

PLANNING, ZONING AND APPEALS BOARD FACT SHEET

File ID: (ID # 2572)

Title: A RESOLUTION OF THE MIAMI PLANNING, ZONING AND APPEALS BOARD RECOMMENDING APPROVAL OR DENIAL OF AN ORDINANCE OF THE MIAMI CITY COMMISSION AMENDING CHAPTER 13/ARTICLE II OF THE CODE OF THE CITY OF MIAMI, FLORIDA, AS AMENDED ("CITY CODE"), ENTITLED "DEVELOPMENT IMPACT AND OTHER RELATED FEES/DOWNTOWN DEVELOPMENT SUPPLEMENTAL FEE" BY UPDATING THE DEFINITIONS; UPDATING THE COEFFICIENTS UPON WHICH THE DOWNTOWN DEVELOPMENT OF REGIONAL IMPACT ("DDRI") SUPPLEMENTAL FEE IS ESTABLISHED; UPDATING THE ASSOCIATED ANNUAL ADJUSTMENT FACTOR; UPDATING REFERENCES TO THE CURRENT ZONING CODE, AS AMENDED, AND ELIMINATING REFERENCES TO AN OUTDATED ZONING CODE; UPDATING REFERENCES TO THE CONSOLIDATED APPLICATION FOR DEVELOPMENT APPROVAL ("CADA") ASSOCIATED WITH INCREMENT III FOR THE DDRI; UPDATING VARIOUS AUTHORIZING POLICIES OF REFERENCE FROM STATE AND LOCAL BODIES; MAKING FINDINGS OF FACT AND CONCLUSIONS OF LAW; DIRECTING TRANSMITTALS; PROVIDING FOR A TERMINATION DATE; PROVIDING A SEVERABILITY CLAUSE; AND PROVIDING AN EFFECTIVE DATE.

LOCATION: Approximately the boundaries of the Miami Downtown Development Authority, with the exception of Southeast Overtown Park West [Commissioner Ken Russell]

APPLICANT(S): City of Miami & Miami Downtown Development Authority.

FINDING(S):

PLANNING AND ZONING DEPARTMENT: Recommends approval.

PURPOSE: This will amend Chapter 13 in the City Code so to implement Increment III of the Downtown Development of Regional Impact upon adoption.



City of Miami PZAB Resolution

City Hall
3500 Pan American Drive
Miami, FL 33133
www.miamigov.com

Enactment Number:

File ID: 2572

Final Action Date:

A RESOLUTION OF THE MIAMI PLANNING, ZONING AND APPEALS BOARD RECOMMENDING APPROVAL OR DENIAL OF AN ORDINANCE OF THE MIAMI CITY COMMISSION AMENDING CHAPTER 13/ARTICLE II OF THE CODE OF THE CITY OF MIAMI, FLORIDA, AS AMENDED ("CITY CODE"), ENTITLED "DEVELOPMENT IMPACT AND OTHER RELATED FEES/DOWNTOWN DEVELOPMENT SUPPLEMENTAL FEE" BY UPDATING THE DEFINITIONS; UPDATING THE COEFFICIENTS UPON WHICH THE DOWNTOWN DEVELOPMENT OF REGIONAL IMPACT ("DDRI") SUPPLEMENTAL FEE IS ESTABLISHED; UPDATING THE ASSOCIATED ANNUAL ADJUSTMENT FACTOR; UPDATING REFERENCES TO THE CURRENT ZONING CODE, AS AMENDED, AND ELIMINATING REFERENCES TO AN OUTDATED ZONING CODE; UPDATING REFERENCES TO THE CONSOLIDATED APPLICATION FOR DEVELOPMENT APPROVAL ("CADA") ASSOCIATED WITH INCREMENT III FOR THE DDRI; UPDATING VARIOUS AUTHORIZING POLICIES OF REFERENCE FROM STATE AND LOCAL BODIES; MAKING FINDINGS OF FACT AND CONCLUSIONS OF LAW; DIRECTING TRANSMITTALS; PROVIDING FOR A TERMINATION DATE; PROVIDING A SEVERABILITY CLAUSE; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, Florida Statute 380.06 defines "developments of regional impact" as developments that, because of their character, magnitude, or location, would have a substantial effect upon the health, safety, or welfare of citizens of more than one (1) county; and

