIONS OF THE LDRS TO INCLUDE DEFINITIONS FOR "PAIN MANAGEMENT CLINICS"; PROVIDING FOR ADOPTION OF REPRESENTATIONS; REPEALING ALL ORDINANCES IN CONFLICT; PROVIDING A SEVERABILITY CLAUSE; PROVIDING FOR INCLUSION IN CODE; PROVIDING AN EFFECTIVE DATE.

Summary:

Councilman Gilbert is recommending that the City adopt an Ordinance to prohibit "pain management clinics." Medical offices and pharmacies are permitted in various zoning areas throughout the City. While the normal operations and expectations of a medical office use include examination by doctors, if prescriptions are required, they are normally written on-site, and filled off-site at a pharmacy. However, pain management clinics provide prescriptions, and fill prescriptions on-site. While some pain management clinics operate for legitimate purposes, there is a pattern of abuse, which includes

**ITEM I-1) ORDINANCE
SECOND READING/PUBLIC HEARING
Pain Management Clinics**

illegal sale, use, and delivery of narcotics when they are dispensed on site that can be associated with some pain management clinics. Increased criminal activity and other secondary effects including loitering can occur at pain clinics. The Miami Gardens Police Department has observed dispensing of drugs, sales and other criminal activities on or around a property where a pain clinic was located in the City. This type of activity threatens to undermine the economic health of the City's development and redevelopment efforts, as well as our efforts to control crime.

According to a recent Time Magazine article, prescription drug use in Florida rose from 2,780 in 2006 to 3,317 in 2007, and then to 3,750 in 2008. This last figure is equivalent to ten (10) reported deaths a day, more than the number of fatalities from street drugs such as cocaine and heroin.

According to a recent Broward County Grand Jury Report entitled "The Proliferation of Pain Clinics in South Florida" (available at the desk of Mayor and Council Staff), pain clinics dispense nine million doses of OxyContin every six months throughout South Florida. Many patients engage in "doctor shopping" by obtaining and filling prescriptions at various clinics within a matter of hours. Although the State Legislature has authorized a prescription-monitoring database to prevent doctor shopping, it has not been implemented. Many pain clinics only accept cash payments, which keeps them under the radar from the Florida Board of Medicine (BOM) and the Agency for Healthcare Administration (ACHA). In fact, patients travel to South Florida from as far as Tennessee and Kentucky to obtain prescription narcotics. This Ordinance does not interfere with the legitimate medical use of controlled substances, it does however, prohibit the location of dispensing of narcotic drugs on site at medical offices, to the extent permitted by law.

Proposed Action:

Councilman Oliver Gilbert recommends that the City Council approve this Ordinance.

Attachment:

None

ORDINANCE NO. 2010 _____

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MIAMI GARDENS, FLORIDA, AMENDING THE CITY'S CODE OF ORDINANCES TO PROHIBIT PAIN MANAGEMENT CLINICS FROM DISPENSING DRUGS ON-SITE; AMENDING SECTION 9-20 OF ORDINANCE NO. 2010-10-218 OF THE LAND DEVELOPMENT REGULATIONS ("LDRS"), TO PROHIBIT ON-SITE DISPENSING OF CONTROLLED SUBSTANCES AT MEDICAL OFFICES; AMENDING SECTION 10-30(DD) OF THE LDRS TO PROHIBIT MOBILE PAIN MANAGEMENT CLINICS; AMENDING APPENDIX "A" MASTER USE LIST AND USE DEFINITIONS OF THE LDRS TO INCLUDE DEFINITIONS FOR "PAIN MANAGEMENT CLINICS"; PROVIDING FOR ADOPTION OF REPRESENTATIONS; REPEALING ALL ORDINANCES IN CONFLICT; PROVIDING A SEVERABILITY CLAUSE; PROVIDING FOR INCLUSION IN CODE; PROVIDING AN EFFECTIVE DATE.

WHEREAS, on May 12, 2010, the City Council enacted a moratorium on "pain clinics" within the City of Miami Gardens, and

WHEREAS, the City Council directed Staff to study the nature and scope of regulating "pain clinics" and "pain management clinics" and businesses involved in the dispensing of narcotic drugs, and

WHEREAS, the Miami Gardens Police Department has observed suspected drug sales, and other criminal activity on or around the property of a pain clinic in the City, and

WHEREAS, according to a recent TIME Magazine article, prescription drug use in Florida rose from 2,780 in 2006 to 3,317 in 2007, and then to 3,750 in 2008, the last figure is equivalent to about 10 reported deaths a day, more than the number of fatalities from street drugs like cocaine and heroin, and

Language deleted is stricken through and language added is underlined

WHEREAS, the illegal sale, use and delivery of controlled substances is a threat to the health, safety and welfare of the residents of the City of Miami Gardens, and

WHEREAS, increased criminal activity and other secondary effects including parking, noise, loitering and littering associated with the narcotic-related activities at pain management clinics, is significant and threatens to undermine the economic health of the City's development and redevelopment efforts, and

WHEREAS, in the absence of regulations identifying where narcotic drugs may be dispensed, the City's residents, visitors and businesses are more vulnerable to criminal actions, despite the provision of law enforcement services, and

WHEREAS, this Ordinance is not intended to interfere with the legitimate medical use of controlled substances, but rather to prohibit the location of dispensing of narcotic drugs on site at medical offices, to the extent permitted by law,

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF MIAMI GARDENS, FLORIDA, AS FOLLOWS:

Section 1. ADOPTION OF REPRESENTATIONS: The foregoing Whereas paragraphs are hereby ratified and confirmed as being true, and the same are hereby made a specific part of this Ordinance.

Section 2. DEFINITIONS: For purposes of this Section, "*pain management clinics*" or "*pain clinics*" shall be defined as:

Language deleted is stricken through and language added is underlined

1. Any clinic, medical office or medical practitioner's office that is not affiliated with a hospital, hospice or other facility for treatment of terminally ill; and
2. One of the primary business purposes of such clinic, medical office or medical practitioner's office is to prescribe or dispense pain medication, identified in Schedules II, III, IV in Sections 893.03, 893.035 or 893.0355, Florida Statutes, to individuals, or
3. The clinic, medical office or medical practitioner's office advertises as being in business to prescribe pain medication, as defined above in subparagraph 2, and which may or may not provide dispensing of pain medication on site.

Section 3. PROHIBITION: Pain management clinics are prohibited from on-site dispensing of controlled substances that are identified in Schedule II, III, or IV in Sections 893.03, 893.035, or 893.0355, Florida Statutes, in medical offices, unless otherwise expressly permitted by statutory or general law. The following are exempt from this prohibition:

- (1) A health care practitioner administering a controlled substance directly to a patient if the amount of the controlled substance is adequate to treat the patient during that particular treatment session.
- (2) A pharmacist or health care practitioner administering a controlled substance to a patient or resident receiving care at a hospital, nursing facility, institution or asylum, ambulatory surgical center, or hospice which is licensed in this state.
- (3) A pharmacist or health care practitioner administering a controlled substance to a patient or resident receiving care at an intermediate care facility for the developmentally disabled which is licensed in this state.
- (4) A health care practitioner administering a controlled substance in the emergency room of a licensed hospital.
- (5) A health care practitioner dispensing a one-time, 72-hour emergency resupply of a controlled substance to a patient.

Language deleted is stricken through and language added is underlined

Section 4. AMENDMENT: Section 9-20 of Ordinance No. 2010-10-218

is hereby amended as follows:

(FF) Office - medical office/medical clinic. On-site dispensing of controlled substances that are identified in Schedule II, III, or IV in Sections 893.03, 893.035, or 893.0355, Florida Statutes is prohibited, unless otherwise expressly permitted by statutory or general law. The following are exempt from this prohibition:

(1) A health care practitioner administering a controlled substance directly to a patient if the amount of the controlled substance is adequate to treat the patient during that particular treatment session.

(2) A pharmacist or health care practitioner administering a controlled substance to a patient or resident receiving care at a hospital, nursing facility, institution or asylum, ambulatory surgical center, or hospice which is licensed in this state.

(3) A pharmacist or health care practitioner administering a controlled substance to a patient or resident receiving care at an intermediate care facility for the developmentally disabled which is licensed in this state.

(4) A health care practitioner administering a controlled substance in the emergency room of a licensed hospital.

(5) A health care practitioner dispensing a one-time, 72-hour emergency resupply of a controlled substance to a patient.

(GG) Pharmacy, drug store. Shall not be permitted to be located within the same establishment or building as any medical office or clinic, or as any medical or dental laboratory which is staffed by health care practitioners licensed to prescribe controlled substances identified in Schedule II, III, or IV in Sections 893.03, 893.035, or 893.0355, Florida Statutes, as may be amended from time to time. These supplemental regulations are not to be interpreted to limit the lawful operation of a hospital or institution or asylum separately defined and permitted in zoning districts according to separate regulations.

Language deleted is stricken through and language added is underlined

SECTION 5. RELETTERING: Paragraphs FF through PP of Section 9-20 of Ordinance No. 2010-10-218, as amended, are hereby relettered.

SECTION 6. AMENDMENT: Section 10-30(DD) of Ordinance No. 2010-10-218 is hereby amended as follows:

(DD) Mobile medical, professional unit. Mobile medical facilities or other self contained facilities that travel to several locations, are at the location for a period greater than twenty-four (24) hours, and provide medical or other professional services shall be required:

- (1) Special permit. Receive a special permit that is renewed annually.
- (2) Site plan. Provide a site plan for all locations indicating where the unit shall be placed on the site; and,
- (3) Visitation. Specify length of time and frequency of visits to the various locations. The unit shall be on each site no longer than thirty (30) days from the date permit is issued. Units shall visit the site no more than six (6) times a year.
- (4) Mobile pain management clinics, as herein defined, shall be prohibited.

Section 7. AMENDMENT: Appendix “A” Master Use List and Use Definitions of Ordinance No. 2010-10-218 is hereby amended as follows:

USE	RELATED USES	DEFINITION
Office medical office/medical clinic	Chiroprodists. Chiropractors. Christian Science practitioners. Cosmetic procedures and surgery Dentists. Dieticians. Medical clinics by appointment with and	An establishment where patients are examined, treated or both on an individual basis by physicians, chiropractors, dentists, osteopaths, optometrists, acupuncturists, and other health practitioners who are duly licensed to

Language deleted is stricken through and language added is underlined

	<p>without laboratory and other incidental medical services. Midwives. Naturopaths. Nurses, registered and practical. Nutritionists. Occupational therapists. Optometrists. Osteopathic. Outpatient clinics. Rehabilitation centers. Physicians and surgeons. Physiotherapists. Podiatrists. Psychiatrists. Psychoanalysts. Psychologists. Psychotherapists. Urgent care centers Visiting nurse association. Walk in clinics with and without laboratory and other incidental medical services.</p>	<p>practice their respective professions in the State of Florida. Does not include personal service establishments or places for treatment of animals, nor does it entail overnight patient stays. The offices of psychologists, social workers and mental health counselors are not medical offices. (See business and professional office). <u>Shall not include pain management clinics, as herein defined.</u> <i>Rehabilitation centers.</i> A type of medical office established to aid persons affected by excessive or illegal use of drugs, narcotics or other hallucinatory substances, not including alcohol, who have developed a dependency on such substances, including but not limited to methadone maintenance facilities, and outpatient rehabilitation facilities.</p>
<p><u>Pain Clinic and Pain Management Clinic.</u></p>		<p>1. <u>Any clinic, medical office or medical practitioner's office that is not affiliated with a hospital, hospice or other facility for treatment of terminally ill; and</u> 2. <u>One of the primary</u></p>

Language deleted is stricken through and language added is underlined

		<p><u>business purposes of such clinic, medical office or medical practitioner's office is to prescribe or dispense pain medication, identified in Schedules II, III, IV in Sections 893.03, 893.035 or 893.0355, Florida Statutes, to individuals, or</u></p> <p><u>3. The clinic, medical office or medical practitioner's office advertises as being in business to prescribe pain medication, as defined above in subparagraph 2, and which may or may not provide dispensing of pain medication on site.</u></p>
<p>Personal care services</p>	<p>Barber shop. Hair saloon Nails saloon Jewelry repair Petting sitting service Tailors. Shoe repair Licensed massage therapy Personal training (fitness) studios Spa/wellness centers. Drycleaning.</p>	<p>A business primarily engaged in providing individual services on the premises involving the care of a person or their apparel, jewelry and other items worn on one's person. Astrologists and other fortune telling activities, medical services, and mortuaries and related businesses shall not be considered personal service establishments. <u>Shall not include pain management clinics, as herein defined.</u></p>

Language deleted is stricken through and language added is underlined

Section 8. CONFLICT: All ordinances or Code provisions in conflict herewith are hereby repealed.

Section 9. SEVERABILITY: If any section, subsection, sentence, clause, phrase or portion of this Ordinance is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct and independent provision and such holding shall not affect the validity of the remaining portions of this Ordinance.

Section 10. INCLUSION IN CODE: It is the intention of the City Council of the City of Miami Gardens that the provisions of this Ordinance shall become and be made a part of the Code of Ordinances of the City of Miami Gardens and that the section of this Ordinance may be renumbered or relettered and the word "Ordinance" may be changed to "Chapter," "Section," "Article" or such other appropriate word or phrase, the use of which shall accomplish the intentions herein expressed.

Section 11. EFFECTIVE DATE: This Ordinance shall become effective immediately upon its final passage.

PASSED ON FIRST READING ON THE ____ DAY OF _____, 2010.

PASSED ON SECOND READING ON THE ____ DAY OF _____,
2010.

Language deleted is stricken through and language added is underlined

ADOPTED AND PASSED BY THE CITY COUNCIL OF THE CITY OF
MIAMI GARDENS AT ITS REGULAR MEETING HELD ON THE _____ DAY OF
_____, 2010.

