



Town of Surfside

DOWNTOWN VISION ADVISORY COMMITTEE AGENDA

October 17, 2019 – 6:00 p.m.

Town Hall Commission Chambers –
9293 Harding Ave, 2nd Floor, Surfside, FL 33154

The following also applies to all Boards and Committees:

Rule 7.05 Decorum. Any person making impertinent or slanderous remarks or who becomes boisterous while addressing the commission shall be barred from further appearance before the commission by the presiding officer, unless permission to continue or again address the commission is granted by the majority vote of the commission members present. No clapping, applauding, heckling or verbal outbursts in support or opposition to a speaker or his or her remarks shall be permitted. Signs or placards may be disallowed in the commission chamber by the presiding officer. Persons exiting the commission chambers shall do so quietly.

Any person who received compensation, remuneration or expenses for conducting lobbying activities is required to register as a lobbyist with the Town Clerk prior to engaging in lobbying activities per Town Code Sec. 2-235. "Lobbyist" specifically includes the principal, as defined in this section, as well as any agent, officer or employee of a principal, regardless of whether such lobbying activities fall within the normal scope of employment of such agent, officer or employee. The term "lobbyist" specifically excludes any person who only appears as a representative of a not-for-profit corporation or entity (such as charitable organization, a trade association or trade union), without special compensation or reimbursement for the appearance, whether direct, indirect, or contingent, to express support or opposition to any item.

***If the public wishes to speak on a matter on this agenda they must inform the Town Clerk prior to the start of the meeting and they will be recognized to speak prior to the approval of the item. ***

Opening Items:

- 1. Call to Order/Roll Call**
- 2. Approval of Minutes: September 12, 2019**
- 3. Homestead Main Street**
- 4. Alleys**
- 5. Downtown Sidewalks**
- 6. Art in Public Places**
- 7. Low Iron Glass on Planning & Zoning Board Agenda**

- 8. Addressing Downtown Vacancies Update**
- 9. Resort Tax Overview / Tourism FY20 Marketing Plan / Strategic Plan**
- 10. Tax Incentives Discussion**
- 11. Future Meeting Dates**
- 12. Public Comment – (3-minute limit)**
- 13. Adjournment**

THIS MEETING IS OPEN TO THE PUBLIC. IN ACCORDANCE WITH THE AMERICANS WITH DISABILITIES ACT OF 1990, ALL PERSONS THAT ARE DISABLED; WHO NEED SPECIAL ACCOMMODATIONS TO PARTICIPATE IN THIS MEETING BECAUSE OF THAT DISABILITY SHOULD CONTACT THE OFFICE OF THE TOWN CLERK AT 305-861-4863 EXT. 226 NO LATER THAN FOUR DAYS PRIOR TO SUCH PROCEEDING.

AGENDA ITEMS MAY BE VIEWED AT THE OFFICE OF THE TOWN CLERK, TOWN OF SURFSIDE TOWN HALL, 9293 HARDING AVENUE. ANYONE WISHING TO OBTAIN A COPY OF ANY AGENDA ITEM SHOULD CONTACT THE TOWN CLERK AT 305-861-4863. A COMPLETE AGENDA PACKET IS ALSO AVAILABLE ON THE TOWN WEBSITE AT www.townofsurfsidefl.gov.

TWO OR MORE MEMBERS OF TOWN COMMISSION OR OTHER TOWN BOARDS MAY ATTEND AND PARTICIPATE AT THIS MEETING.

THESE MEETINGS MAY BE CONDUCTED BY MEANS OF OR IN CONJUNCTION WITH COMMUNICATIONS MEDIA TECHNOLOGY, SPECIFICALLY, A TELEPHONE CONFERENCE CALL. THE LOCATION 9293 HARDING AVENUE, SURFSIDE, FL 33154, WHICH IS OPEN TO THE PUBLIC, SHALL SERVE AS AN ACCESS POINT FOR SUCH COMMUNICATION.



Town of Surfside

DOWNTOWN VISION ADVISORY COMMITTEE MINUTES

September 12, 2019 – 6:00 p.m.
Town Hall Commission Chambers –
9293 Harding Ave, 2nd Floor, Surfside, FL 33154

Opening Items:

1. Call to Order/Roll Call

Chair Grenald called the meeting to order at 6:05 pm.

The following Members introduced themselves:

Chair Shaun Grenald
Fred Landsman
George Kousoulas
Marianne Meischeid

Absent: Vice Chair Elliot Kula
Asmaa Benkirane
Sandra Oliva

Commissioner Barry Cohen, Commission Liaison*

Also, present: Duncan Tavares, Assistant Town Manager
Frank Trigueros, Marketing & Special Projects Coordinator
Frantza Duval, Recording Clerk
Evelyn Herbello, Deputy Town Clerk
Lindsay Fast, Tourism Director
Jeff Lehman, Tourist Board Liaison

A motion was made by Committee Member Landsman to move item 4 to the beginning of the agenda. The motion received a second from Committee Member Kousoulas. All voted in favor.

2. Approval of Minutes: June 20, 2019

A motion was made by Committee Member Landsman to approve the June 20, 2019 Committee Meeting Minutes. The motion received a second from Committee Member Meisheid. All voted in favor.

3. Meeting Recap

A. Parking Lot Rate Recommendation update from July 9, 2019 Town Commission Meeting (verbal)

Tourism Director Fast gave an update and gave a recap on what was approved at the August 10, 2019 Town Commission Meeting.

B. Parking Waiver update from July 9, 2019 Town Commission Meeting (verbal)

Tourism Director Fast gave an update of the item and advised the Committee of the Town Commission's extension of the Parking Waiver.

Assistant Town Manager Tavares also gave an update of the Commission's direction.

4. Skype Meeting with Mainstreet USA

Assistant Town Manager Tavares introduced the item and introduced Katherine Beck from Mainstreet USA.

Katherine Beck, Mainstreet USA Coordinator, gave a presentation of the program via telephone conference.

After further discussion, the Committee requested for Staff to look at the City of Homestead, who is currently using Mainstreet USA, and provide an update at the next meeting.

The following member of the public spoke on the item:
Sasha Plutno

5. Discussion Items

A. LGBTQ Sensitivity Training: GMCVB + Yes Institute Session 9/26/2019 Offered to Local Businesses and Hotels – Frank Trigueros, Marketing & Special Projects Coordinator

Marketing & Special Projects Coordinator Trigueros gave an update of the upcoming LGBTQ Sensitivity Training for Surfside businesses and hotels.

B. Art in Public Places – Review of other Municipalities’ Ordinances

Tourism Director Fast gave an update of the item.

The following member of the public spoke on the item:

Sasha Plutno

The Committee requested for Tourism Director Fast to come back at the next meeting with a proposal.

C. Design Guidelines from Planning & Zoning (deferred from June 20, 2019 meeting)

Tourism Director Fast gave an update of the item.

Discussion among the Committee took place regarding low iron glass and making it a requirement for buildings.

The Committee directed Staff to add an item to the Planning & Zoning Meeting agenda to discuss low iron glass and making it a requirement for buildings.

A motion was made by Committee Member Meischeid directing staff to add an item on the Planning & Zoning Meeting agenda to discuss low iron glass and making it a requirement for buildings. The motion received a second from Committee Member Landsman. All voted in favor.

D. Code Compliance – Downtown maintenance code section

Tourism Director Fast gave an update on the item.

Discussion among the Committee took place regarding code compliance in the Downtown area.

E. Local Business Tax Receipts and Vacancies (verbal – deferred from June 20, 2019 meeting)

Tourism Director Fast gave an update on the item.

After further discussion among the Committee and staff, the Committee requested for staff to bring this item back at the next month’s meeting and for staff to add wording for the term “clean”.

F. Addition of new Ride Share Drop Off Point

Tourism Director Fast gave an update on the item.

Committee members requested for a new ride share drop off point be added near the Post Office.

G. Downtown Alleys

Assistant Town Manager Tavares gave an update on the item.

After a lengthy discussion, the Committee made the following motion deferring the item until the next meeting when the Town Manager is able to attend.

A motion was made by Committee Member Meischeid to defer the item until the next meeting. The motion received a second by Committee Member Landsman. All voted in favor.

A motion was made by Committee Chair Grenald to extend the meeting ten (10) minutes until 8:20 p.m. Motion passed on consensus.

6. Future Meeting Dates

Tourism Director Fast to provide an update on tourist dollars and how they have been spent.

Committee members agreed by consensus to have the next DVAC meeting on October 17, 2019.

7. Adjournment

Committee Member Kousoulas made a motion to adjourn the meeting at 8:20 p.m. The motion received a second from Committee Member Meischeid and all voted in favor.