WHEREAS, Florida Statute 380.06 further recognizes that a downtown development authority may submit a development-of-regional-impact application for development approval, for which purposes the downtown development authority shall be considered the developer regardless of whether the development will be undertaken by the downtown development authority; and

WHEREAS, Resolution No. 87-1148, adopted on December 10, 1987, established the Downtown Development of Regional Impact ("DDRI") with the City of Miami ("City") and Downtown Development Authority of the City ("DDA") as co-applicants, pursuant to a development order covering 839 acres which was intended to build out in 2007 and was reviewed and approved by all relevant state agencies, including the Department of Community Affairs, Department of Fish and Wildlife, Department of Transportation, Department of Environmental Conservation, Regional Planning Council, South Florida Water Management District, and Miami-Dade County; and

WHEREAS, Increment I of the DDRI was adopted by Resolution No. 87-1149 on December 10, 1987; and

WHEREAS, Increment II of the DDRI was adopted by Resolution No. 02-1307 on December 12, 2002; and

WHEREAS, the boundaries of the DDRI area were modified to increase the area to 927 acres through a Notice of Proposed Change (“NOPC”) approved by the City Commission by Resolution No. 04-0425 on June 24, 2004; and

WHEREAS, anticipating increased demand for downtown development, the Department of Economic Opportunity issued an “Interim Development Order” with the City, allowing the City to authorize development projects in the DDRI area using credits allotted to Increment III when adopted, if Increment II capacity were exceeded prior to the adoption of Increment III; and

WHEREAS, the study associated with the Application for Development Approval revealed that development under Increment III is projected to have the following associated impacts: project costs of \$7.3 billion, \$5.8 of which to be spent within the local region; 13,674 non-construction jobs; an estimated \$268 million non-recurring and \$134 million recurring revenue through 2024; the construction or rehabilitation of at least 2,700 affordable housing units; and over \$6 million in transit and roadway improvements; and

WHEREAS, the South Florida Regional Planning Council recommended approval of the DDRI on June 6, 2016; and

WHEREAS, the Board of Directors of the DDA recommended approval of the DDRI on October 21, 2016; and

WHEREAS, the Planning, Zoning and Appeals Board recommended approval of the DDRI on September 7, 2016; and

WHEREAS, the City Commission voted to approve the DDRI Development Order at First Reading on November 17, 2016; and

WHEREAS, it is necessary to adopt new supplemental fees and their coefficients when a new Development Order is adopted because these are the tools through which the City mitigates the impacts of net new development governed within the DRI;

NOW, THEREFORE, BE IT RESOLVED BY THE PLANNING, ZONING AND APPEALS BOARD OF THE CITY OF MIAMI, FLORIDA:

Section 1. The recitals and findings contained in the Preamble to this Resolution are adopted by reference and incorporated as if fully set forth in this Section.

Section 2. Chapter 13/Article II of the City Code should be amended as follows:

“* * * *

ARTICLE II. - DOWNTOWN DEVELOPMENT SUPPLEMENTAL FEE

* * * *

Sec. 13-52. - Intent.

- (a) This article is intended to impose the downtown development supplemental fee as a supplemental fee on new development within the downtown DRI project area, utilizing the defined terms in section 13-53. The downtown development supplemental fee comprises ~~four~~ three (3) components including a transportation mitigation fee, ~~an air quality fee~~, a DRI/master plan recovery fee and an administration fee. The downtown development supplemental fee is payable prior to the time of building permit issuance or upon application for certain permits, as provided for herein, in an amount based upon the appropriate units of land use, in order to mitigate the impacts of the proposed development in the project area, as set forth in Exhibit ~~B E~~ of ~~Resolution 02-1307~~ Ordinance No. XXXXX since the demand for the mitigation is uniquely attributable to such net new development on an area-wide basis.
- (b) This article shall be uniformly applicable to all net new development within the project area. This fee shall not be applicable to any activity which is not classified as "net new development" as defined ~~herein~~ in Section 13-53 or which has, on the effective date of the master and increment I downtown DRI development orders, a valid building permit or currently effective DRI development order.