SHIRLEY GIBSON, MAYOR

ATTEST:

RONETTA TAYLOR, MMC, CITY CLERK

PREPARED BY: SONJA K. DICKENS, CITY ATTORNEY

SPONSORED BY: COUNCILMAN OLIVER GILBERT III

Moved by: _____

Second by: _____

VOTE: _____

Mayor Shirley Gibson	_____ (Yes)	_____ (No)
Vice Mayor Aaron Campbell	_____ (Yes)	_____ (No)
Councilman Melvin L. Bratton	_____ (Yes)	_____ (No)
Councilman Oliver Gilbert III	_____ (Yes)	_____ (No)
Councilman Andre' Williams	_____ (Yes)	_____ (No)
Councilwoman Sharon Pritchett	_____ (Yes)	_____ (No)
Councilwoman Barbara Watson	_____ (Yes)	_____ (No)

Language deleted is stricken through and language added is underlined



**City of Miami Gardens
Agenda Cover Memo**

Council Meeting Date:	June 9, 2010		Item Type:	Resolution X	Ordinance	Other
Fiscal Impact:	Yes	No	Ordinance Reading:	1st Reading		2nd Reading
	X			Public Hearing:	Yes	No
Funding Source:	Building Better Communities General Obligation Bond Funds		Advertising Requirement:		Yes	
	Contract/P.O. Required:	Yes		No	RFP/RFQ/Bid #:	
	X					
	Sponsor Name	Dr. Danny Crew, City Manager		Department:	Capital Projects	

Short Title:

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MIAMI GARDENS, FLORIDA, AUTHORIZING THE ISSUANCE OF A CHANGE ORDER IN AN AMOUNT NOT TO EXCEED THREE THOUSAND, EIGHT HUNDRED FORTY-THREE DOLLARS AND 60/100 CENTS (\$3,843.60) TO URS CORPORATION SOUTHERN FOR CONSTRUCTION AND ADMINISTRATION SERVICES FOR THE NORWOOD POOL PIPING REPLACEMENT PROJECT; PROVIDING FOR THE ADOPTION OF REPRESENTATIONS; PROVIDING AN EFFECTIVE DATE.

Staff Summary:

Background:

On February 25, 2009, the City Council in accordance with Resolution No. 2009-17-962, authorized the City Manager to approve a Nonexclusive Continuing Contract with URS Corporation Southern. A Purchase Order was issued to URS Corporation Southern in June 2009 in the amount of \$40,107.00 with a 10% contingency of \$4,010.70 to develop the construction documents and perform the construction administration for the Norwood Pool Piping Replacement Project. URS completed the construction documents on schedule and the project was advertised for bids on November 9 2009. The plans and specifications prepared by URS were broadcasted as ITB #09-10-018 on November 9, 2009.

**ITEM J-1) CONSENT AGENDA
RESOLUTION
Change Order to URS Corp.**

Current Situation:

During the development of the construction documents and the actual pipe replacement process changes to the scope of work have occurred which require additional professional services from URS. The additional services are expected to exceed the City Manager's approval authority.

The additional services are:

• Asbestos Survey Report required by DERM	\$2,500.00
• Reimbursement MD Fire, DERM & Health Dept Application fees	\$ 524.30
• MG Building Department & FL Health Department requirements	\$3,285.00
• MG Building Department & FL Health Department requirements	<u>\$1,545.00</u>
	\$7,845.30

Total additional service items	\$7,845.30
Original Approved Contingency 10% -	<u>\$4,010.70</u>
Change Order #1	\$3,843.60

Staff is requesting approval of Change Order #1 to URS Corporation Southern in an amount not to exceed \$3,843.60, to cover the anticipated cost to complete the project. The Building Better Communities General Obligation bond money will be utilized to fund the proposed change order.

Proposed Action:

It is recommended that City Council approve the attached resolution authorizing the City Manager to issue a Change Order #1 to the existing Purchase Order for URS Corporation Southern located in Miami, FL in an amount not to exceed \$3,843.60.

Attachment:

Attachment A: Project Fee Summary

RESOLUTION No. 2010-

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A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MIAMI GARDENS, FLORIDA, AUTHORIZING THE ISSUANCE OF A CHANGE ORDER IN AN AMOUNT NOT TO EXCEED THREE THOUSAND, EIGHT HUNDRED FORTY-THREE DOLLARS AND 60/100 CENTS (\$3,843.60) TO URS CORPORATION SOUTHERN FOR CONSTRUCTION AND ADMINISTRATION SERVICES FOR THE NORWOOD POOL PIPING REPLACEMENT PROJECT; PROVIDING FOR THE ADOPTION OF REPRESENTATIONS; PROVIDING AN EFFECTIVE DATE.

WHEREAS, on February 25, 2009, the City Council in accordance with Resolution No. 2009-17-962, authorized the City Manager to execute a non-exclusive continuing contract with URS Corporation Southern (“URS”), and

WHEREAS, a Purchase Order was issued to URS in June 2009, in the amount of Forty Thousand, One Hundred Seven Dollars (\$40,107.00) to develop the construction documents and perform the construction administration for the Norwood Pool Piping Replacement Project, and

WHEREAS, during the development of the construction documents and the actual pipe replacement process, changes to the scope of work occurred which required additional professional services from URS, and

WHEREAS, the additional services are expected to exceed the City Manager’s approval authority, and

WHEREAS, Miami-Dade GOB Parks Master Plan grant money will be utilized to fund the proposed change order,

1 NOW THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY
2 OF MIAMI GARDENS, FLORIDA, AS FOLLOWS:

3 Section 1. ADOPTION OF REPRESENTATIONS: The foregoing Whereas
4 paragraphs are hereby ratified and confirmed as being true, and the same are hereby
5 made a specific part of this Resolution.

6 Section 2. AUTHORIZATION: The City Council of the City of Miami Gardens
7 hereby authorizes the City Manager to issue a change order in an amount not to exceed
8 Three Thousand, Eight Hundred Forty-Three Dollars and 60/100 Cents (\$3,843.60) to
9 URS Corporation Southern for construction and administration services for the Norwood
10 Pool Piping Replacement Project.

11 Section 3. EFFECTIVE DATE: This Resolution shall take effect immediately
12 upon its final passage.

13 PASSED AND ADOPTED BY THE CITY COUNCIL OF THE CITY OF MIAMI GARDENS
14 AT ITS REGULAR MEETING HELD ON _____, 2010.

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SHIRLEY GIBSON, MAYOR

ATTEST:

RONETTA TAYLOR, MMC, CITY CLERK

PREPARED BY: SONJA K. DICKENS, CITY ATTORNEY

SPONSORED BY: DANNY CREW, CITY MANAGER

1 MOVED BY: _____

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5 **VOTE:** _____

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8 Mayor Shirley Gibson ___(Yes) ___(No)

9 Vice Mayor Aaron Campbell, Jr. ___(Yes) ___(No)

10 Councilman Melvin L. Bratton ___(Yes) ___(No)

11 Councilman Oliver Gilbert, III ___(Yes) ___(No)

12 Councilwoman Barbara Watson ___(Yes) ___(No)

13 Councilwoman Sharon Pritchett ___(Yes) ___(No)

14 Councilman André Williams ___(Yes) ___(No)

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Change No:	GC's PC	Description	Final Amounts	Days Requested	Days Approved
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COUNCIL EXHIBIT "A"

CHANGE ORDER NO:1

PROJECT COST SUMMARY

		EXTENSION REQUESTED DAYS TOT.	EXTENSION APPROVED DAYS TOT.
ORIGINAL PROFESSIONAL SERVICES AGREEMENT (PSA) AMOUNT	\$	40,107.00	
MANAGERS CONTINGENCY @ 10%	\$	4,010.70	
Approved Project Professional Services Agreement Total	\$	44,117.70	
TOTAL ANTICIPATED ADDITIONAL FUNDS NECESSARY TO COMPLETE THE PROJECT	\$	3,843.60	
RECOMMENDED ADJUSTED PSA CONTRACT AMOUNT	\$	47,961.30	
<hr/>			
REQUESTED PROJECT FUNDING INCREASE	\$	3,843.60	



**City of Miami Gardens
Agenda Cover Memo**

Council Meeting Date:	June 9, 2010		Item Type:	Resolution X	Ordinance	Other
Fiscal Impact:	Yes	No	Ordinance Reading:	1st Reading		2nd Reading
	X			Public Hearing:	Yes	No
Funding Source:	Safe Neighborhood Bond Funds		Advertising Requirement:		Yes	
						X
Contract/P.O. Required:	Yes	No	RFP/RFQ/Bid #:			
	X					
Sponsor Name	Dr. Danny Crew, City Manager		Department:	Capital Projects		

Short Title:

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MIAMI GARDENS, FLORIDA, AUTHORIZING THE ISSUANCE OF A CHANGE ORDER IN AN AMOUNT NOT TO EXCEED FOURTEEN THOUSAND, FIVE HUNDRED AND SEVENTY-SIX DOLLARS AND 46/100 CENTS (\$14,576.46) TO SK QUALITY CONTRACTOR, INC., FOR THE CONSTRUCTION OF THE NORWOOD POOL PIPING REPLACEMENT PROJECT; PROVIDING FOR THE ADOPTION OF REPRESENTATIONS; PROVIDING AN EFFECTIVE DATE.

Staff Summary:

Background

On January 13, 2009, the City Council in accordance with Resolution No. 2010-06-1188, Inc., authorized the City Manager to negotiate and execute an agreement with SK Quality Contractor for the construction of the Norwood Pool Piping Replacement Project. The piping replacement scope includes the pool piping and the poolhouse domestic water piping replacement. The City Council approved the contract for the construction of the project in the amount of \$240,000, with a 10% contingency of \$24,000.

**ITEM J-2) CONSENT AGENDA
RESOLUTION
Change Order to SK Quality Contractor Inc.**

Current Situation

Since the start of construction changes to the scope of work have occurred which are expected to exceed the City Manager approved purchasing authority. Miami Gardens Capital Projects staff, Building Inspectors, and the Florida Department of Health have identified needs that were not included as part the original scope.

The change order items are:

1) Unforeseen conditions not addressed in the original scope:	
• Water service relocation & Pool inlet Replaced	\$11,621.90
• Resilient floor deduction	\$ (3,200.00)
• Poolhouse Lavatory mirror replacement	<u>\$ 345.00</u>
	\$ 8,766.90
2) Miami Gardens Building Department inspection requirements:	
• Complete pool electrical grounding	\$ 4,163.00
• Complete Poolhouse electrical grounding	\$ 3,337.30
• Pool electrical grounding for pipe supports	\$ 1,035.00
• Tracing of electrical circuits and panels in Poolhouse	<u>\$ 506.00</u>
	\$ 9,041.30
3) Florida Department of Health additional requirements:	
• New main pool drain	\$20,768.26
Total Change Order items	\$38,576.46
Contingency 10% -	<u>\$24,000.00</u>
Change Order #1	\$14,576.46

Staff is requesting approval of Change Order #1 to SK Quality Contractor in an amount not to exceed \$14,576.46 to cover the anticipated cost to complete the project. The remaining Safe Neighborhood Parks Bond money will be utilized to fund the proposed change order.

Proposed Action:

It is recommended that City Council approve the attached resolution authorizing the City Manager to issue a Change Order to the existing contract with SK Quality Contractor, Inc. located in Miami, FL in an amount not to exceed \$14,576.46.

Attachment:

Attachment A: Project Cost Summary

RESOLUTION No. 2010-

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A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MIAMI GARDENS, FLORIDA, AUTHORIZING THE ISSUANCE OF A CHANGE ORDER IN AN AMOUNT NOT TO EXCEED FOURTEEN THOUSAND, FIVE HUNDRED AND SEVENTY-SIX DOLLARS AND 46/100 CENTS (\$14,576.46) TO SK QUALITY CONTRACTOR, INC., FOR THE CONSTRUCTION OF THE NORWOOD POOL PIPING REPLACEMENT PROJECT; PROVIDING FOR THE ADOPTION OF REPRESENTATIONS; PROVIDING AN EFFECTIVE DATE.

WHEREAS, on January 13, 2009, the City Council adopted Resolution No. 2010-06-1188 authorizing the City Manager to negotiate and execute an agreement with SK Quality Contractor, Inc. for the construction of the Norwood Pool Piping Replacement Project, and

WHEREAS, the piping replacement scope includes the pool piping and the pool house domestic water piping replacement, and

WHEREAS, the City Council approved the contract for the construction of the project in the amount of Two Hundred Forty Thousand Dollars (\$240,000.00), and

WHEREAS, additional inspection and replacement needs which were not included as part of the original scope of work having been identified by the Florida Department of Health and building inspectors, and

WHEREAS, the unforeseen changes to the scope of work exceed the ten percent (10%) contingency given to the City Manager,

NOW THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF MIAMI GARDENS, FLORIDA, AS FOLLOWS:

1 Section 1. ADOPTION OF REPRESENTATIONS: The foregoing Whereas
2 paragraphs are hereby ratified and confirmed as being true, and the same are hereby
3 made a specific part of this Resolution.

4 Section 2. AUTHORIZATION: The City Council of the City of Miami Gardens
5 hereby authorizes the City Manager to issue a change order in an amount not to exceed
6 Fourteen Thousand, Five Hundred and Seventy-Six Dollars and 46/100 Cents
7 (\$14,576.46) to SK Quality Contractor, Inc., for the construction of the Norwood Pool
8 Piping Replacement Project.