Respectfully submitted:

Accepted this _____ day of _____, 2019

Shaun Grenald, Chair

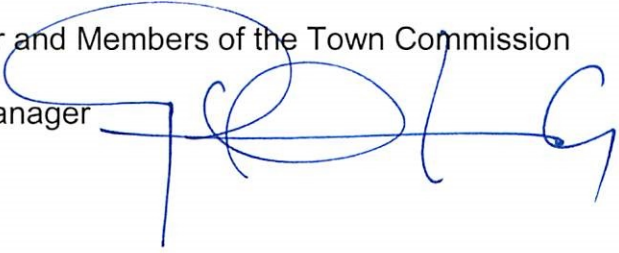
Attest:

Sandra Novoa, MMC
Town Clerk



Item No. 4

MEMORANDUM

To: Honorable Mayor, Vice-Mayor and Members of the Town Commission
From: Guillermo Olmedillo, Town Manager 
Date: June 11, 2019
Subject: Alleys

The Town has two types of alleys in or near the business district. (1) De facto, and (2) Platted. Currently, there is one "De Facto" alley and two platted alleys.

The "De Facto" alley runs between properties on the west side of Harding Avenue and the apartment buildings fronting on the east side of Abbott Avenue, south of 95th Street to 94th Street ("95th Street Alley"). This alley was not originally created by plat, but appears to have been established overtime by the property owners' parcels along the alley and constitutes a part of the private parcels along both sides of the alley. The Town does not presently provide maintenance or repair to this alley.

The Platted Alleys are located from 96th Street and 94th Street behind the properties located between Collins Avenue and Harding Avenue (Location map and copy of plat attached). The 15' alleys are contained within the Plat of "Altos Del Mar No. 6," Plat Book 8, Page 106, with a limitation which states that "all alleys shown thereon are hereby granted, reserved and limited to the private use only of the present or future owners or owner of Altos Del Mar No. 6 or any part thereof." Consequently, the alleys were platted as private for the use and benefit of owners in the subdivision. Over time, the alleys may have been widened beyond the originally platted 15" feet, and have been used by business owners, members of the public and for the provision of municipal services. As a platted alley, the area is preserved for a particular purpose on the Plat and remains in place, with all the conditions attached to, until an amendment is made to the original Plat.

The Town has historically provided some maintenance and repair to the Platted Alleys, despite them having been originally platted for the private use of the owners within the subdivision. Abutting owners and operators have used this alley for vehicular access and parking, as well as members of the public.

The administration is requesting policy direction on the future maintenance and repair of the alleys, as well as the uses thereof. The options are as follows:

1. Remain as is (status quo). The 95th Street Alley on the west side of Harding Avenue would remain private and maintained by the abutting property owners along the

alley. The Platted Alleys, although privately platted for the use of owners in the subdivision, would continue to be maintained and repaired by the Town.

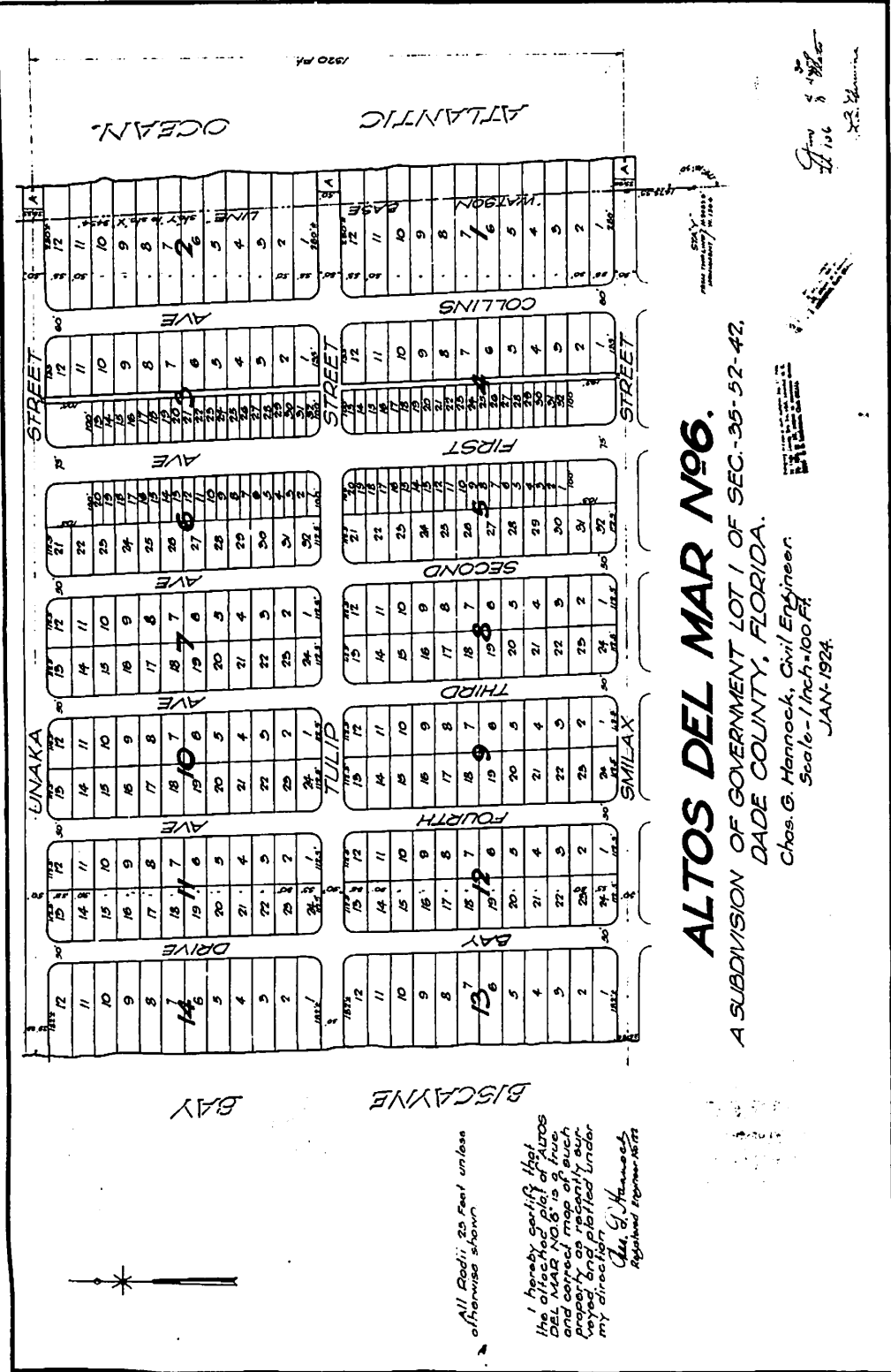
2. Treat the Platted Alleys as private, and turn the maintenance, repair and upkeep of the Platted Alleys to the present owners of the Altos Del Mar No. 6 Subdivision. This approach would require that the property owners along the alley and within the subdivision coordinate for maintenance and repair of the Platted Alleys, at their expense.
3. Convert the 95th Street Alley to a public alley under the ownership and maintenance of the Town. As this alley was not originally platted, and consists of private parcels along both sides of the alleys, any conversion to a public alley would require that the Town obtain ownership and/or control of the alley. This could be accomplished through eminent domain, voluntary negotiations with the property owners for conveyance, or the granting of an easement to the alley area in favor of the Town.
4. Convert the Platted Alleys to public alleys under the ownership, maintenance and/or control of the Town. The Town would assume ownership/control of the platted alleys through legal means (ownership or easement) and assume total responsibility for future maintenance. The cost of the maintenance could be passed on to the property owners as a public improvement project or a special assessment program to benefit the owners.

The alleys present opportunities to be turned into a more usable and well maintained area, that will become an asset to the Town and the abutting owners. Any future course of action should commence with a title search of the alley areas to confirm ownership or status, as well as a survey of the alleys showing dimensions. For these purposes, there needs to be a landscape/hardscape design with a description of work and materials, an estimate of construction cost, and a contract to perform the specified project.

Should the Town Commission provide direction on the alleys and agree to undertake any specific projects, staff will present an action item at the July regular Town Commission meeting.

Attachments 2

Prepared by GO



All Radii 25 Feet unless otherwise shown
 I hereby certify that the attached plat of Altos del Mar No. 6 and copy of map of such property as recently surveyed and plotted under my direction
 Chas. G. Hancock
 Registered Engineer 18712

ALTOS DEL MAR NO. 6.

A SUBDIVISION OF GOVERNMENT LOT 1 OF SEC. 35-52-42.
 DADE COUNTY, FLORIDA.

Chas. G. Hancock, Civil Engineer.
 Scale - 1 Inch = 100 Feet
 JAN - 1924.

