NORTH MIAMI
FLORIDA
OFFICE OF THE CITY MANAGER

MEMORANDUM

To: The Honorable Mayor and City Council

From: Stephen E. Johnson
City Manager

RE: BISCAYNE LANDING – SECOND ROUND OF NEGOTIATIONS

Date: May 18, 2012

The second round of negotiations has been completed after arduous and meticulous discussions on the terms and conditions of the lease posted online. Granted, the site is unique and requires expertise outside that of a regular developer because it remains an open landfill and still is not closed after years of availability of grant funds for such.

To this end, the City's negotiations to expedite closure with a savvy developer's team, including its lender's attorneys, resulted in the lease posted online which arguably could not be optimized further. Notwithstanding, the following is the City Manager's initial thoughts on certain provisions where optimization was not possible at the staff level:

1. Up Front Payment Not Substantially Better After Negotiations
    a. Valuable Corner Parcel: Developer wants all revenue for the first $13.5M of 10 acres of leasehold property although City was offered more and for less fee simple area at this same corner. Optimally, the City could either get more from the developer or sell such separately.

    b. No increases in initial payments (fixed rents ($1.5M), lump sum payment ($17.5) and reimbursements to City ($1.0M)) but non-monetary-streamlined milestones for square feet of improvements were defined for three stages of land development.

2. There were no significant improvements in the City's participation in rent amidst an apparent change in the composition of the uses although the City has secured a stronger overall commitment from the developer to avoid premature transfer of rights to other prospective Tenants.

3. Upward Adjustment of the Annual Base Rent has increased minimally because it is now tied to the Consumer Price Index way out at year 49.

4. Local Preference provisions, however, have been refined in greater detail but with the developer keeping exclusive control of the funding allocations of the programs and with all discretion in obtaining the stated goals and funds tied to such goals.

In summary, the City did not significant gain monetarily from the second round of negotiations but was successful in strengthening many provisions to secure a greater commitment from the original developers.

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