9 Section 3. EFFECTIVE DATE: This Resolution shall take effect immediately
10 upon its final passage.

11 PASSED AND ADOPTED BY THE CITY COUNCIL OF THE CITY OF MIAMI GARDENS
12 AT ITS REGULAR MEETING HELD ON JUNE 9, 2010.

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SHIRLEY GIBSON, MAYOR

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ATTEST:

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RONETTA TAYLOR, MMC, CITY CLERK

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PREPARED BY: SONJA K. DICKENS, CITY ATTORNEY

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SPONSORED BY: DANNY CREW, CITY MANAGER

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MOVED BY: _____

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VOTE: _____

Mayor Shirley Gibson	___(Yes)	___(No)
Vice Mayor Aaron Campbell, Jr.	___(Yes)	___(No)
Councilman Melvin L. Bratton	___(Yes)	___(No)
Councilman Oliver Gilbert, III	___(Yes)	___(No)
Councilwoman Barbara Watson	___(Yes)	___(No)
Councilwoman Sharon Pritchett	___(Yes)	___(No)
Councilman André Williams	___(Yes)	___(No)

Change No:	GC's PC	Description	Final Amounts	Days Requested	Days Approved
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COUNCIL EXHIBIT "A"

CHANGE ORDER NO:1

PROJECT COST SUMMARY

		EXTENSION REQUESTED DAYS TOT.	EXTENSION APPROVED DAYS TOT.
ORIGINAL CONSTRUCTION CONTRACT AMOUNT	\$ 240,000.00		
MANAGERS CONTINGENCY @ 10%	\$ 24,000.00		
Approved Project Construction Total Per Reso. No: 2010-06-1188 dated 1/13/2010	\$ 264,000.00		
TOTAL ANTICIPATED ADDITIONAL FUNDS NECESSARY TO COMPLETE THE PROJECT	\$ 14,576.46		
RECOMMENDED ADJUSTED CONSTRUCTION CONTRACT AMOUNT	\$ 278,576.46		
			43.00
REQUESTED PROJECT FUNDING INCREASE	\$ 14,576.46		



**City of Miami Gardens
Agenda Cover Memo**

Council Meeting Date: <i>(Enter X in box)</i>	June 9, 2010		Item Type: <i>(Enter X in box)</i>	Resolution	Ordinance	Other	
				X			
Fiscal Impact: <i>(Enter X in box)</i>	Yes	No	Ordinance Reading: <i>(Enter X in box)</i>	1st Reading		2nd Reading	
	X			Public Hearing: <i>(Enter X in box)</i>	Yes	No	Yes
Funding Source:	Parks and Recreation General Funds		Advertising Requirement: <i>(Enter X in box)</i>		Yes		No
					X		
Contract/P.O. Required: <i>(Enter X in box)</i>	Yes	No	RFP/RFQ/Bid #:	ITB#09-10-041			
	X						
Sponsor Name	Dr. Danny Crew, City Manager		Department:	Parks and Recreation Department			

Short Title:

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MIAMI GARDENS, FLORIDA, AWARDING A BID TO FG ATHLETICS, LLC, IN AN AMOUNT NOT TO EXCEED ONE HUNDRED SEVENTY-NINE THOUSAND, ONE HUNDRED DOLLARS (\$179,100.00), FOR FOOTBALL UNIFORMS; AUTHORIZING THE CITY MANAGER TO ISSUE A PURCHASE ORDER NOT TO EXCEED THIS AMOUNT; PROVIDING FOR THE ADOPTION OF REPRESENTATIONS; PROVIDING AN EFFECTIVE DATE

Staff Summary:

Background

The City of Miami Gardens Parks and Recreation Department is launching its inaugural Youth Sports Program this year. This program will encompass numerous competitive sports programs, teach the fundamentals of each sport, as well as seek to develop student athletes.

Current Situation

The initial sporting activities will be youth football and cheerleading. In an effort to provide football uniforms for the City of Miami Gardens Parks and Recreation Department Youth Sports Program, commencing on June 28, 2010; the City solicited bids to obtain the uniforms from a responsible vendor. The football uniforms included game jerseys, game pants, practice shorts, practice pants, and practice jerseys. The uniforms encompass the necessary items for practice and gameday.

**ITEM J-3) CONSENT AGENDA
RESOLUTION
Awarding a bid to
FG Athletics, LLC**

All items will be purchased on an as needed basis, depending on the number of registered participants. The purchase quantities for the football uniforms will not exceed the following:

- Football Game Jerseys: one thousand six hundred sixty five (1,665)
- Football Game Pants: one thousand six hundred sixty five (1,665)
- Football Practice Shorts: one thousand seven hundred (1,700)
- Football Practice Pants: one thousand seven hundred (1,700)
- Football Practice Jerseys: one thousand seven hundred (1,700)

City Staff prepared specifications and advertised on April 8, 2010. A broadcast notice was sent to 331 vendors. Nineteen (19) vendors requested bid packages. The bids were opened on April 22, 2010. Six (6) bids were received and publicly read. All Bids were evaluated for compliance with specifications and compliance with ability to provide needed quantity. A copy of the bid document and submittals are available for review at the Assistant to the Mayor and Council's office.

Game Wear and One Stop Business Solutions did not bid on all items and therefore are non-responsive. Matty's Sports sample uniform did not meet the lettering specified in the bid and therefore is also non-responsive. FG Athletics, LLC was the only responsive bidder for the football uniforms. Similarly, City Staff inspected the various uniform samples and determined that this vendor's bid met the bid specifications.

Staff is recommending award for the purchase of game jerseys, game pants, practice shorts, practice pants and practice jerseys in the amount of \$179,100 to FG Athletics, LLC of Hialeah, FL. This contract is for a two year term with City option to renew for an additional two years.

Proposed Action:

That the City Council authorize the City Manager to issue a purchase order to FG Athletics, LLC, not to exceed \$179,100 for up to one thousand six hundred sixty five (1665) game jerseys, one thousand six hundred sixty five (1665) game pants, one thousand seven hundred (1700) practice shorts, one thousand seven hundred (1700) practice pants, and one thousand seven hundred (1700) practice jerseys based on the number of registered participants.

Attachment:

Attachment A –Bid Tabulation

RESOLUTION No. 2010-

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A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MIAMI GARDENS, FLORIDA, AWARDING A BID TO FG ATHLETICS, LLC, IN AN AMOUNT NOT TO EXCEED ONE HUNDRED SEVENTY-NINE THOUSAND, ONE HUNDRED DOLLARS (\$179,100.00), FOR FOOTBALL UNIFORMS; AUTHORIZING THE CITY MANAGER TO ISSUE A PURCHASE ORDER NOT TO EXCEED THIS AMOUNT; PROVIDING FOR THE ADOPTION OF REPRESENTATIONS; PROVIDING AN EFFECTIVE DATE.

WHEREAS, the City of Miami Gardens Parks and Recreation Department is launching its inaugural Youth Sports Program this year, and

WHEREAS, it is necessary for the City to order sports uniforms for the youth who will be participating in the activities, and

WHEREAS, the City issued Invitation To Bid #09-10-141 for football uniforms, and

WHEREAS, six (6) bids were received and publicly read, and

WHEREAS, all bids were evaluated for compliance, specifications, and the ability to provide the needed quantities, and

WHEREAS, FG Athletics, LLC of Hialeah, Florida was the only responsible bidder, and

WHEREAS, City staff is recommending that the City Council award a bid to FG Athletics, LLC in the amount of One Hundred Seventy-Nine Thousand, One Hundred Dollars (\$179,100.00) and authorize the City Manager to issue a purchase order accordingly, and

1 WHEREAS, the award will be for a two (2) year term with an option to renew for
2 two (2) additional years,

3 NOW THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY
4 OF MIAMI GARDENS, FLORIDA, AS FOLLOWS:

5 Section 1. ADOPTION OF REPRESENTATIONS: The foregoing Whereas
6 paragraphs are hereby ratified and confirmed as being true, and the same are hereby
7 made a specific part of this Resolution.

8 Section 2. AUTHORIZATION: The City Council of the City of Miami Gardens
9 hereby authorizes the award of a bid to FG Athletics, LLC, in an amount not to exceed
10 One Hundred Seventy-Nine Thousand, One Hundred Dollars (\$179,100.00) for football
11 uniforms and further authorizes the City Manager to issue a Purchase Order not to
12 exceed this amount.

13 Section 3. EFFECTIVE DATE: This Resolution shall take effect immediately
14 upon its final passage.

15 PASSED AND ADOPTED BY THE CITY COUNCIL OF THE CITY OF MIAMI GARDENS
16 AT ITS REGULAR MEETING HELD ON _____, 2010.

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SHIRLEY GIBSON, MAYOR

ATTEST:

RONETTA TAYLOR, MMC, CITY CLERK

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PREPARED BY: SONJA K. DICKENS, CITY ATTORNEY

SPONSORED BY: DANNY CREW, CITY MANAGER

MOVED BY: _____

VOTE: _____

Mayor Shirley Gibson	___(Yes)	___(No)
Vice Mayor Aaron Campbell, Jr.	___(Yes)	___(No)
Councilman Melvin L. Bratton	___(Yes)	___(No)
Councilman Oliver Gilbert, III	___(Yes)	___(No)
Councilwoman Barbara Watson	___(Yes)	___(No)
Councilwoman Sharon Pritchett	___(Yes)	___(No)
Councilman André Williams	___(Yes)	___(No)



City of Miami Gardens
ITB # 09-10-041 FOOTBALL & CHEERLEADING UNIFORMS
April 22, 2010

This is only a tabulation of prices submitted and is not an indication of award or responsiveness.

Item	FOOTBALL UNIFORMS	Est. Qty.	Varsity Spirit Fashions Memphis, TN		GameWear Miami, FL		One Stop Business Solution Miami Gardens, FL		FG Athletics Hialeah, FL		Spirit Wear Hialeah, FL		Matty's Sports Miami, FL	
			Unit Price	Extended Price	Unit Price	Extended Price	Unit Price	Extended Price	Unit Price	Extended Price	Unit Price	Extended Price	Unit Price	Extended Price
	A-Team Vikings													
1	Game Jersey Brand: Game Wear Style: Prodigy or "Approved Equal" meeting specifications.	333	No Bid		\$65.00	\$21,645.00	No Bid		\$45.00	\$14,985.00	No Bid		\$46.95	\$15,634.35
	Brand/Model Offered				GameWear Prodigy				FG Athletics/REAPER				MATJAC/FBJ01	
2	Game Pants Brand: Game Wear Style: Havoc or "Approved Equal" meeting specifications.	333	No Bid		\$43.00	\$14,319.00	No Bid		\$35.00	\$11,655.00	No Bid		\$46.95	\$15,634.35
	Brand/Model Offered				GameWear Prodigy				FG Athletics/REAPER				MATJAC/FBP01	
	B- Team Bulldogs													
1	Game Jersey Brand: Game Wear Style: Fire or "Approved Equal" meeting specifications.	333	No Bid		\$60.00	\$19,980.00	No Bid		\$45.00	\$14,985.00	No Bid		\$46.95	\$15,634.35
	Brand/Model Offered				GameWear Fire				FG Athletics/STEALTH				MATJAC/FBJ02	

2	Game Pants Brand: Game Wear Style: Dagger or "Approved Equal" meeting specifications.	333	No Bid		\$43.00	\$14,319.00	No Bid		\$35.00	\$11,655.00	No Bid		\$46.95	\$15,634.35
	Brand/Model Offered				GameWear Dagger				FG Athletics/STEALTH				MATJAC/FBP02	
	C-Team Ravens													
1	Game Jersey Brand: Game Wear Style: Crush or "Approved Equal" meeting specifications.	333	No Bid		\$47.00	\$15,651.00	No Bid		\$45.00	\$14,985.00	No Bid		\$46.95	\$15,634.35
	Brand/Model Offered				GameWear Crush				FG Athletics/RAVENS				MATJAC/FBJ03	
2	Game Pants Brand: Game Wear Style: Rush or "Approved Equal" meeting specifications.	333	No Bid		\$38.00	\$12,654.00	No Bid		\$35.00	\$11,655.00	No Bid		\$46.95	\$15,634.35
	Brand/Model Offered				GameWear Rush				FG Athletics/RAVENS				MATJAC/FBP03	
	D-Team Rams													
1	Game Jersey Brand: Game Wear Style: Cyclone or "Approved Equal" meeting specifications.	333	No Bid		\$65.00	\$21,645.00	No Bid		\$45.00	\$14,985.00	No Bid		\$46.95	\$15,634.35
	Brand/Model Offered				GameWear Cyclone				FG Athletics/WILDCATS				MATJAC/FBJ04	
2	Game Pants Brand: Game Wear Style: Lighting or "Approved Equal" meeting specifications.	333	No Bid		\$43.00	\$14,319.00	No Bid		\$35.00	\$11,655.00	No Bid		\$46.95	\$15,634.35
	Brand/Model Offered				GameWear Lighting				FG Athletics/WILDCATS				MATJAC/FBP04	

	E-Team Cowboys		Varsity Spirit Fashions	GameWear	One Stop Business Solution	FG Athletics	Spirit Wear	Matty's Sports			
1	Game Jersey Brand: Game Wear Style: Warrior or "Approved Equal" meeting specifications.	333	No Bid	\$51.00	\$16,983.00	No Bid	\$45.00	\$14,985.00	No Bid	\$46.95	\$15,634.35
	Brand/Model Offered			GameWear Warrior		FG Athletics/SUB-0				MATJAC/FBJ05	
2	Game Pants Brand: Game Wear Style: Galaxy or "Approved Equal" meeting specifications.	333	No Bid	\$43.00	\$14,319.00	No Bid	\$35.00	\$11,655.00	No Bid	\$46.95	\$15,634.35
	Brand/Model Offered			GameWear Galaxy		FG Athletics/SUB-0				MATJAC/FBP05	
	F-Football Practice Gear										
1	Practice Shorts Available in all team colors, Youth & Adult sizes: XXS-XXXL Brand: GTM Sports Wear Youth Style: YSH800 or "Approved Equal" meeting specifications.	1700	No Bid	No Bid	\$5.25	\$8,925.00	\$7.00	\$11,900.00	No Bid	\$4.75	\$8,075.00
	Brand/Model Offered				Force 2000 YM		FG Athletics/FP100			Universal Athletic/416-2	
2	Practice Pants Youth & Adult sizes: XXS-XXXL Brand: Alleson Athletic or "Approved Equal" meeting specifications.	1700	No Bid	No Bid	\$16.00	\$27,200.00	\$9.00	\$15,300.00	No Bid	\$8.35	\$14,195.00
	Brand/Model Offered				Champo/FY & FPA		FG Athletics/FP100			Universal Athletic/FBSP0	
3	Practice Jerseys Available in all team colors, Youth & Adult Sizes: XXS-XXXL Brand: Alleson Athletic or "Approved Equal" meeting specifications.	1700	No Bid	No Bid	\$15.00	\$25,500.00	\$11.00	\$18,700.00	No Bid	\$5.90	\$10,030.00
	Brand/Model Offered										
	TOTAL FOOTBALL UNIFORMS		NO BID		\$165,834.00		\$52,838.00		\$179,100.00	NO BID	\$188,643.50