KNOW ALL MEN BY THESE PRESENTS, that the Tallahassee Ocean Park Company, a corporation of Florida, has erected and is erecting, in Dade County, Florida, on the public lands of Dade County, Florida, and in the Public Section of Dade County, Florida, the subdivision of Dade County, Florida, hereinafter referred to as "ALTOS DEL MAR NO. 6," a subdivision of Gov. Lot 1, Sec. 35, Twp. 32S., Range 31E., that said land as shown, measured and described on the plat hereon marked and filed as set forth on Collins Ave., First Ave., Second Ave., Third Ave., Fourth Ave., Bay Drive, Unaka Ave., Tulip Street, Smiles Street, are hereby dedicated to the public as public highways and thoroughfares, it is herewith expressed that the tract marked on said plat and designated by the plat hereon marked and filed as set forth on Collins Ave., First Ave., Second Ave., Third Ave., Fourth Ave., Bay Drive, Unaka Ave., Tulip Street, Smiles Street, are hereby granted reserved and limited to the private use only of the present or future owners or owner of ALTOS DEL MAR NO. 6 or any part thereof and all rights in and to said tract are hereby reserved and assigned to the Board of Directors, by the Tallahassee Ocean Park Company, by order of its Board of Directors, by the Tallahassee Ocean Park Company, dated this 31st day of January, A.D. 1924. The said plat of said land as shown and described on said plat and filed as set forth in the presence of:

Attest
 Chas. G. Hancock
 Secretary

STATE OF FLORIDA ss
 COUNTY of DADE ss
 I, a Notary Public of the State of Florida, an officer authorized to take acknowledgments of deeds, hereby certify that S. M. Tolson, and S. M. Tolson, personally known to me and known to me to be the President and Secretary, respectively, of Tallahassee Ocean Park Company, a corporation of Florida, and now existing under the laws of the State of Florida, personally appeared before me and acknowledged that they executed said plat as such officers in the name of and for and on behalf of said corporation, freely and voluntarily for the uses and purposes therein expressed and with full authority, so to do, their official seal and signature, I have hereunto set my hand and affixed my official seal this 31st day of January, A.D. 1924.
 My commission expires: Sep. 12th 1927
 S. M. Tolson
 Notary Public, State of Florida at large

EXHIBIT
 STATE OF FLORIDA
 COUNTY OF DADE
 JAN - 1924.

Chas. G. Hancock
 X 22 21/10/1924

Emergency dedications duly accepted Jan. 17, 1924.
In First Circuit, Rec. No. 449, recorded in
Vol. 188, p. 301, subject to resolution of
Attorney General, Dept. of Justice.

KNOW ALL MEN BY THESE PRESENTS:

That Tatum's Ocean Park Company, a corporation of Florida, has executed a plot of Government Lot One (1) of Section 35, Township 32 south, Range 42 east, situated in Dade County, Florida, which plot has been duly recorded in Plat Book of the Public Records of Dade County, Florida, that said plot is designated as "ALTOS DEL MAR NO. 6"; a subdivision of Govt. Lot 1, Sec. 35, Twp. 32 S., R. 42 E.; that said land as shown, marked and designated on said plat is and shall be known hereafter as "ALTOS DEL MAR NO. 6"; that the tracts shown, marked and designated thereon as "Collins Ave."; "First Ave."; "Second Ave."; "Fourth Ave."; "Bay Drive"; "Unaka Street"; "Tulip Street"; "Smilox Street, are hereby dedicated to the perpetual use of the public as public highways and thoroughfares. It is hereby expressly provided that the tracts marked "A" on said plat and designated by the letter "A" together with all riparian rights and submerged land adjacent and appurtenant to said tracts so marked "A", and all alleys shown thereon, are hereby granted, reserved and limited to the private use only of the present or future owners or owner of "ALTOS DEL MAR NO. 6" or any part thereof.

IN WITNESS WHEREOF, The said Tatum's Ocean Park Company by order of its Board of Directors, by S.M. Tatum, its President and B. B. Tatum, its Secretary, has hereunto signed and affixed this 30th day of January, A.D. 1924.

TATUM OCEAN PARK COMPANY

S. M. Tatum President

Signed, Sealed and Delivered
in the Presence of:

B. B. Tatum



ITEM NO. 6

MEMORANDUM

To: Members of the Downtown Vision Advisory Committee

From: Lindsay Fast, Tourism Director

Date: September 12, 2019

Subject: Art in Public Places – Key Biscayne & Miami Beach Ordinances

At the May 16, 2019 and June 20, 2019 Downtown Vision Advisory Committee meetings discussions ensued regarding art in public places and instagrammable moments.

It was brought to the attention of the Committee that Surfside does not currently have an Ordinance in place governing art in public places. The Committee requested that staff review other municipalities art in public places legislation and provide the information at the next meeting.

Please find the following attachments herein for consideration:

- Attachment A is the Village of Key Biscayne's Art in Public Places Ordinance.
- Attachment B is the City of Miami's Art in Public Places Ordinance.
- Attachment C is Miami-Dade Counties Art in Public Places Ordinance
- Attachment D is the City of Miami Beach's Art in Public Places Ordinance

The Administration will work with DVAC at the September 12, 2019 meeting on a proposed ordinance recommendation to the Town Commission.

Reviewed by

Prepared by

ATTACHMENT A - Village of Key Biscayne

ARTICLE VII. - WORKS OF ART IN PUBLIC

PLACES Sec. 2-141. - Art-in-public-places

program.

(a) *Appropriation for construction to include amount for works of art.* The Village of Key Biscayne, Florida, shall provide for the acquisition of Works of Art equivalent in value to not less than 1½ percent of the Construction Costs of new governmental buildings, provided that no funds may be appropriated for this purpose from the ad valorem tax operations fund. To the extent the total appropriation is not used for the acquisition of Works of Art for said buildings, the remainder may be used for:

- (1) Program administrative costs, insurance costs or for the repair and maintenance of any Works of Art acquired under this section; or
- (2) To supplement other appropriations for the acquisition of Works of Art under this section or to place works of art in, on, or near government facilities which have already been constructed.

(b) *Definitions.* For the purpose of this section, the following terms are hereby defined:

Construction cost is defined to include architectural and engineering fees, site work, and contingency allowances. It does not include land acquisition or subsequent changes to the construction contract. All construction costs shall be calculated as of the date the contract is executed.

Works of art is defined as the application of skill and taste to production of tangible objects, according to aesthetic principles, including, but not limited to, paintings, sculptures, engravings, carvings, frescoes, mobiles, murals, collages, mosaics, statues, bas-reliefs, tapestries, photographs, lighting designs and drawings.

(Ord. No. 2001-14, § 1, 11-27-01)

Sec. 2-142. - Art-in-Public-Places Board.

(a) *Established.* There shall be an Art-in-Public-Places Board to administer the program.

(b) *Purpose.* The Art-in-Public-Places Board shall act in the public interest upon all matters relating to the program and shall support the program's goals and objectives. The Board's responsibilities include recommendations to the Village Council for the selection, maintenance, planning, and curating of all Works of Art acquired by the Village. The Board's responsibilities also include the selection, maintenance, planning, and public education regarding and curating of all Works of Art to be loaned to the Village.

- (1) *Membership; qualifications.* The Board shall be composed of up to eight members appointed by the Mayor, with the approval of the Council, as provided in the Charter, at Section 2.02. Each Board member shall be appointed to a term of two years. Appointments of four members shall be made each year so that the staggered terms of members shall be maintained. If a vacancy occurs prior to the expiration of Board member's term, another appointment shall be made to fill the vacancy for the remainder of the term. Each Board member must be knowledgeable in public art, must be a resident of the Village, and is precluded from participating in and/or voting on any matter which may directly or indirectly benefit the member, any family member or business associate of the member.

- (2) *Term of office.* No Board member shall serve more than eight consecutive years on the Board. Nothing shall prohibit any individual from being reappointed to the Board after a hiatus of two years.
- (3) *Duties.* The Board shall prepare written guidelines for curatorial purposes of acquired Works of Art and loaned Works of Art. The written guidelines shall not be effective unless and until approved by the Village Council. In accordance with the written guidelines, the Board shall recommend to the Village Council which Works of Art should be acquired by the Village. In accordance with the written guidelines, the Board shall select which works of art or exhibits of Works of Art shall be loaned temporarily to the Village.

(Ord. No. 2001-14, § 1, 11-27-01; Ord. No. 2007-10, § 2, 12-4-07; Ord. No. 2009-2, § 2, 2-10-09)

Sec. 2-143. - Selections of Works of Art.

- (a) *Acquisition procedure.* All acquisitions will be in accordance with the written guidelines approved by the Village Council. The Village Manager will negotiate and execute appropriate contracts to acquire each approved Work of Art. Funds may be aggregated to acquire Works of Art.
- (b) *Selection criteria.* In the selection process for acquired Works of Art, the following principles shall be observed:
 - (1) Works of Art shall be located in areas where residents and visitors live and congregate and shall be highly accessible and visible.
 - (2) The Board and the Village Council should consider the inherently intrusive nature of public art on the lives of those frequenting public places. With respect to acquired Works of Art, artworks reflecting enduring artistic concepts, not transitory ones, should be sought.
 - (3) Recommendations by the Board and selections by the Village Council must reflect the cultural and ethnic diversity of the Village without deviation from a standard of excellence.
 - (4) Selections of acquired Works of Art shall also take into account appropriateness to the site, permanence of the work in light of environmental conditions at the site, maintenance requirements, quality of the work, likelihood that the artist can successfully complete the work within the available funding, diversity of works already acquired by the Village, diversity of the artists whose work has been acquired by the Village.