Sec. 13-53. - Definitions.

As used in this article, the following words and terms shall have the following meanings, unless another meaning is plainly intended.

ADA or application for development approval shall mean the original application for development approval for the downtown Miami project area filed by the DDA on November 25, 1986, pursuant to F.S. § 380.06 (1987), as amended by the Increment II ADA filed by the DDA on February 13, 2002.

Administration fees shall mean a fee charged to all new development to pay for the city's administrative costs for enforcing the terms and conditions of the downtown development orders, including but not limited to preparation of ordinances and procedures, review of permit applications, monitoring compliance with requirements, and enforcing violations, and which shall be a component of the downtown development supplemental fee.

Air quality fees shall mean a fee charged to all net new development to pay for the for the city's costs for air quality monitoring, modeling and mitigation measures as required in the increment I and II development orders for downtown Miami; and which shall be a component of the downtown development supplemental fee.

Applicant shall mean an individual, corporation, business trust, estate, trust, partnership, association, two or more persons acting as coapplicants, any county or state agency, any other legal entity, or the authorized representative of any of the aforementioned, signing an application for a building permit.

Attractions/recreation use shall mean theaters, performance halls, sports arenas, museums, and similar cultural, entertainment, or recreational facilities.

Building permit shall mean any permit required for new construction and additions pursuant to the Florida Building Code.

By-Right Project shall mean a project that is designed to conform to the all the applicable standards of the current zoning code, as amended, and any other specific requirements that may be enumerated elsewhere in the City Code.

CADA or consolidated application for development approval shall mean the revised ADA prepared pursuant to the requirements of F.S. § 380.06 (2017).

Central business district shall be as defined in section 13-5.

Certificate of occupancy shall mean a permanent or temporary and/or partial certificate of occupancy issued, pursuant to the Florida Building Code.

City shall mean the City of Miami, Florida.

~~*Class II special permit* shall have the meaning given within city Ordinance Number 11000, as amended, the zoning ordinance for the city~~ mean a special permit issued by the Planning Director pursuant to Ordinance Number 11000, the zoning ordinance of the city, as amended and Miami 21, as applicable.

Commission shall mean the city commission of Miami, Florida.

Comprehensive plan shall mean the city's plan for future development adopted by city Ordinance Number 10544, and as may be amended and updated from time to time.

Convention use shall mean meeting rooms, banquet halls, exhibition halls, auditoriums, and their auxiliary spaces intended for use by conventions, seminars, exhibitions, and the like, which shall exceed the minimum standard for ancillary facilities within the definition of "hotel use".

DDA or downtown development authority shall mean the downtown development authority of the city.

~~*DO or downtown development order* shall mean the master and/or increment I, and/or increment II development orders for downtown Miami as a development of regional impact, issued by the city on December 10, 1987, by Resolution Numbers 87-1148, 87-1149, and 02-1307. orders granting with conditions for a development permit, as defined by Florida Statute 163.3164 (2017), for the Downtown DRI. The Master development order was approved by Resolution No. 87-1148, Increment I was established by Resolution No. 87-1149, Increment II was established by Resolution No. 02-1307, and Increment III was established by Ordinance No. XXXXX.~~

Downtown development supplemental fee shall mean a fee charged to net new development in the project area comprised of components including a transportation mitigation fee, ~~an air quality fee~~, an administration fee, and a DRI/master plan recovery fee which are assessable to the net new development according to the provisions of this article.

Downtown development supplemental fee coefficient shall mean the charge per unit of land use as calculated for each component of the downtown development supplemental fee.

DRI shall mean development of regional impact- as defined by Florida Statute 380.06 (2017) and includes any development which, because of its character, magnitude, or location, would have a substantial effect upon the health, safety, or welfare of citizens of more than one (1) county.