	CHEERLEADING UNIFORMS		Varsity Spirit Fashions		GameWear		One Stop Business Solution		FG Athletics		Spirit Wear		Matty's Sports	
	A-Team Vikings	Est. Qty.	Unit Price	Extended Price	Unit Price	Extended Price	Unit Price	Extended Price	Unit Price	Extended Price	Unit Price	Extended Price	Unit Price	Extended Price
1	Cheerleading Women's Shell Top Available in team colors, Available in Youth and adult sizes: XS-XXXL Varsity WS063A or "Approved Equal" meeting specifications.	225	\$61.20	\$13,770.00	No Bid		No Bid		\$40.00	\$9,000.00	\$46.97	\$10,568.25	No Bid	
	Brand/Model Offered		Varsity/CDT						FG Athletics/C530		Spirit Wear/ 145BA			
			Adult WS063A/Youth CYW52706											
2	Cheerleading Women's Bodyliner Available in team colors, Available in Youth and adult sizes: XS-XXXL Varsity MFBLR054W or "Approved Equal" meeting specifications.	225	\$50.11	\$11,274.75	No Bid		No Bid		\$17.00	\$3,825.00	\$24.72	\$5,562.00	No Bid	
	Brand/Model Offered		Varsity/CDT #MFLR054W						FG Athletics/BL100		Spirit Wear 2 color arms			
3	Cheerleading Women's A-Line Skirt Available in team colors, Available in Youth and adult sizes: XS-XXXL Varsity WS063A or "Approved Equal" meeting specifications.	225	34.42	7,744.50	No Bid		No Bid		\$30.00	\$6,750.00	\$32.97	\$7,418.25	No Bid	
	Brand/Model Offered		Varsity/CDT						FG Athletics/CA100		Spirit Wear/350B			
			Adult 50947/Youth YS0947											
4	Cheerleading Flyer Skirt Available in team colors, Available in Youth and adult sizes: XS-XXXL Varsity S1289 or "Approved Equal" meeting specifications.	18	55.68	1,002.24	No Bid		No Bid		\$30.00	\$540.00	\$45.62	\$821.16	No Bid	
	Brand/Model Offered		Varsity/CDT						FG Athletics/CFS06		Spirit Wear/ 312			
			Adult S1298/Youth YS1298											

CHEERLEADING UNIFORMS cont.			Varsity Spirit Fashions		GameWear		One Stop Business Solution		FG Athletics		Spirit Wear		Matty's Sports	
	C-Team Ravens	Est. Qty.	Unit Price	Extended Price	Unit Price	Extended Price	Unit Price	Extended Price	Unit Price	Extended Price				
1	Cheerleading Women's Shell Top Available in team colors, Available in Youth and adult sizes: XS-XXXL Varsity WS074R or "Approved Equal" meeting specifications.	225	\$66.50	\$14,962.50	No Bid		No Bid		\$40.00	\$9,000.00	\$49.72	\$11,187.00	No Bid	
	Brand/Model Offered		Varsity/CDT						FG Athletics/C530		Spirit Wear/ 139B			
			Adult WS074RA/Youth YWS074RA											
2	Cheerleading Women's Bodyliner Available in team colors, Available in Youth and adult sizes: XS-XXXL Varsity MFBLR030W or "Approved Equal" meeting specifications.	225	\$50.96	\$11,466.00	No Bid		No Bid		\$17.00	\$3,825.00	\$20.22	\$4,549.50	No Bid	
	Brand/Model Offered		Varsity/CDT MFBLR074CV						FG Athletics/BL 100		Spirit solid alternating arm			
3	Cheerleading Women's A-Line Skirt Available in team colors, Available in Youth and adult sizes: XS-XXXL Varsity S025 or "Approved Equal" meeting specifications.	225	\$42.91	\$9,654.75	No Bid		No Bid		\$30.00	\$6,750.00	\$32.97	\$7,418.25	No Bid	
	Brand/Model Offered		Varsity/CDT						FG Athletics/CA100		Spirit Wear/355D			
			Adult S061/Youth CYSK22008V											

4	Cheerleading Flyer Skirt Available in team colors, Available in Youth and adult sizes: XS-XXXL Varsity S23897 or "Approved Equal" meeting specifications.	18	\$74.36	\$1,338.48	No Bid	No Bid	\$30.00	\$540.00	\$47.82	\$860.76	No Bid
	Brand/Model Offered		Varsity/CDT				FG Athletics/CFS06		Spirit Wear/312A		
			Adult S23897/Youth YS23897								
	D-Team Rams										
1	Cheerleading Women's Shell Top Available in team colors, Available in Youth and adult sizes: XS-XXXL Varsity WS083A or "Approved Equal" meeting specifications.	225	\$60.97	\$13,718.25	No Bid	No Bid	\$40.00	\$9,000.00	\$49.72	\$11,187.00	No Bid
	Brand/Model Offered		Varsity/CDT				FG Athletics/C530		Spirit Wear/ 149A		
			Adult WS083A/Youth YWS083A								
2	Cheerleading Women's Bodyliner Available in team colors, Available in Youth and adult sizes: XS-XXXL Varsity MFBLR083M or "Approved Equal" meeting specifications.	225	\$56.91	\$12,804.75	No Bid	No Bid	\$17.00	\$3,825.00	\$35.72	\$8,037.00	No Bid
	Brand/Model Offered		Varsity/CDT MFBL083M				FG Athletics/BL 100		Spirit 4 color arm		
3	Cheerleading Women's A-Line Skirt Available in team colors, Available in Youth and adult sizes: XS-XXXL Varsity S083 or "Approved Equal" meeting specifications.	225	\$42.91	\$9,654.75	No Bid	No Bid	\$30.00	\$6,750.00	\$30.22	\$6,799.50	No Bid
	Brand/Model Offered		Varsity/CDT				FG Athletics/CA 100		Spirit/ 303		
			Adult S083/Youth YS083								

4	Cheerleading Flyer Skirt Available in team colors, Available in Youth and adult sizes: XS-XXXL Varsity S1398 or "Approved Equal" meeting specifications.	18	\$64.16	\$1,154.88	No Bid	No Bid	\$30.00	\$540.00	\$45.62	\$821.16	No Bid
	Brand/Model Offered		Varsity/CDT				FG Athletics/CFS06		Spirit/312		
			Adult S1398/Youth YS1398								
	E-Team Cowboys										
1	Cheerleading Women's Shell Top Available in team colors, Available in Youth and adult sizes: XS-XXXL Varsity WS0924A or "Approved Equal" meeting specifications.	225	\$65.44	\$14,724.00	No Bid		\$40.00	\$9,000.00	\$45.32	\$10,197.00	No Bid
	Brand/Model Offered		Varsity/CDT				FG Athletics/C530		Spirit		
			Adult WS0924A/Youth YWS0924A								
2	Cheerleading Women's Bodyliner Available in team colors, Available in Youth and adult sizes: XS-XXXL Varsity MFBL0924WM or "Approved Equal" meeting specifications.	225	\$47.56	\$10,701.00	No Bid	No Bid	\$17.00	\$3,825.00	\$30.22	\$6,799.50	No Bid
	Brand/Model Offered		varsity/CDT MFBL0924WM				FG Athletics/BL 100		Spirit/3 color arm		
3	Cheerleading Women's A-Line Skirt Available in team colors, Available in Youth and adult sizes: XS-XXXL Varsity S073 or "Approved Equal" meeting specifications.	225	\$38.66	\$8,698.50	No Bid	No Bid	\$30.00	\$6,750.00	\$30.22	\$6,799.50	No Bid
	Brand/Model Offered		Varsity/CDT				FG Athletics/CA100		Spirit Wear/348A		
			Adult S073/Youth YS073								

			Varsity Spirit Fashions		GameWear		One Stop Business Solution		FG Athletics		Spirit Wear		Matty's Sports	
4	Cheerleading Flyer Skirt Available in team colors, Available in Youth and adult sizes: XS-XXXL Varsity S1398 or "Approved Equal" meeting specifications.	18	\$59.91	\$1,078.38	No Bid		No Bid		\$30.00	\$540.00	\$45.62	\$821.16	No Bid	
	Brand/Model Offered		Varsity/CDT						FG Athletics/CFS06		Spirit Wear/312			
			Adult S1398/Youth YS1398											
	F-CHEERLEADING PRACTICE UNIFORMS													
1	Cheerleading Women's Practice Shorts Available in Youth and adult sizes: XS-XXL & Adult sizes; XL- XXL, Varsity SH03 or "Approved Equal" meeting specifications.	1125	\$7.50	\$8,437.50	No Bid		\$5.75	\$6,468.75	\$6.50	\$7,312.50	\$5.48	\$6,165.00	No Bid	
	Brand/Model Offered		Varsity/CDT				August 987		FG Athletics CFS100		Soffee/ SF037			
			Adult SH03/Youth SH03Y											
2	Cheerleading Game Briefs Available in team colors, Available in Youth and adult sizes: XS-XXXL Varsity MFB/MFBY or "Approved Equal" meeting specifications.	1125	\$15.25	\$17,156.25	No Bid		\$10.75	\$12,093.75	\$8.00	\$9,000.00	\$9.87	\$11,103.75	No Bid	
	Brand/Model Offered		Varsity/CDT				Pizzazz 1100		FG Athletics CBR		Spirit Wear/1103			
			Adult MFB/Youth MFBY											
	TOTAL CHEERLEADING UNIFORMS			\$203,083.47		NO BID		\$18,562.50		\$113,962.50		\$138,616.65		NO BID

% Discount if Awarded all items:

15%

10%

0%

1%

0%

0%



**City of Miami Gardens
Agenda Cover Memo**

Council Meeting Date: <i>(Enter X in box)</i>	<i>June 9, 2010</i>		Item Type: <i>(Enter X in box)</i>	Resolution	Ordinance	Other	
				X			
Fiscal Impact: <i>(Enter X in box)</i>	Yes	No	Ordinance Reading: <i>(Enter X in box)</i>	1st Reading		2nd Reading	
	X			Public Hearing: <i>(Enter X in box)</i>	Yes	No	Yes
Funding Source:	Development Services Fund-Building and Code		Advertising Requirement: <i>(Enter X in box)</i>	Yes		No	
						X	
Contract/P.O. Required: <i>(Enter X in box)</i>	Yes	No	RFP/RFQ/Bid #:	N/A			
		X					
Sponsor Name	Councilwoman Barbara Watson		Department:	Mayor and Council			
Short Title:							

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MIAMI GARDENS, FLORIDA, CREATING THE VACANT/ABANDONED PROPERTY WATCH LIST PROGRAM; PROVIDING FOR DIRECTIONS TO THE CITY MANAGER; PROVIDING FOR THE ADOPTION OF REPRESENTATIONS; PROVIDING AN EFFECTIVE DATE

Staff Summary:

Councilwoman Barbara Watson is proposing that the City create a Vacant/Abandoned Property Watch List Program. The purpose of this program will be to compile a list of homes that are vacant and/or abandoned throughout the City of Miami Gardens. The list will be generated as a part of the Code Compliance Division’s abandoned or vacant property enforcement process. This information will be shared with the Police Department in the event of a call for service or problem that arises at the vacant or abandoned property location. This list will identify which party has care/custody of the property, and as a part of the code enforcement process, the property owners will be required to place signage on the home that alerts neighbors on where to call to report suspicious activity.

PROPOSED PROCESS:

- The Code Compliance Zone Officer identifies an abandoned or vacant property needing board up.

**ITEM J-4) CONSENT AGENDA
RESOLUTION
Creating The Vacant/Abandoned Property
Watch List Program**

- The officer writes the code violation requiring board up within seven (7) days and requires the property owner to provide contact information as to who will be responsible for the property in the event of a problem.
- The officer will further require as a stipulation of compliance that the property owner place signage on the exterior of the property that alerts neighbors on where to call to report suspicious activity.
- The officer will be required to place a notice on the properties immediately adjacent to the subject property to educate them on whom to call if suspicious activity is observed on the property.
- Signage will be provided by the City but placed on the property by the owner as a part of the Board up process
- The cost of the sign will be passed on the owner (Estimated cost \$35.00)

It is anticipated that this initiative will be kicked off with a citywide education campaign.

Administrative Cost Estimate:

- Initial Signage Purchase: \$ 3,500.00
- Education Campaign: \$ 3,000.00
- Estimated Cost: \$ 6,500.00**

Proposed Action:

Councilwoman Barbara Watson is proposing that the City Council adopts the attached resolution creating the vacant/abandoned property watch list program.

Attachment:

None

RESOLUTION No. 2010-

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MIAMI GARDENS, FLORIDA, CREATING THE VACANT/ABANDONED PROPERTY WATCH LIST PROGRAM; PROVIDING FOR DIRECTIONS TO THE CITY MANAGER; PROVIDING FOR THE ADOPTION OF REPRESENTATIONS; PROVIDING AN EFFECTIVE DATE.

WHEREAS, Councilwoman Barbara Watson is proposing a Program for vacant/abandoned properties within the City of Miami Gardens, and

WHEREAS, in accordance with the Program, the City will compile a list of those homes that have been identified by the City's Code Compliance Division as being abandoned/vacant, and

WHEREAS, the list will identify which parties live in and/or own these abandoned/vacant properties and the same will be provided to the Police Department in the event of a "call for service," and

WHEREAS, in accordance with the Program, Code Compliance Officers will be able to identify an abandoned/vacant property requiring board-up, will write a violation and provide an opportunity for the owner to provide information as to who is responsible for the property, and

WHEREAS, in accordance with the Program, the City will require that signage be placed on the properties that have been identified and Code Compliance Officers will provide written notice to the property owners of the properties that immediately surround the subject property, and

WHEREAS, it is estimated that the cost to implement the Program will be Six Thousand, Five Hundred Dollars (\$6,500.00),

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NOW THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF MIAMI GARDENS, FLORIDA, AS FOLLOWS:

Section 1. ADOPTION OF REPRESENTATIONS: The foregoing Whereas paragraphs are hereby ratified and confirmed as being true, and the same are hereby made a specific part of this Resolution.

Section 2. CREATION OF PROGRAM: The City Council of the City of Miami Gardens hereby creates the Vacant/Abandoned Property Watch List Program. The City Manager is directed to implement the Program as outlined herein.