(Ord. No. 2001-14, § 1, 11-27-01)

Sec. 2-144. - Written guidelines.

The Board shall recommend and the Village Council shall adopt and publish in the Village Council Agenda uniform written guidelines to govern the manner and method of submission of proposed Works of Art for acquisition by the Village. The Board shall recommend and the Village Council shall adopt and publish in the Village Council Agenda uniform written guidelines to govern the manner and method of submission of Works of Art for temporary display by the Village in public spaces owned by the Village, which artworks shall be loaned to the Village from such sources as may loan these artworks to the Village without charge. Purchases of Works of Art shall be approved by the Village Council. Loans of Works of Art shall be approved by the Board.

(Ord. No. 2001-14, § 1, 11-27-01)

Sec. 2-145. - Ownership and upkeep.

With respect to both acquired Works of Art and Works of Art temporarily loaned to the Village, the Art-in-Public-Places Board is charged with making recommendations to the Village Council regarding the custody, supervision, maintenance and preservation of Works of Art.

(Ord. No. 2001-14, § 1, 11-27-01)

Sec. 2-146. - Personnel.

The Village Manager shall provide adequate and competent clerical and administrative support as may be reasonably required by the Board for the proper performance of its duties, subject to budget limitations.

(Ord. No. 2001-14, § 1, 11-27-01)

Secs. 2-147—2-149. - Reserved.

ATTACHMENT B - City of Miami

ARTICLE XVI. - ART IN PUBLIC PLACES

Sec. 62-654. - Purpose and intent.

- (a) This article shall be known, cited, and referred to as the "Public Art Program."
- (b) It is the intent and purpose of the public art program to promote the general welfare of the community by uniting citizens through shared cultural and artistic experiences; to enhance the aesthetic diversity of the city through art integrated in architecture, infrastructure, and landscape; to chronicle the city's heritage through the collection and preservation of monuments, artifacts, objects, and documents; to create a cultural legacy for future generations through the curation and exhibition of high quality art; and to develop educational and cultural programs that will further the intent and purpose of the public art program.
- (c) The requirements found in this article are design standards based upon the aesthetic needs of the city and its communities and are not intended to be either an impact fee or a tax.
- (d) This article shall constitute a land development regulation of the city and any amendment shall be subject to a review and recommendation of the planning, zoning appeals board ("PZAB") and the art in public places board established below.
- (e) All terms specified herein shall be as defined in the Miami 21 Code.

(Ord. No. 13657, § 2, 1-12-17)

Sec. 62-655. - Art in public places board.

- (a) *Establishment.* There is hereby established a board to be known as the city's art in public places board ("AIPPB"). The AIPPB shall consist of nine voting members and two alternate members whose membership, meetings, duties, and other responsibilities are described below.
- (b) *Appointments; qualifications.*
 - (1) No appointment shall be made by the city commission to membership or alternate membership on the AIPPB until the city clerk has given at least 30 days' notice of the vacancies on the city's website and/or in a newspaper of general circulation in the city. The city commission shall solicit and encourage the members of the public and professional and citizen organizations within the area having interest in and knowledge of the purpose and functions of the AIPPB to apply for appointment. At least five days prior to the making of any appointment, the city clerk shall publicly notice the list of names submitted and the names of candidates submitted by the city commission, together with a short statement of the qualifications of each person, prepared and available for public inspection and consideration. No person shall be appointed to the AIPPB whose name and qualifications have not been made publicly available in the manner set out herein. In reaching a decision on an appointment, the city commission shall give due consideration to the qualifications of the candidates.
 - (2) Nomination and appointment. Each city commissioner shall appoint one board member, the mayor shall appoint one member, and the city commission at-large shall appoint three at large members and two alternate members subject to the criteria established herein. Appointees shall be persons in a position to represent the public interest, and no person shall be appointed having personal or private interests likely to conflict with the public interest. No person shall be appointed who has any interest in the profits or emoluments of any contract, job, work, or service for the city or is otherwise not qualified pursuant to the provisions of chapter 2 of this

Code. Before making any appointment, the city commission shall confirm that the person to be appointed has filed the statement required by section 2-615 of this Code.

- (3) Terms of appointment. The terms of appointment shall be the latter of those terms provided in section 2-885 of this Code.
- (4) Qualifications. It is intended that members and alternate members of the AIPPB be persons of knowledge, experience, mature judgment, and background; having ability and desire to act in the public interest; and representing, insofar as may be possible, the various special professional training, experience, and interests required to make informed and equitable decisions concerning development of an artistic, culturally enriching, and visually diverse physical environment. To that end, qualifications of members and alternate members shall be as follows:
 - a. All members shall have an interest and knowledge of the visual and performing arts and the artistic development of the city.
 - b. Eight board members must be knowledgeable and have a bachelor's, master's, or doctorate degree from an accredited university or college in fine arts, art education, museum curation, architecture, art history, architectural history, urban planning, urban design, landscape architecture, interior design, graphic or product design, music, real estate development, construction management, or finance. Additionally, the following shall apply to the same eight members:
 1. Five members shall be chosen from the following fields: fine arts, art education, museum curation, architecture, art history, architectural history, urban planning, urban design, landscape architecture, interior design, and/or graphic or product design;
 2. One member shall be a professional artist; and
 3. Two members shall be from the following fields: finance, real estate development, and/or construction management.
 - c. One member and two alternate members must have an interest in the visual and performing arts. Neither of these members is required to have a bachelor's, master's, or doctorate degree. One alternate member shall be a representative of Miami-Dade County Public Schools. The superintendent of schools shall make a recommendation to the city commission on the appointment of the alternate member.
- (5) Vacancies.
 - a. Vacancies in the membership or alternate membership of the AIPPB shall be filled by the city commission and mayor by appointment, in the manner set forth herein and for the unexpired term of the member or alternate member affected. The city commission may appoint an alternate member of the board to a vacancy as a full member of the board without resorting to the procedural requirements of subsection (b)(1) so long as the alternate member meets the qualifications of subsection (b)(4)c.
 - b. The executive secretary of the AIPPB shall notify the city clerk within ten days after a vacancy occurs and the city clerk shall promptly transmit such information to the city commission for nomination and appointment in accordance with subsection (b)(1).
- (6) Removal.
 - a. Members and the alternate members of the AIPPB may be removed for cause by not less than three affirmative votes of the city commission.
 - b. There is hereby established a point system. Each member, including alternate members, of the AIPPB who arrive after the beginning of the first agenda item or leaves before the termination of the last agenda item, at a regularly scheduled meeting of the AIPPB, shall receive one point. Any member of the AIPPB who accumulates more than seven points in one calendar year shall be brought to the attention of the city commission for its consideration of removal of the member.

- c. Notwithstanding subsection (b)(6)b. above, any member or alternate member of the AIPPB who is absent, for whatever reason, from more than three or more meetings in one calendar year shall be brought to the attention of the city commission for consideration of removal of the member.
- (c) *Functions, powers and duties.* The AIPPB, with the assistance and recommendations of the planning department, public art division, and all other city departments, as necessary, shall have the functions, duties, and powers as follows:
- (1) To recommend the public art program guidelines and amendments to the public art program guidelines thereto to the city commission;
 - (2) To recommend the public art master plan and amendments to the public art master plan thereto to the city commission;
 - (3) To approve expenditures of the public art fund as proposed by the city manager or his/her designee;
 - (4) To approve, approve with conditions, or deny proposed installations, dedications, or donations of art, based on the public art program guidelines and the public art master plan; and
 - (5) To act on any other art in public places related matter as assigned by the city commission.
 - (6) Notwithstanding section 18-115, the AIPPB shall have the authority to accept donations of art in excess of \$25,000.00 in accordance with this article.
- (d) *Proceedings of the art in public places board ("AIPPB").*
- (1) Officers and voting. The AIPPB shall select a chairperson and a vice-chairperson for one-year terms from among its members and may create and fill such other officers as it may determine. The planning director or his/her designee shall attend all meetings of the AIPPB. The office of hearing boards, or its successor, shall be the executive secretary of the AIPPB.
 - (2) Rules of procedure. The AIPPB shall establish rules of procedure necessary for its governing and the conduct of its affairs, in keeping with the applicable provisions of state law, the City Charter, the City Code, and all applicable resolutions. Such rules of procedure shall be available in written form to persons appearing before the AIPPB and to the public upon request and should be on file with the city clerk. For any quasi-judicial procedures, the provisions established in the Miami 21 Code, the zoning ordinance of the City of Miami, Florida, as amended ("Miami 21 Code"), shall control.
 - (3) Meetings. The AIPPB shall hold at least one regularly scheduled meeting each month, except the month of August. Other meetings may be set by the AIPPB, and additional meetings may be held at the call of the chairperson and at such other times as the AIPPB may determine. Meetings that are not regularly scheduled shall not be held without at least ten days' written notice. If the agenda for a regularly scheduled meeting does not contain any items which require action by the AIPPB, the executive secretary for the AIPPB may cancel the meeting.
 - (4) Quorum; public records. A majority of the members who have been appointed shall constitute a quorum. The office of hearing boards shall keep minutes of board proceedings, showing the vote of each member or alternate member, if sitting for a member, or if absent or failing to vote under subsection (d)(5) below, indicating such fact. It shall be the responsibility of the office of hearing boards to handle all procedural activities for all public hearings held by the AIPPB, including the preparation of detailed minutes and official records of such hearings. The official records of such public hearings shall be filed with the city clerk.
 - (5) Disqualification of members or alternate members. The AIPPB members shall comply with F.S. ch. 112, the Miami-Dade County Code of Ethics, and the City Code.
 - (6) All city departments and employees shall, under the direction of the city manager, and upon request and within a reasonable time, furnish to the public art division such available records or information as may be required of the AIPPB. The city manager shall assign a member of the resilience and public works department, planning and zoning department, capital improvement