DRI/master plan recovery fee shall mean a fee charged to all net new development to reimburse the city and/or DDA for costs incurred in the DRI/master plan study and future related studies in accordance with the CADA and the downtown DRI development orders, and which shall be a component of the downtown development supplemental fee.

DU or dwelling unit ~~shall have the meaning given to "dwelling unit" in the zoning ordinance,~~ shall mean a residence of a single housekeeping unit as further defined in Miami 21.

Hotel use shall mean land use functions predominantly of sleeping accommodations occupied on a rental basis for limited periods of time. These are measured in terms of lodging units. A lodging unit is a furnished room of a minimum 200 square feet that includes sanitary facilities and may include limited kitchen facilities. ~~any facility containing more than one "lodging unit," as defined in the zoning ordinance,~~ and *Hotel Uses* may include meeting and banquet facilities and convenience goods and services for hotel guests, provided that the total of such ancillary facilities shall not exceed 15 percent of the gross square footage of the proposed hotel.

Industrial Use shall mean land uses connected with a business or activity involving manufacturing, fabrication, assembly, distribution, disposal, warehousing, bulk storage, trucking and equipment facilities, and other businesses serving primarily industrial needs, based on Miami 21.

Institutional use shall mean hospitals, universities, schools, and post offices.

MUSP or major use special permit shall mean a special permit issued by the city commission pursuant to Ordinance Number 11000, the zoning ordinance of the city, as amended and Miami 21, as applicable.

Net new development shall mean any construction or reconstruction which will result in a net increase, within any parcel of land, of residential dwelling units, hotel rooms, seats in attractions/recreation facilities or gross square footage for office, retail/service, convention, wholesale/industrial or institutional uses. Land uses to be removed by demolition of a building or structure may be credited against the proposed new land uses for purposes of calculating the net increase, if the planning director determines that there was a valid certificate of occupancy existing on the effective date of this development order for the land uses to be demolished. If a change of land use is proposed, the planning director may credit the prior land use against the proposed land use based upon equivalent impacts as measured by peak hour vehicle trip generation. Any activity which has, on the effective date of this development order, a valid building permit or any currently effective development order shall not be included as net new development. The planning director may exclude from net new development any small development under 10,000 square feet in floor area, if he or she finds that such development would have no regional impact as measured by peak hour vehicle trips.

Office use shall mean space for the conduct of the administrative functions of government or business and professional activities not including sales of merchandise off the premises, and not including personal services as defined herein under "retail/service use."

Owner-occupied Units ~~shall be as defined in section 13-5.~~ shall mean dwelling units for individual sale by a developer and intended occupancy by an owner, as opposed to rental residential developments.

Parcel of land shall mean, pursuant to F.S. ch. 380 (2017), any quantity of land capable of being described with such definiteness that its location and boundaries may be established, and which is designated by its owner or developer as land to be used or developed as a unit or which has been used or developed as a unit.

p.m. peak hour external motor vehicle trips ~~means~~ shall mean the average number of trips per hour during the afternoon peak period from 4:00 to 6:00 p.m. generated by motor vehicles, excluding public transit vehicles, that have either an origin or a destination within the project area.

Project area shall mean the area included within the legal description as set forth in Exhibit ~~BE~~ of Resolution 02-1307 Ordinance No. XXXXX.

Residential use shall mean any "dwelling units" as defined in the zoning ordinance.

Retail/service use shall mean space for the sale of merchandise, eating and/or drinking establishments, and personal services such as but not limited to hair salons, travel agencies, laundries, dry cleaners, bank tellers, photographers, shoe repair, tailoring, etc.

Room ~~shall have the meaning given to mean~~ "lodging unit" in the zoning ordinance.

SF, gross square feet, or gross square footage ~~shall have the meaning given to mean~~ "floor area" in the zoning ordinance as further defined in Miami 21.

Site shall mean a legally described parcel of property capable of development pursuant to applicable city ordinances and regulations.

Total allowable development shall mean the quantity of net new development for which certificates of occupancy may be issued under the terms and conditions of the development order, as may be modified pursuant to F.S. § 380.06(19) (2004).