Section 3. EFFECTIVE DATE: This Resolution shall take effect immediately upon its final passage.

PASSED AND ADOPTED BY THE CITY COUNCIL OF THE CITY OF MIAMI GARDENS AT ITS REGULAR MEETING HELD ON JUNE 9, 2010.

SHIRLEY GIBSON, MAYOR

ATTEST:

RONETTA TAYLOR, MMC, CITY CLERK

PREPARED BY: SONJA K. DICKENS, CITY ATTORNEY

SPONSORED BY: COUNCILWOMAN BARBARA WATSON

1 MOVED BY: _____

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5 **VOTE:** _____

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8 Mayor Shirley Gibson ___(Yes) ___(No)

9 Vice Mayor Aaron Campbell, Jr. ___(Yes) ___(No)

10 Councilman Melvin L. Bratton ___(Yes) ___(No)

11 Councilman Oliver Gilbert, III ___(Yes) ___(No)

12 Councilwoman Barbara Watson ___(Yes) ___(No)

13 Councilwoman Sharon Pritchett ___(Yes) ___(No)

14 Councilman André Williams ___(Yes) ___(No)

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**City of Miami Gardens
Agenda Cover Memo**

Council Meeting Date:	June 9, 2010		Item Type: <i>(Enter X in box)</i>	Resolution X	Ordinance	Other	
Fiscal Impact: <i>(Enter X in box)</i>			Ordinance Reading: <i>(Enter X in box)</i>	1st Reading		2nd Reading	
	X		Public Hearing: <i>(Enter X in box)</i>	Yes	No	Yes	No
Funding Source:	Capital Projects/Public Works		Advertising Requirement: <i>(Enter X in box)</i>	Yes X		No	
Contract/P.O. Required: <i>(Enter X in box)</i>	Yes	No	RFP/RFQ/Bid #:				
	X						
Sponsor Name	City Manager Danny O. Crew		Department:	Public Works			

Short Title:

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MIAMI GARDENS, FLORIDA, AUTHORIZING THE ACCEPTANCE OF A \$168,880.00 GRANT BY THE MIAMI DADE COUNTY LANDSCAPE COMMITTEE TO LANDSCAPE ALONG NW 183RD STREET FROM NW 27 AVENUE TO NW 47 AVENUE, AUTHORIZING A MATCH OF FUNDS, AND AUTHORIZING THE CITY MANAGER TO TAKE ANY AND ALL STEPS NECESSARY TO EFFECTUATE THE RECEIPT OF THE GRANT FUNDS; PROVIDING FOR THE ADOPTION OF REPRESENTATION; PROVIDING FOR AN EFFECTIVE DATE.

Staff Summary:

The Miami-Dade County Landscape Committee agreed to award the City of Miami Gardens \$168,880 to assist with the Miami Gardens Drive Landscaping Project - Phase 2, which spans from NW 27th Avenue to 47th Avenue. The Committee's vote was unanimous and some committee members shared their delight in seeing the beautiful transformation the City has made in such a short time.

The City must approve a resolution accepting the funding prior to the Landscaping Committee taking their recommendation before the Miami Dade County Board of Commissioners for final award to the City.

This is a dollar-for-dollar matching grant; hence matching funds will come from the City's Capital Projects and Public Works budgets.

Proposed Action:

**ITEM J-5) CONSENT AGENDA
RESOLUTION
Landscape Grant from Miami Dade County**

That the City Council approve the attached resolution allowing the City Manager to accept the Miami-Dade County Landscape Committee grant for a total of \$168,880.

Attachment

None

RESOLUTION No. 2010-

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A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MIAMI GARDENS, FLORIDA, AUTHORIZING THE CITY MANAGER TO TAKE ANY AND ALL STEPS NECESSARY IN ORDER TO RECEIVE A GRANT FROM THE MIAMI-DADE COUNTY LANDSCAPE COMMITTEE IN THE AMOUNT OF ONE HUNDRED SIXTY-EIGHT THOUSAND, EIGHT HUNDRED EIGHTY DOLLARS (\$168,880.00), TO LANDSCAPE ALONG N.W. 183RD STREET FROM N.W. 27TH AVENUE TO N.W. 47TH AVENUE; AUTHORIZING A MATCH OF FUNDS; PROVIDING FOR THE ADOPTION OF REPRESENTATIONS; PROVIDING AN EFFECTIVE DATE.

WHEREAS, the Miami-Dade County Landscape Committee has awarded the City of Miami Gardens One Hundred Sixty-Eight Thousand, Eight Hundred and Eighty Dollars (\$168,800.00) to assist with the Miami Gardens Drive Landscaping Project – Phase 2, which will span from N.W. 27th Avenue to N.W. 47th Avenue, and

WHEREAS, in order to accept the funding, the City Council must approve a Resolution authorizing acceptance of the award, and

WHEREAS, the City will be required to match the funds in the amount of One Hundred Sixty-Eight Thousand, Eight Hundred and Eighty Dollars (\$168,880.00) for this purpose,

NOW THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF MIAMI GARDENS, FLORIDA, AS FOLLOWS:

Section 1. ADOPTION OF REPRESENTATIONS: The foregoing Whereas paragraphs are hereby ratified and confirmed as being true, and the same are hereby made a specific part of this Resolution.

1 Section 2. AUTHORIZATION: The City Council of the City of Miami Gardens
2 hereby authorizes the City Manager to take any and all steps necessary in order to
3 receive a grant from the Miami-Dade County Landscape Committee in the amount of
4 One Hundred Sixty-Eight Thousand, Eight Hundred Eighty Dollars (\$168,800.00) to
5 landscape along N.W. 183rd Street from N.W. 27th Avenue to N.W. 47th Avenue. The
6 City Council further authorizes a match of funds in the amount of One Hundred Sixty-
7 Eight Thousand, Eight Hundred Eighty Dollars (\$168,800.00) to be taken from the
8 Capital Projects and Public Works budgets.

9 Section 3. EFFECTIVE DATE: This Resolution shall take effect immediately
10 upon its final passage.

11 PASSED AND ADOPTED BY THE CITY COUNCIL OF THE CITY OF MIAMI GARDENS
12 AT ITS REGULAR MEETING HELD ON JUNE 9, 2010.

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SHIRLEY GIBSON, MAYOR

ATTEST:

RONETTA TAYLOR, MMC, CITY CLERK

PREPARED BY: SONJA K. DICKENS, CITY ATTORNEY

SPONSORED BY: DANNY CREW, CITY MANAGER

MOVED BY: _____

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VOTE: _____

Mayor Shirley Gibson	___(Yes)	___(No)
Vice Mayor Aaron Campbell, Jr.	___(Yes)	___(No)
Councilman Melvin L. Bratton	___(Yes)	___(No)
Councilman Oliver Gilbert, III	___(Yes)	___(No)
Councilwoman Barbara Watson	___(Yes)	___(No)
Councilwoman Sharon Pritchett	___(Yes)	___(No)
Councilman André Williams	___(Yes)	___(No)



City of Miami Gardens Agenda Cover Memo

Council Meeting Date:	June 9, 2010		Item Type:	Resolution X	Ordinance	Other	
Fiscal Impact:	Yes	No	Ordinance Reading:	1st Reading		2nd Reading	
	X			Public Hearing:	Yes	No	Yes
Funding Source:	CDBG-R Grant & CMG Stormwater		Advertising Requirement:		Yes		No
				X			
Contract/P.O. Required:	Yes	No	RFP/RFQ/Bid #:	ITB#09-10-046 Bunche Park Area Stormwater Drainage Project			
	X						
Sponsor Name	Dr. Danny Crew, City Manager		Department:	Public Works Department			

Short Title:

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MIAMI GARDENS, FLORIDA, AUTHORIZING THE CITY MANAGER AND THE CITY CLERK TO EXECUTE AND ATTEST, RESPECTIVELY, THAT CERTAIN AGREEMENT WITH FLORIDA ENGINEERING AND DEVELOPMENT CORP., ATTACHED HERETO AS EXHIBIT "A," FOR STORMWATER DRAINAGE IMPROVEMENT PROJECT FOR THE BUNCHE PARK AREA, IN AN AMOUNT NOT TO EXCEED ONE HUNDRED SIXTY-EIGHT THOUSAND, FIVE HUNDRED EIGHT DOLLARS (\$168,508.00); PROVIDING FOR INSTRUCTIONS TO THE CITY CLERK; PROVIDING FOR THE ADOPTION OF REPRESENTATIONS; PROVIDING AN EFFECTIVE DATE.

Staff Summary:

On February 17, 2009, President Obama signed the American Recovery and Reinvestment Act of 2009 (Recovery Act). Under the Recovery Act, \$1 billion in Community Development Block Grant (CDBG-R) funds was appropriated for local governments to carry out eligible activities on an expedited basis. The City of Miami Gardens was awarded \$371,207 in CDBG-R Funds.

**ITEM J-6) CONSENT AGENDA
RESOLUTION
Agreement with Florida Engineering and
Development Corp.**

The City Council passed resolution number 2009-202-1148 on October 28, 2009 allocating \$128,405 of CDBG-R funds for survey, engineering design and construction of drainage improvements in the Bunche Park Neighborhood (NW 162 Street from NW 26 Avenue to NW 162 Street Road and NW 161 Street from NW 26 Avenue to West Bunche Park Road). Additionally, as part of the project, \$41,103 from city's Stormwater funding will be used to re-surface the roads in the construction area. The improvements include french drains, installation of catch basins and road re-surfacing in order to eliminate "ponding" and to afford better drainage.

Specifications were prepared by URS for the designated areas stated above. The bid #09-10-046 advertised on March 24, 2010. A broadcast notice was sent to 599 vendors. Fifty bid packages were requested. The bids were opened on April 22, 2010. Twelve bids were received and publicity read. Only eight bids received were deemed responsive. Three bids had insufficient insurance coverage and one bid submitted an expired contractors license.

Bids were evaluated for compliance with the specifications and their ability to perform the work. The apparent low bidder is Florida Engineering and Development, located in Hialeah Gardens, FL. Staff checked references of the apparent low bidder for past performances, finances, and insurances. All of the references were very favorable, the finances are satisfactory, and insurance is sufficient. A copy of the proposal document and submittals are available at the Assistant to the Mayor and Council's Office for review.

Proposed Action:

That City Council approve the attached resolution authorizing the City Manager to execute a contract with Florida Engineering and Development, located in Hialeah Gardens, Florida for the Bunche Park Area Stormwater Drainage Project for an amount not to exceed \$168,508.

Attachment:

Attachement A - Tabulation sheet

RESOLUTION No. 2010-

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A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MIAMI GARDENS, FLORIDA, AUTHORIZING THE CITY MANAGER AND THE CITY CLERK TO EXECUTE AND ATTEST, RESPECTIVELY, THAT CERTAIN AGREEMENT WITH FLORIDA ENGINEERING AND DEVELOPMENT CORP., ATTACHED HERETO AS EXHIBIT "A," FOR STORMWATER DRAINAGE IMPROVEMENT PROJECT FOR THE BUNCHE PARK AREA, IN AN AMOUNT NOT TO EXCEED ONE HUNDRED SIXTY-EIGHT THOUSAND, FIVE HUNDRED EIGHT DOLLARS (\$168,508.00); PROVIDING FOR INSTRUCTIONS TO THE CITY CLERK; PROVIDING FOR THE ADOPTION OF REPRESENTATIONS; PROVIDING AN EFFECTIVE DATE.

WHEREAS, on February 17, 2009, President Obama signed the American Recovery and Reinvestment Act of 2009 ("Recovery Act"), and

WHEREAS, under the Recovery Act, One Billion Dollars in Community Development Block Grant ("CDBG-R") funds were appropriated by local governments to carry out eligible activities, and

WHEREAS, the City Council adopted Resolution No. 2009-202-1148 on October 28, 2009, allocating the sum of One Hundred Twenty-Eight Thousand, Four Hundred Five Dollars (\$128,405.00) in CDBG-R funds for surveying and engineering design and construction of drainage improvements in the Bunche Park Neighborhood, specifically, N.W. 162nd Street from N.W. 27th Avenue to N.W. 162nd Street Road and N.W. 161st Street from N.W. 26th Avenue to West Bunch Park Road, and

WHEREAS, the City has also allocated Forty-One Thousand, One Hundred Three Dollars (\$41,103.00) from the City's stormwater funding for re-surfacing roads in this area, and

1 WHEREAS, improvements will include French drains, installation of catch basins
2 and road re-surfacing, and

3 WHEREAS, URS, the City’s consultant, prepared specifications for bid #09-10-
4 046, and

5 WHEREAS, the respondents were evaluated for compliance, and the apparent
6 low bidder is Florida Engineering and Development Corp., and

7 WHEREAS, City staff is recommending that the City Council authorize the City
8 Manager to enter into an Agreement with Florida Engineering and Development Corp.,

9 NOW THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY
10 OF MIAMI GARDENS, FLORIDA, AS FOLLOWS:

11 Section 1. ADOPTION OF REPRESENTATIONS: The foregoing Whereas
12 paragraphs are hereby ratified and confirmed as being true, and the same are hereby
13 made a specific part of this Resolution.

14 Section 2. AUTHORIZATION: The City Council of the City of Miami Gardens
15 hereby authorizes the City Manager and the City Clerk to execute and attest,
16 respectively, that certain Agreement with Florida Engineering and Development Corp.,
17 attached hereto as Exhibit “A”, for Stormwater Drainage Improvement Project for the
18 Bunch Park area, in an amount not to exceed One Hundred Sixty-Eight Thousand, Five
19 Hundred Eight Dollars (\$168,508.00).

20 Section 3. INSTRUCTIONS TO THE CITY CLERK: The City Clerk is hereby
21 authorized to obtain two (2) fully executed copies of the Agreement with Florida
22 Engineering and Development Corp, with one (1) to be maintained by the City, and one
23 (1) to be delivered to Florida Engineering and Development Corp.

ITB#09-10-046 Residential Bunche Park Area Stormwater Improvement Project

April 22, 2010 @ 2:00 p.m.