projects office, parks and recreation department, and fire-rescue department, or their successors, to attend public hearings of the AIPPB and to advise the AIPPB when necessary, and to furnish information, reports, and recommendations upon request of the AIPPB.

- (7) The city attorney, or his/her designee, shall act as counsel and provide legal services to the AIPPB.
- (8) The alternate members shall only vote in the event of a vacancy or absence of a regular member.

(Ord. No. 13657, § 2, 1-12-17; Ord. No. 13792, § 1, 10-11-18)

Sec. 62-656. - City commission.

The city commission, in addition to its duties and obligations under the City Charter, the City Code, and other applicable laws, shall have the following duties specifically in regard to the public art program:

- (1) To appoint members to the AIPPB, as set forth in this article;
- (2) To approve the public art program guidelines and amendments to the public art program guidelines upon recommendation of the AIPPB;
- (3) To approve the public art master plan and amendments to the public art master plan upon recommendation of the AIPPB; and
- (4) To hear appeals of decisions of the AIPPB related to installation, dedication, and donation of art.

(Ord. No. 13657, § 2, 1-12-17)

Sec. 62-657. - Conflicts of interest.

No member of the AIPPB shall have his/her work of art considered or approved by the AIPPB during his/her term of service on the AIPPB or for one year thereafter.

(Ord. No. 13657, § 2, 1-12-17)

Sec. 62-658. - Selections of works of art.

The AIPPB shall establish procedures and criteria for the commissioning, selection, and acquisition of art to be acquired using the resources available within the public art fund, and in accordance with the criteria and standards set forth in the adopted public art master plan and the public art program guidelines. The city manager, or his/her designee, may only acquire each piece of art upon affirmative vote of the majority of the AIPPB. The city manager, or his/her designee, will negotiate appropriate contracts to acquire, insure, and maintain the art using available resources within the public art fund and the contract will be executed by the city manager subject to review and approval of the city attorney.

- (1) *Selection process.* The AIPPB shall establish procedures for selecting art works to be purchased from the resources of the city's public arts fund. Those procedures can include the following:
 - a. Open competition;
 - b. Limited competition;
 - c. Invitation;
 - d. Direct purchase;

- e. Donation; or
 - f. Any combination of the above.
- (2) *Selection criteria.* In the selection process, the AIPPB shall consider the following:
- a. Permanent and temporary works of art shall be located in areas where residents and visitors live and congregate and shall be publicly accessible and/or visible from public property or right-of-way (maximum visual accessibility to pedestrian or vehicular traffic);
 - b. Location in areas used by tourists, including the waterfront, parks, thoroughfares, and at public or governmental facilities shall be preferred;
 - c. The inherently intrusive nature of public art on the lives of those frequenting a public place. Artworks reflecting enduring artistic concepts, not transitory ones, should be sought;
 - d. The cultural and ethnic diversity of the city and South Florida without deviation from a standard of excellence;
 - e. The appropriateness to the site, permanence of the work in light of environmental conditions at the site, maintenance requirements, quality of the work, likelihood that the artist can successfully complete the work within the available funding, diversity of works already acquired by the city, and diversity of the artists whose work has been acquired by the city;
 - f. If the artwork too closely resembles a business logo or sign, has any commercial message or purpose, contains adult content as defined in the Miami 21 Code, and should, therefore, be rejected;
 - g. Any other criteria set forth in the public art program guidelines as amended from time to time;
 - h. Exhibition and sales history of the artist, as well as works of art in public collections and previous public art purchases or commissions;
 - i. The maintenance and insurance expense of the art;
 - j. The public health, safety, and welfare;
 - k. The ability to safely secure the art against high wind, inclement weather, or other acts of God; and
 - l. Whether the art may be reasonably maintained to last for a minimum life cycle of 25 years.

(Ord. No. 13657, § 2, 1-12-17)

Secs. 62-659, 62-660. - Reserved.

Sec. 62-661. - Creation of public art fund.

There is hereby created within the city a trust fund to be known as the City of Miami Public Art Fund. This public art fund shall be maintained by the city and shall be used for the acquisition, installation, improvement, maintenance, and insurance of art, arts education programming, grants, and administrative costs of the public art program as follows:

- (1) All monies received by the city pursuant to the requirements of the public art program or from endowments, gifts, or donations to the city designated for public art shall be placed in the public art fund. All monies within the public art fund shall be deposited, invested, expended, and accounted for as follows:
 - a. All monies received shall be deposited into the public art fund and shall not be commingled with non-public art related revenues of the city. All monies within the public art fund shall

be expended solely for the purpose and intent of the public art program. Any interest income earned by the public art fund shall be expended or invested only for the purpose for which the money was originally accepted, collected, or received.

- b. The public art fund shall be used for expenses associated with the selection, commissioning, acquisition, transportation, maintenance, repair, restoration, rehabilitation, appraisal, removal, insurance of art, development of education programming, community outreach, or advocacy with an emphasis in the visual and performing arts, grants, and administrative costs for the public art program. Once monies intended for the purpose of satisfying this article are deposited into the public art fund, the monies from separate, different development projects may be comingled. Monies within the public art fund can be dispersed, expended, invested, or granted in accordance with this article.
- c. Ten percent of the fees collected annually shall be allocated towards the restoration or rehabilitation of either publicly or privately owned historic resources that are individually designated or contributing structures within a locally designated historic district or towards public improvements within a historic district as identified in the public art master plan. Fees allocated but not expended within a fiscal year shall be rolled over to the next fiscal year and allocated for the same purposes. Privately owned historic resources shall be allocated monies from the public art fund through a grant application process as described in the public art master plan. The public art division will review all grant applications in consultation with the historic preservation office and the historic and environmental preservation board. The public art division and the historic preservation office in consultation with the historic and environmental preservation board shall have the discretion to recommend to the AIPPB for final decision and expenditure of funds. Restoration or rehabilitation shall be in accordance with chapter 23 and subject to the approval of a certificate of appropriateness by the historic and environmental preservation board.
- d. Five percent of the fees collected annually shall be allocated towards cultural, education, community outreach, or advocacy purposes and may include social practice art, all designed to promote the visual and performing arts such as but not limited to youth based programming involving the city's arts and entertainment council, public academic institutions, or non-profit organizations. Fees allocated but not expended within a fiscal year shall be rolled over to the next fiscal year and allocated for the same purposes. The city's arts and entertainment council, public academic institutions, or non-profit organizations shall be allocated monies from the public art fund through a grant application process as described in the public art master plan. The public art division will review all grant applications and shall have the discretion to recommend approval or denial of grant applications to the AIPPB for expenditure of funds in accordance with the program guidelines.
- e. Fifteen percent of the fees collected annually shall be allocated towards operating and administrative costs associated with the public art program, including but not limited to, staffing, marketing, programming, training, and outside consulting. Training shall be directly related to the implementation of this article and Article 11 of the Miami 21 Code. Fees allocated but not expended within a fiscal year shall be rolled over to the next fiscal year and allocated for the same purposes. The city manager or his/her designee shall have the authority to allocate and expend funds in accordance with this subsection e.
- f. Seventy percent of the fees collected annually shall be allocated towards the commissioning, selection, acquisition, display, maintenance, repair, restoration, rehabilitation, insurance of city-owned art, transportation, installation, removal, appraisal, collection, and exhibition of high-quality art in accordance with the public art master plan and the public art program guidelines. Fees allocated but not expended within a fiscal year shall be rolled over to the next fiscal year and allocated for the same purposes. For all expenditures in excess of \$25,000.00 pursuant to this subsection f., the city manager or his/her designee shall be the applicant to the AIPPB in accordance with this article.

- g. If tangible property purchased with monies from the public art fund is subsequently sold, the proceeds from the sale shall be returned to the public art fund.
- (2) All funds shall be expended for public and municipal purposes in accordance with the terms of this article and Article 11 of the Miami 21 Code.

(Ord. No. 13657, § 2, 1-12-17)

Sec. 62-662. - Ownership and maintenance of artwork placed on site.

- (a) Ownership of all art acquired by the city pursuant to the requirements of this article shall be vested in the city, which shall retain title to each work of art.
- (b) Ownership of all art donated to the city pursuant to the requirements of this article shall be donated and titled to the city upon approval of the AIPPB.
- (c) Stolen or illegally removed art, or art that is deemed destroyed by the public art division in consultation with an independent art appraiser, must be either:
 - (1) Replaced by the property owner within 120 days. Replaced Art shall be reviewed and approved by the AIPPB subject to the criteria set forth in this article, or
 - (2) The public art fee required under this article and the Miami 21 Code, based upon the current fee schedule and the current fair market value of the building, structure or improvement for which the art was required, as determined by an appraiser, must be paid within 30 days.

(Ord. No. 13657, § 2, 1-12-17)

ATTACHMENT C

MIAMI-DADE COUNTY

Sec. 2-11.15. - Works of art in public places.

1. This section shall be known, and may be cited, as the "Miami-Dade Art in Public Places Ordinance."
2. *Art in public places program.*
 - (a) *Applicability and Jurisdiction over County facilities.* Subject to the provisions of paragraph (2)(e) below, this section is intended to, and shall, govern art in public places in the incorporated and unincorporated areas of the County. County facilities located, or intended to be located, within the boundaries of a municipality shall be governed solely and exclusively by the Miami-Dade Art in Public Places Ordinance with respect to matters covered in this section, including with respect to the collection, payment, and allocation of funds for the acquisition and display of works of art relating to said County facilities, and shall not be within the jurisdiction of the municipality for such purposes.
 - (b) *Appropriation for construction to include amount for works of art.* Miami-Dade County and each municipality in Miami-Dade County shall provide for the acquisition of works of art equivalent in value to not less than one and one-half (1½) percent of the construction cost of new governmental buildings, provided that no funds may be appropriated for this purpose from the ad valorem tax operations fund. To the extent the total appropriation is not used for the acquisition of works of art for said buildings, the remainder may be used for:
 - (1) Program administrative costs, insurance costs or for the repair and maintenance of any works of art acquired under this section; or
 - (2) To supplement other appropriations for the acquisition of works of art under this section or to place works of art in, on, or near government facilities which have already been constructed.
 - (c) *Waiver of requirements.* The requirements of paragraph (b) may be waived by resolution of the Board of County Commissioners of Miami-Dade County when and if it appears to said Board that a construction project covered hereunder is not appropriate for application of the above requirements.
 - (d) *Definitions.* For the purpose of this section, the following terms are hereby defined:
 - (1) *Works of art* is defined as the application of skill and taste to production of tangible objects, according to aesthetic principles, including, but not limited to, paintings, sculptures, engravings, carvings, frescoes, mobiles, murals, collages, mosaics, statues, bas-reliefs, tapestries, photographs, lighting designs and drawings.
 - (2) *Construction cost* is defined to include architectural and engineering fees, site work, and contingency allowances. It does not include land acquisition or subsequent changes to the construction contract. All construction costs shall be calculated as of the date the contract is executed.
 - (3) *County facility* is defined as any facility, building, structure, improvement, or infrastructure, whether subterranean, above-ground, or overhead, that is (i) owned, leased, or operated by, or (ii) constructed upon land owned or leased by, the County or any of its agencies or instrumentalities, including Public Health Trust of Miami-Dade County.
 - (e) *Option for municipalities to enact art in public places ordinances.* Any municipality within the County may opt out of this section by enacting and administering its own art in public places ordinance for non-County facilities located within its municipal boundaries. This section sets forth the minimum standards for any municipal ordinance and any such municipal ordinance shall be consistent with the minimum standards of this section. The municipality shall provide

written notice of the municipality's intent to opt out of this section and a copy of the proposed ordinance to the Office of the County Mayor and to the Art in Public Places Trust at least 30 days prior to the scheduled adoption of any such municipal ordinance so that the County Mayor or County Mayor's designee can advise the municipality whether or not the proposed ordinance is consistent with the minimum standards set forth in this section. Within 30 days following the adoption by a municipality of an art in public places ordinance, the municipality shall provide a copy of the adopted ordinance to the County Mayor and the Art in Public Places Trust. Any municipality that, prior to March 30, 2019, has adopted an art in public places ordinance and seeks to use said ordinance to opt out of this section, shall provide a copy of said ordinance to the County Mayor and the Art in Public Places Trust so that the County Mayor or County Mayor's designee can advise the municipality whether or not the adopted ordinance is consistent with the minimum standards set forth in this section.

3. *Art in Public Places Trust.* There shall be an Art in Public Places Trust to administer the program.
 - (a) *Purpose.* The Trustees of the Art in Public Places Trust shall act in the public interest upon all matters relating to the program and shall support the program's goals and objectives. The Trustees' responsibilities include the selection, maintenance, planning, public education and curating of all works of art acquired by the program. The Trustees shall oversee and administer the funds collected by municipalities for municipal facilities and projects consistent with this section to be used for the benefit of such municipalities, except where a municipality has enacted its own art in public places ordinance and administers its own program as provided in this section.
 - (1) *Membership; qualifications.* The Trust shall be composed of fifteen (15) Trustees appointed to staggered terms by the Board of County Commissioners, serving without compensation. Each Board member shall be appointed to a term which shall end concurrently with the last day of the term of the County Commissioner who appointed the Board member, as provided in Section 2-38.2 of this Code. If a vacancy occurs prior to the expiration of the Board member's term, the County Commissioner who appointed that member shall appoint a new member to fill the balance of the term. Additionally, the Mayor shall appoint two (2) members of the Board of County Commissioners to sit as ex officio Trustees. Each Trustee must be knowledgeable in public art, must be a resident of Miami-Dade County and may not operate, own or be employed by any art dealer, art gallery, artists' representative, museum or other entity which derives income from the sale or display of art work. Membership is governed by Sections 2-11.38 and 2-11.39 of the Miami-Dade County Code.
 - (2) *Term of office.* No trustee shall serve more than eight (8) consecutive years on the Council; provided that this limitation shall not be applicable to Trustees with unexpired terms on November 1, 1993 who were reappointed after that date. Nothing shall prohibit any individual from being reappointed to the Trust after a hiatus of two (2) years.
 - (3) *Duties.* The Trustees shall prepare a master art plan to ensure a coherent acquisition program and implementation guidelines, both of which shall be approved by the Board of County Commissioners. The Trustees shall approve all program acquisitions in accordance with the master art plan and implementation guidelines and shall oversee the public education, and curatorial aspects of the program. The Trustees shall recommend to the County Manager an Executive Director, a budget for staff and other expenditures necessary to operate the program and shall deliver an annual report to the Board of County Commissioners.
 - (b) *Professional Advisory Committee.* The Professional Advisory Committee shall be composed of eleven (11) members appointed by the Trust, and shall be compensated for professional services in accordance with a schedule established by the Trust, although this shall not preclude donation of such services.
 - (1) *Membership, qualifications.* Each member of the professional advisory committee shall be a professional in the field of art, architecture, art history, or architectural history. Members'

reasonable expenses shall be reimbursed at a uniform rate to be established from time to time by the Trust.

- (2) Term of office. Each Professional Advisory Committee member shall serve a two-year term and may be reappointed for a total of three (3) consecutive terms.
 - (3) Duties. The Professional Advisory Committee will screen submissions and will recommend to the Trust for each acquisition not more than three (3) possible selections, which may be existing works of art or new commissions.
 - (4) Proceedings. For each acquisition the Trust shall direct the Professional Advisory Committee to act as a committee of the whole or in smaller subcommittees.
- (c) *Selections of works of art.* All acquisitions will be in accordance with the master art plan. Trustees shall approve each acquisition from those elections recommended by the Professional Advisory Committee. The County Manager will negotiate and execute appropriate contracts to acquire each approved work of art. Funds may be aggregated to acquire works of art.
- (1) Selection criteria. In the selection process, the following principles shall be observed:
 - a. Works of art shall be located in areas where residents and visitors live and congregate and shall be highly accessible and visible.
 - b. Areas used by tourists, including the airport, seaport, beaches, parks and thoroughfares, shall each have a separate master plan which shall be incorporated as a portion of the master art plan.
 - c. The Trustees should consider the inherently intrusive nature of public art on the lives of those frequenting public places. Artworks reflecting enduring artistic concepts, not transitory ones, should be sought.
 - d. The Trust's selections must reflect the cultural and ethnic diversity of this County without deviation from a standard of excellence.
 - e. Final selection shall also take into account appropriateness to the site, permanence of the work in light of environmental conditions at the site, maintenance requirements, quality of the work, likelihood that the artist can successfully complete the work within the available funding, diversity of works already acquired by the Trust, diversity of the artists whose work has been acquired by the Trust.
 - (d) *Master art plan and implementation guidelines.* The Trustees shall adopt and publish a master art plan and written uniform guidelines to govern the manner and method of the submission of proposed works of art to the Professional Advisory Committee, the process by which the Professional Advisory Committee shall make recommendations to the Trustees and the process by which the Trustees shall approve acquisition. These shall be approved by the Board of County Commissioners. Purchases and Commissions pursuant to such approved guidelines shall be reflected on the information section of the Commission agenda, but shall not require Commission approval.
4. *Ownership and Upkeep.* Ownership of all works of art acquired by the County under this section is vested in Miami-Dade County, except that ownership of all works of art acquired with municipal funds for a new governmental building shall be vested in the applicable municipality. The Art in Public Places Trust is charged with the custody, supervision, maintenance and preservation of works of art acquired by the County pursuant to this section, while each municipality is charged with the custody, supervision, maintenance, and preservation of works in art acquired with municipal funds pursuant to this section. In each instance, the County or municipality, as applicable, shall acquire title to each work of art acquired.
 5. *Personnel.* The County Mayor shall provide adequate and competent clerical and administrative personnel as may be reasonably required by the Trust for the proper performance of its duties, subject to budget limitations.