Tabulation Sheet

Item	UOM	Qty	Florida Engeering Hialeah Gardens, FL		Williams Paving Medley, FL		Morlic Eng. Corp Doral, FL	
			\$UOM	TOTAL	\$UOM	TOTAL	\$UOM	TOTAL
Bid Bond 10%			yes		yes		yes	
Mobil/Demobil	LS	1	\$6,550.00	\$6,550.00	\$5,000.00	\$5,000.00	\$5,000.00	\$5,000.00
MOT	LS	1	\$3,800.00	\$3,800.00	\$2,300.00	\$2,300.00	\$3,500.00	\$3,500.00
Remov 6" thick	SY	22.22	\$4.00	\$88.88	\$30.00	\$666.60	\$10.00	\$222.20
Remov Drivewy	SY	11.11	\$3.70	\$41.11	\$30.00	\$333.30	\$2.00	\$22.22
Inlet Swale 36"	EA	5	\$1,220.00	\$6,100.00	\$1,700.00	\$8,500.00	\$1,200.00	\$6,000.00
Inlet Swale 48"	EA	5	\$1,750.00	\$8,750.00	\$1,700.00	\$8,500.00	\$1,800.00	\$9,000.00
Baffles	EA	6	\$136.00	\$816.00	\$222.00	\$1,332.00	\$180.00	\$1,080.00
Flowable fill	LS	10	\$270.00	\$2,700.00	\$350.00	\$3,500.00	\$300.00	\$3,000.00
Concrete Inlet	LS	10	\$125.00	\$1,250.00	\$700.00	\$7,000.00	\$300.00	\$3,000.00
Core & tie-in	EA	1	\$425.00	\$425.00	\$600.00	\$600.00	\$750.00	\$750.00
15" Storm sew	LF	150	\$38.00	\$5,700.00	\$65.00	\$9,750.00	\$40.00	\$6,000.00
French Drain	LF	590	\$77.70	\$45,843.00	\$70.00	\$41,300.00	\$70.00	\$41,300.00
Drain Trench	LF	590	\$1.00	\$590.00	\$1.00	\$590.00	\$4.00	\$2,360.00
Regrade swale	SY	65.56	\$1.00	\$65.56	\$15.00	\$983.40	\$25.00	\$1,639.00
Sod	SY	65.56	\$4.50	\$295.02	\$5.00	\$327.80	\$3.00	\$196.68
Rdwy Excavate	CY	40.12	\$16.50	\$661.98	\$2.50	\$100.30	\$10.00	\$401.20
Lime Rock Base	SY	722.22	\$12.15	\$8,774.97	\$10.00	\$7,222.20	\$9.50	\$6,861.09
S-1 Asphalt	TON	356	\$85.00	\$30,260.00	\$86.00	\$30,616.00	\$110.00	\$39,160.00
Mill 1"	SY	5600	\$2.00	\$11,200.00	\$0.75	\$4,200.00	\$3.00	\$16,800.00
Asphalt Drwy	SY	133.33	\$20.00	\$2,666.60	\$45.00	\$5,999.85	\$16.00	\$2,133.28
Concrete Drwy	SY	11.11	\$50.00	\$555.50	\$125.00	\$1,388.75	\$36.00	\$399.96
Stamp Drwy	SY	11.11	\$110.00	\$1,222.10	\$235.00	\$2,610.85	\$60.00	\$666.60
Remov 4" thick	SY	361.11	\$2.40	\$866.66	\$7.50	\$2,708.33	\$10.00	\$3,611.10
Sidewalk 4"	SY	361.11	\$22.50	\$8,124.98	\$32.00	\$11,555.52	\$27.00	\$9,749.97
Clean Structure	EA	4	\$120.00	\$480.00	\$150.00	\$600.00	\$200.00	\$800.00
Clean Pipe	LF	100	\$5.00	\$500.00	\$2.50	\$250.00	\$4.00	\$400.00
Remv Structure	EA	2	\$250.00	\$500.00	\$175.00	\$350.00	\$250.00	\$500.00
Remv Pipe	LF	30	\$11.00	\$330.00	\$5.00	\$150.00	\$3.00	\$90.00
Inlet Sw17x27	EA	5	\$1,000.00	\$5,000.00	\$1,500.00	\$7,500.00	\$900.00	\$4,500.00
Manhole	EA	2	\$1,800.00	\$3,600.00	\$1,700.00	\$3,400.00	\$2,000.00	\$4,000.00
Structure 48"	EA	2	\$2,200.00	\$4,400.00	\$1,800.00	\$3,600.00	\$3,500.00	\$7,000.00
French Dran18"	LF	100	\$63.50	\$6,350.00	\$70.00	\$7,000.00	\$60.00	\$6,000.00
TOTAL				\$168,507.36		\$179,934.90		\$186,143.30

Coastal Contracting & Development - Non-responsive - insufficient insurance - did not meet min.

Kailas Corp. - Non-responsive - insufficient insurance - did not meet minimum requirements

Rock Power Paving - Non-responsive - contractor license expired - questionnaire not submitted, other missing documents

Governor Construction - Non-responsive - insufficient insurance - did not meet minimum req.

ITB#09-10-046 Residential Bunche Park Area Stormwater Improvement Project

April 22, 2010 @ 2:00 p.m.

Tabulation Sheet

Item	UOM	Qty	Acosta Tractors Hialeah Gardens, FL		Horizon Contractors Hialeah, FL		JVA Engineering Miami, FL	
			\$UOM	TOTAL	\$UOM	TOTAL	\$UOM	TOTAL
Bid Bond			yes		yes		yes	
Mobil/Demobil	LS	1	\$8,383.34	\$8,383.34	\$3,000.00	\$3,000.00	\$15,114.36	\$15,114.36
MOT	LS	1	\$2,416.67	\$2,416.67	\$3,900.00	\$3,900.00	\$6,000.00	\$6,000.00
Remov 6" thick	SY	22.22	\$16.50	\$366.63	\$11.00	\$244.42	\$9.00	\$199.98
Remov Drivewy	SY	11.11	\$11.12	\$123.54	\$11.00	\$122.21	\$9.00	\$99.99
Inlet Swale 36"	EA	5	\$1,569.58	\$7,847.90	\$1,575.00	\$7,875.00	\$1,600.00	\$8,000.00
Inlet Swale 48"	EA	5	\$1,973.59	\$9,867.95	\$2,300.00	\$11,500.00	\$2,100.00	\$10,500.00
Baffles	EA	6	\$173.26	\$1,039.56	\$285.00	\$1,710.00	\$225.00	\$1,350.00
Flowable fill	LS	10	\$593.34	\$5,933.40	\$425.00	\$4,250.00	\$4,000.00	\$40,000.00
Concrete Inlet	LS	10	\$559.45	\$5,594.50	\$455.00	\$4,550.00	\$4,000.00	\$40,000.00
Core & tie-in	EA	1	\$672.23	\$672.23	\$720.00	\$720.00	\$800.00	\$800.00
15" Storm sew	LF	150	\$41.24	\$6,186.00	\$69.00	\$10,350.00	\$98.00	\$14,700.00
French Drain	LF	590	\$56.28	\$33,205.20	\$64.00	\$37,760.00	\$98.00	\$57,820.00
Drain Trench	LF	590	\$2.84	\$1,675.60	\$1.00	\$590.00	\$8.00	\$4,720.00
Regrade swale	SY	65.56	\$5.00	\$327.80	\$5.00	\$327.80	\$18.00	\$1,180.08
Sod	SY	65.56	\$14.20	\$930.95	\$3.25	\$213.07	\$18.00	\$1,180.08
Rdwy Excavate	CY	40.12	\$66.14	\$2,653.54	\$7.00	\$280.84	\$15.00	\$601.80
Lime Rock Base	SY	722.22	\$12.66	\$9,143.31	\$12.00	\$8,666.64	\$13.05	\$9,424.97
S-1 Asphalt	TON	356	\$109.30	\$38,910.80	\$119.00	\$42,364.00	\$128.00	\$45,568.00
Mill 1"	SY	5600	\$1.12	\$6,272.00	\$2.50	\$14,000.00	\$3.00	\$16,800.00
Asphalt Drwy	SY	133.33	\$33.56	\$4,474.55	\$29.00	\$3,866.57	\$31.50	\$4,199.90
Concrete Drwy	SY	11.11	\$56.50	\$627.72	\$43.00	\$477.73	\$45.00	\$499.95
Stamp Drwy	SY	11.11	\$171.50	\$1,905.37	\$96.00	\$1,066.56	\$72.00	\$799.92
Remov 4" thick	SY	361.11	\$10.00	\$3,611.10	\$5.00	\$1,805.55	\$9.00	\$3,249.99
Sidewalk 4"	SY	361.11	\$30.50	\$11,013.86	\$27.00	\$9,749.97	\$40.50	\$14,624.96
Clean Structure	EA	4	\$186.39	\$745.56	\$195.00	\$780.00	\$150.00	\$600.00
Clean Pipe	LF	100	\$8.89	\$889.00	\$6.00	\$600.00	\$8.00	\$800.00
Remv Structure	EA	2	\$666.67	\$1,333.34	\$290.00	\$580.00	\$250.00	\$500.00
Remv Pipe	LF	30	\$11.12	\$333.60	\$14.00	\$420.00	\$25.00	\$750.00
Inlet Sw17x27	EA	5	\$1,360.34	\$6,801.70	\$1,125.00	\$5,625.00	\$1,500.00	\$7,500.00
Manhole	EA	2	\$2,484.85	\$4,969.70	\$2,425.00	\$4,850.00	\$2,400.00	\$4,800.00
Structure 48"	EA	2	\$2,351.10	\$4,702.20	\$3,025.00	\$6,050.00	\$3,800.00	\$7,600.00
French Dran18"	LF	100	\$55.06	\$5,506.00	\$60.00	\$6,000.00	\$96.00	\$9,600.00
TOTAL				\$188,464.61		\$194,295.36		\$329,583.97

ITB#09-10-046 Residential Bunche Park Area Stormwater Improvement Project

April 22, 2010 @ 2:00 p.m.

Tabulation Sheet

Item	UOM	Qty	Miguel Lopez Jr. Inc Medley, FL		Stanford Construct. Pompano Bch, FL		\$UOM	TOTAL
			\$UOM	TOTAL	\$UOM	TOTAL		
Bid Bond			yes		yes			
Mobil/Demobil	LS	1	\$6,015.00	\$6,015.00	\$6,800.00	\$6,800.00		
MOT	LS	1	\$3,500.00	\$3,500.00	\$5,000.00	\$5,000.00		
Remov 6" thick	SY	22.22	\$36.00	\$799.92	\$18.00	\$399.96		
Remov Driveway	SY	11.11	\$40.50	\$449.96	\$25.00	\$277.75		
Inlet Swale 36"	EA	5	\$1,200.00	\$6,000.00	\$2,300.00	\$11,500.00		
Inlet Swale 48"	EA	5	\$1,500.00	\$7,500.00	\$3,750.00	\$18,750.00		
Baffles	EA	6	\$240.00	\$1,440.00	\$562.00	\$3,372.00		
Flowable fill	LS	10	\$6,000.00	\$60,000.00	\$2,500.00	\$25,000.00		
Concrete Inlet	LS	10	\$4,500.00	\$45,000.00	\$3,206.00	\$32,060.00		
Core & tie-in	EA	1	\$500.00	\$500.00	\$450.00	\$450.00		
15" Storm sew	LF	150	\$50.00	\$7,500.00	\$56.25	\$8,437.50		
French Drain	LF	590	\$110.00	\$64,900.00	\$45.00	\$26,550.00		
Drain Trench	LF	590	\$5.00	\$2,950.00	\$2.50	\$1,475.00		
Regrade swale	SY	65.56	\$8.00	\$524.48	\$12.00	\$786.72		
Sod	SY	65.56	\$5.60	\$367.14	\$4.50	\$295.02		
Rdwy Excavate	CY	40.12	\$10.00	\$401.20	\$15.00	\$601.80		
Lime Rock Base	SY	722.22	\$14.50	\$10,472.19	\$12.00	\$8,666.64		
S-1 Asphalt	TON	356	\$160.00	\$56,960.00	\$90.00	\$32,040.00		
Mill 1"	SY	5600	\$2.20	\$12,320.00	\$1.50	\$8,400.00		
Asphalt Drwy	SY	133.33	\$15.50	\$2,066.62	\$19.00	\$2,533.27		
Concrete Drwy	SY	11.11	\$60.00	\$666.60	\$65.00	\$722.15		
Stamp Drwy	SY	11.11	\$200.00	\$2,222.00	\$80.00	\$888.80		
Remov 4" thick	SY	361.11	\$9.00	\$3,249.99	\$3.50	\$1,263.89		
Sidewalk 4"	SY	361.11	\$36.00	\$12,999.96	\$27.00	\$9,749.97		
Clean Structure	EA	4	\$300.00	\$1,200.00	\$150.00	\$600.00		
Clean Pipe	LF	100	\$4.00	\$400.00	\$7.50	\$750.00		
Remv Structure	EA	2	\$560.00	\$1,120.00	\$250.00	\$500.00		
Remv Pipe	LF	30	\$5.00	\$150.00	\$10.00	\$300.00		
Inlet Sw17x27	EA	5	\$750.00	\$3,750.00	\$2,500.00	\$12,500.00		
Manhole	EA	2	\$1,600.00	\$3,200.00	\$3,200.00	\$6,400.00		
Structure 48"	EA	2	\$1,400.00	\$2,800.00	\$3,500.00	\$7,000.00		
French Dran18"	LF	100	\$99.00	\$9,900.00	\$35.00	\$3,500.00		
TOTAL				\$331,325.05		\$237,570.47		

This is only a tabulation of prices submitted, and is not an indication of award



**City of Miami Gardens
Agenda Cover Memo**

Council Meeting Date:	June 9, 2010		Item Type:	Resolution X	Ordinance	Other	
Fiscal Impact:	Yes	No	Ordinance Reading:	1st Reading		2nd Reading	
	X			Public Hearing:	Yes	No	Yes
Funding Source:	FDEP Stormwater Grant - \$100,000		Advertising Requirement:		Yes	No	
				X			
Contract/P.O. Required:	Yes	No	RFP/RFQ/Bid #:	ITB#09-10-048 NW 175 Street/NW 12 Avenue Stormwater Drainage Project			
	X						
Sponsor Name	Dr. Danny Crew, City Manager		Department:	Public Works Department			

Short Title:

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MIAMI GARDENS, FLORIDA, AUTHORIZING THE CITY MANAGER TO EXECUTE THAT CERTAIN AGREEMENT WITH ROCK POWER PAVING, INC., ATTACHED HERETO AS EXHIBIT "A," FOR THE N.W. 175TH/N.W. 12TH AVENUE STORMWATER WATER DRAINAGE PROJECT, IN AN AMOUNT NOT TO EXCEED ONE HUNDRED THOUSAND, NINE HUNDRED SEVEN DOLLARS (\$100,907.00), INCLUDING A TEN PERCENT (10%) CONTINGENCY; PROVIDING FOR THE ADOPTION OF REPRESENTATIONS; PROVIDING AN EFFECTIVE DATE

Staff Summary:

The City of Miami Gardens received a grant totaling \$100,000 from the Florida Department of Environmental Protection for drainage improvements at NW 175 Street and NW 12 Avenue that includes French drains and installation of catch basins in order to eliminate "ponding" and to afford better drainage.

Specifications for the designated area stated above were prepared by Craven, Thompson and Associates, Bid #09-10-048, and advertised on April 7, 2010. A broadcast notice was sent to vendors. Fifty-six bid packages were requested. The bids were opened on April 30, 2010. Thirteen bids were received and publicity read. Only ten bids received were deemed responsive. Two bids had insufficient insurance coverage and one bid didn't provide a bid bond in the required amount.

**ITEM J-7) CONSENT AGENDA
RESOLUTION
Agreement with Rock Power Paving Inc.**

Bids were evaluated for compliance with the specifications and their ability to perform the work. The apparent low bidder is Rock Power Inc., located in Miami, FL. Staff checked references of the apparent low bidder for past performances, finances, and insurances. All of the references were very favorable, the finances are satisfactory, and insurance is sufficient. A copy of the proposal document and submittals are available at the Assistant to the Mayor and Council's office for review.

Proposed Action:

That City Council approves the attached resolution allowing the City Manager to execute a contract with Rock Power, Inc, located in Miami, Florida for the NW 175 Street/NW 12 Avenue Stormwater Drainage Project for an amount not to exceed \$100,907, which includes 10% contingency for unforeseen conditions.

Attachment:

Attachment A - Tabulation sheet

RESOLUTION No. 2010-

1
2
3 A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF
4 MIAMI GARDENS, FLORIDA, AUTHORIZING THE CITY
5 MANAGER TO EXECUTE THAT CERTAIN AGREEMENT WITH
6 ROCK POWER PAVING, INC., ATTACHED HERETO AS
7 EXHIBIT "A," FOR THE N.W. 175TH/N.W. 12TH AVENUE
8 STORMWATER WATER DRAINAGE PROJECT, IN AN AMOUNT
9 NOT TO EXCEED ONE HUNDRED THOUSAND, NINE
10 HUNDRED SEVEN DOLLARS (\$100,907.00), INCLUDING A TEN
11 PERCENT (10%) CONTINGENCY; PROVIDING FOR THE
12 ADOPTION OF REPRESENTATIONS; PROVIDING AN
13 EFFECTIVE DATE.

14
15 WHEREAS, the City of Miami Gardens received a grant in the amount of One
16 Hundred Thousand Dollars (\$100,000.00) from the Department of Environmental
17 Protection for drainage improvement at N.W. 175th Street and N.W. 12th Avenue, and

18 WHEREAS, specifications for the repair were prepared by Craven Thompson &
19 Associates, in accordance with Bid #09-10-048 and same was advertised on April 7,
20 2010, and

21 WHEREAS, the apparent lowest responsive bidder is Rock Power Paving, Inc.,
22 and

23 WHEREAS, City staff is recommending that City Council authorize an Agreement
24 with Rock Power Paving, Inc. for the completion of the Stormwater Drainage Project,

25 NOW THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY
26 OF MIAMI GARDENS, FLORIDA, AS FOLLOWS:

27 Section 1. ADOPTION OF REPRESENTATIONS: The foregoing Whereas
28 paragraphs are hereby ratified and confirmed as being true, and the same are hereby
29 made a specific part of this Resolution.

1 Section 2. AUTHORIZATION: The City Council of the City of Miami Gardens
2 hereby authorizes the City Manager to execute that certain Agreement with Rock Power
3 Paving, Inc., attached hereto as Exhibit "A," for the N.W. 175th/N.W. 12th Avenue
4 Stormwater Drainage Project, in an amount not to exceed One Hundred Thousand,
5 Nine Hundred Seven Dollars (\$100,907.00). Said amount includes a ten percent (10)
6 contingency.

7 Section 3. EFFECTIVE DATE: This Resolution shall take effect immediately
8 upon its final passage.

9 PASSED AND ADOPTED BY THE CITY COUNCIL OF THE CITY OF MIAMI GARDENS
10 AT ITS REGULAR MEETING HELD ON JUNE 9, 2010.

11

12

13

14

SHIRLEY GIBSON, MAYOR

15

16 ATTEST:

17

18

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RONETTA TAYLOR, MMC, CITY CLERK

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24

PREPARED BY: SONJA K. DICKENS, CITY ATTORNEY

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SPONSORED BY: DANNY CREW, CITY MANAGER

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MOVED BY:_____

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VOTE: _____

Mayor Shirley Gibson	___(Yes)	___(No)
Vice Mayor Aaron Campbell, Jr.	___(Yes)	___(No)
Councilman Melvin L. Bratton	___(Yes)	___(No)
Councilman Oliver Gilbert, III	___(Yes)	___(No)
Councilwoman Barbara Watson	___(Yes)	___(No)
Councilwoman Sharon Pritchett	___(Yes)	___(No)
Councilman André Williams	___(Yes)	___(No)

ITB#09-10-048 NW12th Avenue/NW 174th Street Drainage Improvements

April 30, 2010 @ 2:00 p.m.

Tabulation Sheet

Item	UOM	Qty	Rock Power Paving Miami, FL		Quality Paving Corp Miami, FL*		Florida Engineering Hialeah Gardens, FL		KMC Corp Pompano Bch, FL	
			\$UOM	TOTAL	\$UOM	TOTAL	\$UOM	TOTAL	\$UOM	TOTAL
Bid Bond 10%			yes		yes		yes		yes	
General Req	LS	1	\$3,885.00	\$3,885.00	\$2,000.00	\$2,000.00	\$4,550.00	\$4,550.00	\$5,000.00	\$5,000.00
MOT	LS	1	\$1,450.00	\$1,450.00	\$2,500.00	\$2,500.00	\$4,725.00	\$4,725.00	\$5,000.00	\$5,000.00
DRAINAGE										
Rem&Dis Pipe	LF	160	\$7.00	\$1,120.00	\$3.00	\$480.00	\$7.00	\$1,120.00	\$5.00	\$800.00
Rem&Dis Struct	EA	2	\$237.00	\$474.00	\$100.00	\$200.00	\$250.00	\$500.00	\$250.00	\$500.00
15" RCP	LF	612	\$23.00	\$14,076.00	\$32.00	\$19,584.00	\$35.40	\$21,664.80	\$28.00	\$17,136.00
15" RCP w/Exf	LF	400	\$95.00	\$38,000.00	\$74.00	\$29,600.00	\$92.70	\$37,080.00	\$95.00	\$38,000.00
4' Basin	EA	5	\$2,000.00	\$10,000.00	\$1,900.00	\$9,500.00	\$1,650.00	\$8,250.00	\$2,200.00	\$11,000.00
4' Manhole	EA	1	\$1,704.00	\$1,704.00	\$1,900.00	\$1,900.00	\$1,510.00	\$1,510.00	\$2,200.00	\$2,200.00
Baffle	EA	6	\$125.00	\$750.00	\$150.00	\$900.00	\$186.50	\$1,119.00	\$400.00	\$2,400.00
Storm Struct	EA	2	\$280.00	\$560.00	\$400.00	\$800.00	\$450.00	\$900.00	\$500.00	\$1,000.00
Struct Clean	EA	4	\$105.00	\$420.00	\$120.00	\$480.00	\$120.00	\$480.00	\$350.00	\$1,400.00
Pipe Clean	LF	285	\$2.10	\$598.50	\$4.00	\$1,140.00	\$3.50	\$997.50	\$5.00	\$1,425.00
PAVING										
S-1 Asphalt	SY	1545	\$6.30	\$9,733.50	\$5.55	\$8,574.75	\$6.50	\$10,042.50	\$7.50	\$11,587.50
8" Limerock	SY	470	\$8.00	\$3,760.00	\$18.00	\$8,460.00	\$12.00	\$5,640.00	\$8.50	\$3,995.00
12" Subgrade	SY	470	\$1.05	\$493.50	\$5.00	\$2,350.00	\$7.50	\$3,525.00	\$2.00	\$940.00
Rem&Dis 1"	SY	1545	\$1.82	\$2,811.90	\$1.00	\$1,545.00	\$1.50	\$2,317.50	\$1.00	\$1,545.00
Rem&Dis 8"	SY	430	\$1.00	\$430.00	\$1.00	\$430.00	\$2.00	\$860.00	\$3.00	\$1,290.00
Rem&Dis 12"	SY	430	\$1.00	\$430.00	\$1.00	\$430.00	\$4.00	\$1,720.00	\$3.00	\$1,290.00
SIGN & MARK										
Stripe 12" White	LF	50	\$0.90	\$45.00	\$0.60	\$30.00	\$0.70	\$35.00	\$0.75	\$37.50
Stripe 4" White	LF	750	\$0.32	\$240.00	\$0.40	\$300.00	\$0.30	\$225.00	\$0.50	\$375.00
Stripe 24" White	LF	50	\$1.05	\$52.50	\$0.65	\$32.50	\$1.50	\$75.00	\$1.50	\$75.00
Stripe 8" White	LF	430	\$0.75	\$322.50	\$0.50	\$215.00	\$0.50	\$215.00	\$0.65	\$279.50
Stripe 18" White	LF	270	\$0.95	\$256.50	\$0.60	\$162.00	\$1.00	\$270.00	\$1.50	\$405.00
Messages	EA	4	\$30.00	\$120.00	\$100.00	\$400.00	\$40.00	\$160.00	\$200.00	\$800.00
TOTAL			\$91,732.90		\$92,013.25		\$107,981.30		\$108,480.50	

ITB#09-10-048 NW12th Avenue/NW 174th Street Drainage Improvements
 April 30, 2010 @ 2:00 p.m. Tabulation Sheet

Item	UOM Qty		Horizon Contractors Hialeah, FL		JVA Engineering Miami, FL		Straightline Engineering Miami Gardens, FL		Willaims Paving Co. Medley, FL	
			\$UOM	TOTAL	\$UOM	TOTAL	\$UOM	TOTAL	\$UOM	TOTAL
Bid Bond 10%			yes		yes		yes		yes	
General Req	LS	1	\$6,000.00	\$6,000.00	\$6,000.00	\$6,000.00	\$6,000.00	\$6,000.00	\$4,500.00	\$4,500.00
MOT	LS	1	\$6,000.00	\$6,000.00	\$6,500.00	\$6,500.00	\$1,500.00	\$1,500.00	\$6,500.00	\$6,500.00
DRAINAGE										
Rem&Dis Pipe	LF	160	\$11.00	\$1,760.00	\$15.00	\$2,400.00	\$5.00	\$800.00	\$10.00	\$1,600.00
Rem&Dis Struct	EA	2	\$350.00	\$700.00	\$200.00	\$400.00	\$200.00	\$400.00	\$400.00	\$800.00
15" RCP	LF	612	\$35.00	\$21,420.00	\$44.00	\$26,928.00	\$60.00	\$36,720.00	\$45.00	\$27,540.00
15" RCP w/Exf	LF	400	\$90.00	\$36,000.00	\$95.00	\$38,000.00	\$90.00	\$36,000.00	\$125.00	\$50,000.00
4' Basin	EA	5	\$2,400.00	\$12,000.00	\$2,100.00	\$10,500.00	\$1,900.00	\$9,500.00	\$2,000.00	\$10,000.00
4' Manhole	EA	1	\$2,400.00	\$2,400.00	\$2,250.00	\$2,250.00	\$3,000.00	\$3,000.00	\$1,800.00	\$1,800.00
Baffle	EA	6	\$400.00	\$2,400.00	\$295.00	\$1,770.00	\$200.00	\$1,200.00	\$175.00	\$1,050.00
Storm Struct	EA	2	\$400.00	\$800.00	\$1,000.00	\$2,000.00	\$1,000.00	\$2,000.00	\$600.00	\$1,200.00
Struct Clean	EA	4	\$190.00	\$760.00	\$200.00	\$800.00	\$200.00	\$800.00	\$150.00	\$600.00
Pipe Clean	LF	285	\$5.00	\$1,425.00	\$8.00	\$2,280.00	\$4.00	\$1,140.00	\$2.75	\$783.75
PAVING										
S-1 Asphalt	SY	1545	\$7.00	\$10,815.00	\$8.10	\$12,514.50	\$10.00	\$15,450.00	\$6.00	\$9,270.00
8" Limerock	SY	470	\$12.00	\$5,640.00	\$13.50	\$6,345.00	\$10.00	\$4,700.00	\$16.00	\$7,520.00
12" Subgrade	SY	470	\$3.00	\$1,410.00	\$2.25	\$1,057.50	\$5.00	\$2,350.00	\$4.50	\$2,115.00
Rem&Dis 1"	SY	1545	\$1.00	\$1,545.00	\$4.50	\$6,952.50	\$2.00	\$3,090.00	\$2.50	\$3,862.50
Rem&Dis 8"	SY	430	\$1.00	\$430.00	\$4.50	\$1,935.00	\$2.00	\$860.00	\$2.00	\$860.00
Rem&Dis 12"	SY	430	\$1.00	\$430.00	\$1.80	\$774.00	\$2.00	\$860.00	\$2.00	\$860.00
SIGN & MARK										
Stripe 12" White	LF	50	\$2.00	\$100.00	\$2.00	\$100.00	\$3.00	\$150.00	\$1.40	\$70.00
Stripe 4" White	LF	750	\$0.50	\$375.00	\$0.60	\$450.00	\$2.00	\$1,500.00	\$0.60	\$450.00
Stripe 24" White	LF	50	\$3.00	\$150.00	\$4.00	\$200.00	\$3.00	\$150.00	\$3.20	\$160.00
Stripe 8" White	LF	430	\$1.00	\$430.00	\$1.00	\$430.00	\$2.00	\$860.00	\$1.00	\$430.00
Stripe 18" White	LF	270	\$2.00	\$540.00	\$3.00	\$810.00	\$3.00	\$810.00	\$1.80	\$486.00
Messages	EA	4	\$70.00	\$280.00	\$100.00	\$400.00	\$250.00	\$1,000.00	\$100.10	\$400.40
TOTAL			\$113,810.00		\$131,796.50		\$130,840.00		\$132,857.65	