(Ord. No. 73-77, §§ 1—4, 9-18-73; Ord. No. 78-75, § 1, 11-7-78; Ord. No. 82-90, § 1, 9-21-82; Ord. No. 82-112, § 1, 12-21-82; Ord. No. 84-14, § 1, 2-7-84; Ord. No. 94-12, § 1, 1-18-94; Ord. No. 98-18, § 1, 2-3-98; Ord. No. 19-08, § 2, 2-5-19)

Editor's note— Ord. No. 73-77, § 5, provided for inclusion of the ordinance as a part of this Code, but did not specify the manner of inclusion; hence, codification of §§ 1—4 as § 2-11.15 was at the discretion of the editors.

Cross reference— Center for Fine Arts, § 2-301 et seq.

ATTACHMENT D

THE CITY OF MIAMI BEACH

ARTICLE VII. - ART IN PUBLIC PLACES⁹

Footnotes:

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Cross reference— Cultural arts council, § 2-51 et seq.

DIVISION 1. - GENERALLY

Sec. 82-536. - Intent of article.

It is the intent of this article to enhance the aesthetic environment of the city by including works of art on public property within the city and in city construction projects. The Bass Museum of Art shall be exempt from the provisions of this article.

(Ord. No. 95-2985, § 2(4A-1), 4-5-95; Ord. No. 2004-3448, § 1, 6-9-04)

Sec. 82-537. - Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Art in public places means works of art of exceptional quality executed on an appropriate scale and for general public access in public places other than museums, which enrich and give diversion to the public environment.

Art in public places committee means the advisory committee appointed by the city commission to carry out the duties and functions set forth in this article.

City construction project means any construction contract to which the city is a party for the new construction of; renovations requiring compliance with Chapter 34 Section 3401.8 of the Florida Building Code 50 percent rule or, renovation having a value equal to or greater than \$500,000.00, or addition to any city-owned building, facility, or other city-owned property, including but not limited to, parks, pools, recreation trails and golf courses. The definition of city construction project shall also be deemed to include construction projects that are developed by persons or entities other than the city, but which require the participation of the city as a party to a development agreement or ground lease.

Construction cost means "hard costs" associated with construction of a city construction project. Land acquisition costs, architect and engineering fees, environmental remediation costs, and costs associated with subsequent changes in construction contracts, except as provided in the proceeding sentence, are not included. An adjustment will be made to an original art in public places appropriation only for construction costs associated with city requested changes in scope requiring additional appropriations in excess of \$200,000.00 in the aggregate.

Professional advisory committee means a group of arts professionals selected by the arts in public places committee and confirmed by the city commission to recommend works of art or artists for one or more acquisitions. The committees may also contain up to two members of the design review board or historic preservation board, to be determined and selected by such boards, depending upon the location of the project for which the art is intended, and which board would have jurisdiction over the project.

Works of art means the application of skill and taste to production of tangible objects according to aesthetic principles, including but not limited to paintings, sculptures, engravings, carvings, frescos, mobiles, murals, collages, mosaics, statues, bas-reliefs, tapestries, photographs and drawings, or combinations thereof, and artist-designed public facilities, buildings, and/or spaces and functional elements, either as integral parts of a larger project or as a separate entity.

The provisions of this article shall not apply to the new construction of, renovations, or additions to the following city construction projects:

- a. Water and sewer related facilities, such as pump stations, water mains, water lines, sewer lines, treatment facilities, etc.
- b. Storm drainage infrastructure.
- c. Road construction or bridges.
- d. Streetscape beautification projects, which include but are not limited to, one or all of the following elements: resurfacing, new curbs, gutters, pavers, sidewalks, landscaping, lighting, bus shelters, bus benches, street furniture and signage.
- e. City construction projects undertaken to replace, reconstruct, or repair an existing public building or facility damaged or destroyed by a sudden unexpected turn of events, such as an act of God, riot, fire, flood, accident, or other urgent circumstance.
- f. The construction, remodeling, repair or improvement to a public electric or gas utility system.
- g. Where the city construction project is undertaken as a repair or maintenance of an existing public facility.

(Ord. No. 95-2985, § 2(4A-2), 4-5-95; Ord. No. 2001-3333, § 1, 11-28-01; Ord. No. 2004-3448, § 1, 6-9-04)

Cross reference— Definitions generally, § 1-2.

Secs. 82-538—82-560. - Reserved.

DIVISION 2. - ART IN PUBLIC PLACES COMMITTEE^[10]

Footnotes:

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Cross reference— Boards, committees, commissions, § 2-61 et seq.

Sec. 82-561. - Established.

- (a) An art in public places committee is hereby established to carry out the powers and duties set forth in section 82-562. The committee shall be composed of seven members appointed by a majority vote of the entire city commission. The members shall possess a high degree of competence in the evaluation of art history, architectural history, art, architecture, sculpture, painting, artistic structural design and other appropriate media for display or integration of art in public places.
- (b) The term of office for committee members shall be two years. Vacancies occurring before the expiration of a term shall be filled by the mayor for the remainder of that term.

(Ord. No. 95-2985, § 2(4A-6), 4-5-95; Ord. No. 96-3032, § 1(4A-6), 1-24-96; Ord. No. 2004-3448, § 1, 6-9-04)

Sec. 82-562. - Powers and duties.

The art in public places committee shall have the following powers and duties:

- (1) To recommend to the city commission whether a particular proposed city construction project is an appropriate site for works of art and whether all or a part of the appropriation required by section 82-587 should be utilized at the site or, reduced or waived in its entirety or, placed, whether in its entirety or a portion thereof, in the art in public places fund for other acceptable uses.
- (2) To recommend to the city commission the selection of existing works of art or to determine whether to recommend the selection of new works of art, and screen submissions therefore, for the fulfillment of the requirements of this article.
- (3) To conduct contests and competitions in order to select works of art to be recommended for a particular site.
- (4) To recommend a professional advisory committee to advise the committee and city commission regarding selection of particular works of art for a city construction project.
- (5) To recommend to the city commission the maintenance and insurance necessary to preserve and protect works of art.
- (6) To make a recommendation to the city commission regarding proposed projects that include works of art and to participate in the planning of such projects.
- (7) To recommend legislation concerning public works of art in the city.
- (8) To make recommendations to the city commission regarding the placement of proposed donations of works of art for placement on public property in the city.
- (9) To perform all other duties and functions as requested by the city commission.
- (10) To provide an advisory recommendation to private nonprofit applicants seeking to install works of art in public places and/or noncommercial artistic murals, graphics and images on private or city-owned buildings, which mural, graphic or image art is not funded by the city.

(Ord. No. 95-2985, § 2(4A-7), 4-5-95; Ord. No. 99-3162, § 1, 1-6-99; Ord. No. 2004-3448, § 1, 6-9-04; Ord. No. 2018-4176, § 2, 3-7-18)

Sec. 82-563. - Legal counsel.

The city attorney's office shall provide legal services to the art in public places committee as may be necessary or as requested by the art in public places committee.

(Ord. No. 95-2985, § 2(4A-8), 4-5-95)

Sec. 82-564. - Committee solely liable for obligations.

Unless and until the city commission approves by passage of an appropriate resolution or ordinance the acquisition of a work of art for this program, the cost of such acquisition and all costs associated with such acquisition shall not be an obligation, liability or debt of any kind or nature of the city. Exclusive of the costs approved by the city commission as set forth in this article for the acquisition of a work of art, no obligation, liability or debt of any kind or nature whatsoever incurred or asserted against the art in public places committee shall in any manner whatsoever be an obligation or liability of the city.