ITB#09-10-048 NW12th Avenue/NW 174th Street Drainage Improvements
 April 30, 2010 @ 2:00 p.m. Tabulation Sheet

Item	UOM	Qty	Acosta Tractors Hialeah Gardens, FL		Metro Express Inc Medley, FL	
			\$UOM	TOTAL	\$UOM	TOTAL
Bid Bond 10%			yes		yes	
General Req	LS	1	\$11,650.00	\$11,650.00	\$4,000.00	\$4,000.00
MOT	LS	1	\$1,175.00	\$1,175.00	\$3,000.00	\$3,000.00
DRAINAGE						
Rem&Dis Pipe	LF	160	\$5.56	\$889.60	\$10.00	\$1,600.00
Rem&Dis Struct	EA	2	\$500.00	\$1,000.00	\$100.00	\$200.00
15" RCP	LF	612	\$44.53	\$27,252.36	\$70.00	\$42,840.00
15" RCP w/Exf	LF	400	\$107.67	\$43,068.00	\$90.00	\$36,000.00
4' Basin	EA	5	\$2,378.67	\$11,893.35	\$3,500.00	\$17,500.00
4' Manhole	EA	1	\$2,263.34	\$2,263.34	\$3,900.00	\$3,900.00
Baffle	EA	6	\$216.06	\$1,296.36	\$300.00	\$1,800.00
Storm Struct	EA	2	\$166.67	\$333.34	\$500.00	\$1,000.00
Struct Clean	EA	4	\$186.39	\$745.56	\$150.00	\$600.00
Pipe Clean	LF	285	\$3.34	\$951.90	\$6.00	\$1,710.00
PAVING						
S-1 Asphalt	SY	1545	\$8.14	\$12,576.30	\$6.00	\$9,270.00
8" Limerock	SY	470	\$8.13	\$3,821.10	\$9.00	\$4,230.00
12" Subgrade	SY	470	\$4.78	\$2,246.60	\$8.00	\$3,760.00
Rem&Dis 1"	SY	1545	\$3.07	\$4,743.15	\$2.00	\$3,090.00
Rem&Dis 8"	SY	430	\$8.89	\$3,822.70	\$2.00	\$860.00
Rem&Dis 12"	SY	430	\$8.89	\$3,822.70	\$3.00	\$1,290.00
SIGN & MARK						
Stripe 12" White	LF	50	\$0.78	\$39.00	\$2.00	\$100.00
Stripe 4" White	LF	750	\$0.28	\$210.00	\$0.50	\$375.00
Stripe 24" White	LF	50	\$1.67	\$83.50	\$3.00	\$150.00
Stripe 8" White	LF	430	\$0.39	\$167.70	\$1.90	\$817.00
Stripe 18" White	LF	270	\$1.12	\$302.40	\$2.50	\$675.00
Messages	EA	4	\$38.89	\$155.56	\$70.00	\$280.00
TOTAL				\$134,509.52		\$139,047.00

**This is only a tabulation of prices submitted,
and is not an indication of award**

Bids submitted non-responsive

Insurance coverage as follows:

Kkailas Corp; Governor Construction

Bids submitted non-responsive- bid bond:

GPE Engineering

This is only a tabulation of prices submitted, and is not an indication of award



**City of Miami Gardens
Agenda Cover Memo**

Council Meeting Date:	June 9, 2010		Item Type: <i>(Enter X in box)</i>	Resolution X	Ordinance	Other	
Fiscal Impact: <i>(Enter X in box)</i>	Yes	No	Ordinance Reading: <i>(Enter X in box)</i>	1st Reading		2nd Reading	
		X		Public Hearing: <i>(Enter X in box)</i>	Yes	No	Yes
Funding Source:	N/A		Advertising Requirement: <i>(Enter X in box)</i>	Yes		No	
Contract/P.O. Required: <i>(Enter X in box)</i>	Yes	No	RFP/RFQ/Bid #:	N/A			
		X					
Sponsor Name	Councilman Oliver Gilbert III		Department:	Mayor and City Council			

Short Title:

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MIAMI GARDENS, FLORIDA ADOPTING A "HOMEOWNERS BILL OF RIGHTS" AS ATTACHED HERETO AS EXHIBIT "A"; PROVIDING DIRECTIONS TO THE CITY MANAGER; PROVIDING FOR THE ADOPTION OF REPRESENTATIONS; PROVIDING AN EFFECTIVE DATE.

Summary:

Councilman Gilbert is recommending that the City adopt a "Homeowners Bill of Rights." According to statistics compiled by the University of Florida, in 2009, the issuance of building permits was down by 55 percent statewide. However, the number of unlicensed contractor complaints rose by 12 percent. These statistics only address the unlicensed contractor issue. However, the City has received numerous complaints regarding licensed contractors and design professionals who perform substandard work. These contractors charge exorbitant fees and are slow to complete simple home improvement projects.

Given the current economic climate, homeowners cannot afford to incur additional and unnecessary construction costs. The Homeowners Bill of Rights will educate residents of their rights when hiring contractors and design professionals. The Homeowners Bill of Rights will also outline the rights of residents when interacting with the City's Building Services Division. The Building Services Division will distribute the Homeowners Bill of Rights to homeowners after the initial submission of an application for a building permit. Additionally, the Bill of Rights will be prominently displayed in the lobby of the Building Services Division, on the City's website and published in *The Community Newspapers*.

**ITEM J-8) CONSENT AGENDA
RESOLUTION
Homeowners Bill of Rights**

Councilman Gilbert also proposes an incentive program for contractors and design professionals who submit exemplary construction documents. Design professionals will be awarded a \$50.00 rebate on permit fees if plans are approved, during the plan processing phase, with no more than two (2) rejections over the course of three (3) or more submittals to the City's Building Services Division. In addition, the design professionals will receive concierge service from the Building Services Division, which will include an assigned point of contact and individualized routing of plan review, at no additional cost. Currently, a fee of \$102.32 is assessed when plans are resubmitted to the Building Services Division for a third review. If plans remain unsatisfactory and require a fourth review, the Building Services Division assesses a fee four times the original amount. The rebate program will encourage contractors and design professionals to produce satisfactory plans from the onset of the construction plan processing phase.

Section 10-21 of the Miami-Dade County Code of Ordinances authorizes municipalities, by way of Resolution, to enforce the County's code regulating contractors. However, the City is preempted from disciplining violators. Therefore, Councilman Gilbert recommends that the City Council direct the City Manager, or his designee, to report violators to the Miami-Dade County Construction Trades Qualifying Board (DCC) and the Florida Department of Business and Professional Regulation (DBPR) for discipline. DCC and DBPR currently maintain lists of unlicensed and disciplined contractors and design professionals. The City's Building Services Division will provide access to this list to empower residents with the tools needed to make educated business decisions.

Proposed Action:

Councilman Oliver Gilbert recommends that the City Council approve this Resolution.

Attachment:

Attachment A : Homeowners Bill of Rights

RESOLUTION NO. 2010_____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MIAMI GARDENS, FLORIDA ADOPTING A "HOMEOWNERS BILL OF RIGHTS" AS ATTACHED HERETO AS EXHIBIT "A"; PROVIDING DIRECTIONS TO THE CITY MANAGER; PROVIDING FOR THE ADOPTION OF REPRESENTATIONS; PROVIDING AN EFFECTIVE DATE.

WHEREAS, the City has received numerous complaints from residents regarding contractors who charge exorbitant fees and are slow to complete construction projects, and

WHEREAS, such complaints are often made after the homeowner has spent thousands of dollars for simple home improvements, and

WHEREAS, homeowners are often misled about the true costs associated with obtaining building permits, and

WHEREAS, Councilman Gilbert would like to create a "Homeowners Bill of Rights" to ensure that homeowners are aware of their rights and responsibilities when hiring contractors and design professionals, and

WHEREAS, the Homeowners Bill of Rights will require contractors and design professionals to keep residents informed of the building permitting process, and

WHEREAS, Councilman Gilbert also proposes an incentive program whereby contractors and design professionals will be awarded a rebate in the amount of Fifty Dollars (\$50.00) when construction documents are approved with no more than two (2) rejections over the course of three (3) or more submittals to the City's Building Services Division, and

WHEREAS, the rebate incentive will encourage contractors and design professionals to produce satisfactory plans from the onset of the construction plan processing phase, and

WHEREAS, the awarded design professional will also receive concierge services from the Building Services Division, to include an assigned point of contact and individualized routing of plan review at no additional cost, and

WHEREAS, Councilman Gilbert also recommends that the City provide access to a list of contractors and design professionals who have been disciplined by the Florida Department of Business and Professional Regulation and Miami-Dade County Construction Trades Qualifying Board, to empower residents with the tools needed to make educated business decisions,

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF MIAMI GARDENS, FLORIDA AS FOLLOWS:

Section 1: ADOPTION OF REPRESENTATIONS: The foregoing Whereas paragraphs are hereby ratified and confirmed as being true, and the same are hereby made a specific part of this Resolution.

Section 2: AUTHORIZATION: The City Council of the City of Miami Gardens hereby adopts the Homeowners Bill of Rights attached hereto as Exhibit "A". The City Council of the City of Miami Gardens further directs the City Manager to do the following:

- a) Award permit fee rebates in the amount of Fifty Dollars (\$50.00) to contractors and design professionals when construction documents are approved with no more than two (2) rejections over the course of three (3) or more submittals to the Building Services Division;
- b) Offer concierge services through the Building Services Division to include an assigned contact person and individualized routing of plan reviews at no additional cost;
- c) Offer additional incentives as deemed necessary;
- d) Enforce Section 10-21 of the Miami-Dade County Code of Ordinances regulating contractors, and report violations to the Miami-Dade County

Construction Trades Qualifying Board and the Florida Department of Professional and Business Regulation; and

- e) Provide access to the list of contractors disciplined by the Florida Department of Professional and Business Regulation and the Miami-Dade County Construction Qualifying Board.

Section 3: EFFECTIVE DATE: This Resolution shall take effect immediately upon its final passage.

PASSED AND ADOPTED BY THE CITY COUNCIL OF THE CITY OF MIAMI GARDENS AT ITS REGULAR MEETING HELD ON _____, 2010.

SHIRLEY GIBSON, MAYOR

ATTEST:

RONETTA TAYLOR, CMC, CITY CLERK

PREPARED BY: SONJA K. DICKENS, ESQ., CITY ATTORNEY

SPONSORED BY: COUNCILMAN OLIVER GILBERT III

Moved by: _____

VOTE: _____

Mayor Shirley Gibson	_____ (Yes)	_____ (No)
Vice Mayor Aaron Campbell	_____ (Yes)	_____ (No)
Councilman Melvin L. Bratton	_____ (Yes)	_____ (No)
Councilman Oliver Gilbert III	_____ (Yes)	_____ (No)
Councilman Andre' Williams	_____ (Yes)	_____ (No)
Councilwoman Sharon Pritchett	_____ (Yes)	_____ (No)
Councilwoman Barbara Watson	_____ (Yes)	_____ (No)

HOMEOWNERS BILL OF RIGHTS

Homeowners shall be entitled to the following rights when interacting with the City of Miami Gardens Building Services Division:

1. The right to be notified by the City of Miami Gardens Building Services Division if an application is incomplete and requires additional information.
2. The right to be notified by the City of Miami Gardens Building Services Division immediately after the second denial of a plan and prior to the commencement of a third plan review.
3. The right to contact the City of Miami Gardens Building Services Division with questions or concerns regarding plan review or inspections.
4. The right to an expeditious and courteous response from the City of Miami Gardens Building Services Division.
5. The right to be notified by the City of Miami Gardens Building Services Division, once the Department is made aware of the discipline of a contractor or other design professional by the State of Florida, Miami-Dade County or any other regulatory board, if the professional is attempting to pull a permit on behalf of the homeowner.
6. The right to request that the City of Miami Gardens Building Services Division report contractor violations to the Florida Department of Professional Regulations and/or the Miami-Dade Qualifying Trades Board or any other State or local regulatory agency.
7. The right to have residential permits issued within thirty (30) days of permit application submission, unless the plans fail to comply with the Florida Building Code or other law enacted by the State of Florida, Miami-Dade County or the City of Miami Gardens.

Homeowners shall be entitled to the following rights when interacting with construction contractors and other design professionals, in accordance with Florida law:

8. The right to review and inspect all construction documents and permit cards.
9. The right to verify required licenses of all contractors, subcontractors and design professionals issued by the State of Florida, Miami-Dade County or any other regulatory agency.

10. The right to verify current general liability, professional liability and worker's compensation insurance for the contractor, sub-contractors and design professionals.
11. The right to be notified by the contractor of the Florida Homeowner's Construction Recovery Fund pursuant to Florida Statute 489.1425.
12. The right to have liens removed from the property within 75 days of payment for construction services or supplies pursuant to Florida Statute 489.129.
13. The right to be notified by the contractor prior to the abandonment of a construction project pursuant to Florida Statute 489.129.
14. The right to be refunded any excess funds within 30 days after the abandonment of a construction job pursuant to Florida Statute 489.129.
15. The right to pay the original contract price for a construction project as outlined in Florida Statute 489.129.
16. The right to approve any material changes to plans or specifications, as defined by Florida Building Code and pursuant to Section 10-22 of the Miami-Dade County Code of Ordinances.
17. The right to be provided with a list and current contact information for all subcontractors and materialmen involved in a construction project as outlined in Section 10-22 of the Miami-Dade County Code of Ordinances.