(Ord. No. 95-2985, § 2(4A-9), 4-5-95)

Secs. 82-565—82-585. - Reserved.

DIVISION 3. - FUND

Sec. 82-586. - Art in public places fund established.

The city art in public places fund shall be established, to consist of the following:

- (1) Monies appropriated to the fund by the city commission in accordance with section 82-587.
- (2) Monies donated to the fund by private individuals and organizations.
- (3) Monies received by the city from award of federal or state grants for the acquisition or maintenance of works of art on public property or at public facilities in the city. Grant monies received by or on behalf of the Bass Museum of Art shall be exempt from placement in the art in public places fund.

(Ord. No. 95-2985, § 2(4A-3), 4-5-95; Ord. No. 2004-3448, § 1, 6-9-04)

Sec. 82-587. - Appropriations by the city to the fund.

(a) All appropriations of city funding for city construction projects shall include an appropriation of funds to the art in public places fund. The amount appropriated to the art in public places fund shall not be less than 1½ percent of the construction cost of the city construction project. The appropriation to the fund shall be made at the time of the award of the construction contract for said city construction project. For city requested changes in scope requiring additional appropriations in excess of \$200,000.00 in the aggregate, at the time of appropriation of monies for the subject changes in scope, the applicable art in public places funding allocation shall be transferred to the art in public places fund.

(b) For city construction projects that are developed by persons and entities other than the city, but that are developed pursuant to a development agreement entered into with the city, or which involve the participation of the city as a ground lessor, the required appropriation shall be made at the same time as the appropriation of funding for the construction project and be based upon the construction cost, regardless of whether the construction cost is funded by the city or the person or entity other than the city. This subsection shall not apply to projects by not-for-profit persons or entities recognized under Section 501(C)(3) of the Internal Revenue Code of 1986, as amended, whose total construction budgets are less than \$8,000,000.00.

(c) In considering the required appropriation for a particular city construction project, the city commission may, by resolution:

1. Waive the required appropriation, finding such waiver to be in the best interest of the city;
2. Reduce the required appropriation amount; or
3. Find that the particular city construction project is not an appropriate site for works of art, and place all or a portion of the required appropriation in the art in public places fund for use at another site.

(d) The city commission shall also consider whether the funding source for a particular city construction project is restricted by public bond covenants; federal, state or local laws; and/or legal parameters which would require that the appropriation be utilized on the particular city construction project site.

(e) Prior to making a final determination as to the required appropriation for a city construction project, the city commission shall consider the recommendation of the art in public places committee.

(Ord. No. 95-2985, § 2(4A-4), 4-5-95; Ord. No. 2001-3309, § 1, 6-6-01; Ord. No. 2004-3448, § 1, 6-9-04)

Sec. 82-588. - Permitted use of fund monies.

Monies placed in the art in public places fund shall only be used for the following purposes:

- (1) Acquisition of works of art to be located on city construction projects or on public property in the city or located in public buildings or in public facilities within the city in accordance with the procedures in sections 82-611 and 82-612.
- (2) Insurance and/or maintenance of existing works of art acquired by the city under this article in accordance with a yearly budget for such insurance and/or maintenance to be approved by the city commission. The city manager and art in public places committee shall provide the city commission with a yearly recommendation regarding this budget.
- (3) Expenses relating to the following:
 - a. Research and evaluation by the committee pertaining to proposed works of art, including opinions when necessary from outside experts and/or professional advisory committees;
 - b. Expenses related to art contests sponsored by the committee in connection with acquisitions of works of art, including related printing and distribution expenses;
 - c. Administrative expenses relating to the operations of the committee, including but not limited to salaries, supplies and equipment for the keeping of minutes and printing and distribution of board agendas and correspondence;
 - d. Selected artist travel expenses, at the rates used citywide and approved in advance by the city manager.

All such expenses shall be approved as part of the yearly budget for the fund by the city commission after considering the recommended budget submitted by the city manager and the committee. The amount budgeted for administration, maintenance, insurance, and preservation of works of art acquired by the city pursuant to this article as part of the total appropriations for art in public places shall not be more than 25 percent of monies placed in the art in public places fund.

(Ord. No. 95-2985, § 2(4A-5), 4-5-95; Ord. No. 2004-3448, § 1, 6-9-04)

Secs. 82-589—82-610. - Reserved.

DIVISION 4. - PROCEDURES

Sec. 82-611. - Procedures for selection.

- (a) The art in public places committee shall evaluate each proposed city construction project to determine its suitability as a site for works of art. In making its determination, the following factors will be considered:
 - (1) Appropriateness of the city construction project as a site for works of art.
 - (2) Physical layout of the city construction project.
 - (3) Visibility and accessibility to the public.
- (b) Additionally, the committee shall establish a list of existing city-owned sites it considers appropriate sites for works of art. The criteria in subsection (a) of this section shall be used in evaluating potential sites.

- (c) The acquisition, removal, and/or relocation of works of art, shall be in accordance with the criteria set forth in this section and the art in public places master plan, as approved by resolution of the city commission.

(Ord. No. 95-2985, § 2(4A-10), 4-5-95; Ord. No. 2004-3448, § 1, 6-9-04)

Sec. 82-612. - Selection of artists and works of art.

- (a) When the art in public places committee recommends a particular city construction project or existing site as being appropriate for art in public places, the committee shall also recommend to the city commission one of the following means of obtaining the works of art:
 - (1) *Open entry competition.* Through appropriate advertisement all artists are invited to enter into competition for a commission to create a work of art for the site. The amount to be paid for the works of art shall be determined by the city commission after considering the committee's recommendation. Artists may be asked to submit slides of their past work, resumes, letters of intent related to the specific project or specific proposals for the project under review.
 - (2) *Limited entry competition.* A limited number of artists are invited to compete as set forth in subsection (a)(1) of this section.
 - (3) *Direct selection of the artist.* An artist or several artists may be selected to develop a proposal for the project or produce the desired works of art.
 - (4) *Direct purchase of existing works of art.* A completed work of art is purchased. No more than ten percent of the costs of the work of art may go to a dealer or agent.
- (b) In the case of a limited competition or a direct selection, an artist may be asked to develop a proposal for a specific project. If asked to develop a proposal, an artist may be paid a proposal fee on the basis of an approved fee schedule. This schedule shall be determined by the committee after consultation and approval by the city manager and shall consist of a sliding schedule based upon the total project commission. However, in general no more than five percent of the total art in public places allocation for a project should be paid in proposal fees to artists.
- (c) The committee may recommend the appointment of a professional advisory committee to assist with selection of works of art or artists for a particular project. Selection of a professional advisory committee shall be by the art in public places committee and confirmed by the city commission. Reasonable expenses incurred by the professional advisory committee may be reimbursed from the fund in accordance with rates approved in advance by the art in public places committee and the city manager.
- (d) The art in public places committee shall consider the recommendations of the professional advisory committee in selecting works of art for particular city construction projects or existing sites.
- (e) Construction of selected works of art. Where the selected work of art requires construction management, construction shall be managed by the city manager's designee.
- (f) Selection of artists, sculptors, craftsmen, and professional advisory committee's review of designs and choice and acceptance of works of art shall be by the art in public places committee and must have approval of the city commission. All agreements made pursuant to this article shall be authorized by the city commission.
- (g) In selecting/approving works of art, the art in public places committee and/or professional advisory committee and city commission shall consider the following criteria:
 - (1) Appropriateness to the city construction project or existing site.
 - (2) Maintenance requirements.
 - (3) Quality of the work.
 - (4) Likelihood that the artist can complete the work within available funding.

- (5) Reflection of enduring artistic concepts, rather than transitory ones.
- (6) History of the artist in terms of completion of works on time.
- (h) In obtaining the advice of the design review board, or historic preservation board, whichever has jurisdiction over the matter based on the location of the proposed project, according to such board's normal application and review procedures, the staff of the art in public places committee shall present the proposal to such boards, prior to submittal of a final recommendation by the art in public places committee to the city commission.
- (i) When providing an advisory recommendation to private nonprofit applicants seeking to install works of art in public places and/or noncommercial artistic murals, graphics and images on private or city-owned buildings, which mural, graphic or image art is not funded by the city, the committee shall utilize the following criteria:
 - (1) Appropriateness to the project or existing site.
 - (2) Maintenance requirements.
 - (3) Quality of the work.
 - (4) Likelihood that the artist can complete the work within available funding of the private nonprofit applicant.
 - (5) Reflection of enduring artistic concepts, rather than transitory ones.
 - (6) History of the artist in terms of completion of works on time.

The recommendation shall be issued prior to any required review of the design review board or historic preservation board.

(Ord. No. 95-2985, § 2(4A-11), 4-5-95; Ord. No. 2001-3333, § 2, 11-28-01; Ord. No. 2004-3448, § 1, 6-9-04; Ord. No. 2016-3985, § 1, 1-13-16; Ord. No. 2018-4176, § 2, 3-7-18)