Transportation mitigation fee shall mean a fee charged to all net new development to pay for improvements to mitigate for impacts on the regional transportation system in accordance with requirements of the CADA and the increment I and increment II development order for downtown Miami, and which shall be a component of the downtown development supplemental fee.

Wholesale/Industrial use shall mean manufacturing, wholesale trade, warehousing and storage, printing, automotive and heavy equipment repair, and other general commercial uses permitted within I (industrial) districts in the zoning ordinance.

Zoning ordinance shall mean Ordinance No. 13114 and commonly referred to as Miami 21. This ordinance replaces shall mean City Ordinance Number 11000, as amended, or a successor ordinance, the zoning ordinance of the city.

Zoning Permit shall mean any special permit as delineated in Section 7.1.2 of Miami 21 including, but not limited to, Waiver, Warrants, Exceptions, and Variances, which are necessary for the development of properties that are not developed "by-right."

Sec. 13-54. - Authority.

The city commission is authorized to establish and adopt a downtown development supplemental fee pursuant to the authority granted by the Florida Constitution, ~~article VII, sections 1(f), 1(g) and 2(b), Article VII, Section 9(a) (2017)~~ and the Municipal Home Rule Powers Act, F.S. ch. 166, the city Charter, the Local Government Comprehensive Planning and Land Development Regulation Act (F.S. § 163.3161, et. seq., as amended by F.S. § 163.3177) and the downtown Miami development of regional impact development order issued December 10, 1987, by Resolution Numbers 87-1148, 87-1149, and 02-1307 as amended, and Ordinance No. XXXXX. The provisions of this article shall not be construed to limit the power of the city to adopt such article pursuant to any other source of authority nor to utilize any other methods or powers otherwise available for accomplishing the purposes set forth herein, either in substitution of, or in conjunction with this article.

Sec. 13-55. - Imposition of fee.

- (a) Except as may be provided section 13-58, no Zoning Permits or building permits, or major use special permits shall be issued for any net new development as herein defined in Section 13-53 unless the applicant ~~therefore~~ has paid the downtown development supplemental fee imposed by and calculated pursuant to this article.
- (b) Notwithstanding the foregoing, for any project that requires payment of downtown development supplemental fees prior to the issuance of a building permit, the director of the planning department may grant an extension of time, pursuant to a written request by an applicant, for such payment of fees from time of foundation permit to time of shell permit only, upon a finding that the time extension is warranted due to particular financing aspects of the proposed project. No building permit may be issued, however, until all fees required for the DRI are paid in full.
- (c) Payment of required downtown development supplemental fees from governmental agencies or authorities, that do not have to obtain building permits from the city, shall be due prior to commencement of construction of the proposed project.
- (d) Applicants with projects that qualify under subsection 13-8 are exempt from the imposition of payment of the proportionate share of the downtown development supplemental fee attributable only to the Downtown DRI master plan recovery fee and Downtown DRI administration fee. This exemption does not extend to the imposition of payment for the proportionate share of the transportation supplemental fee.

Sec. 13-56. - Downtown development supplemental fee coefficients.

- ~~(a)~~ Following shall be the coefficients by land use for each of the four (4) components of the downtown development supplemental fee.

Table 1. Fee Coefficients
(per gross square footage of floor area)

Land Use	Transportation Mitigation ⁴	Air Quality	DRI/Master Plan Recovery ⁴⁵	DRI Administration ⁵⁶	Total Fee Coefficient
Office	\$0.719 <u>\$0.4757</u>	\$0.031	\$0.1149 <u>\$0.156223</u>	\$0.2296 <u>\$0.07521</u>	\$1.094 <u>\$0.7072</u>
Retail/service	\$0.936 <u>\$1.3784</u>	\$0.051	\$0.1149 <u>\$0.156223</u>	\$0.2296 <u>\$0.07521</u>	\$1.332 <u>\$1.6098</u>
Convention	\$0.217 <u>\$0.3174</u>	\$0.028	\$0.1149 <u>\$0.156223</u>	\$0.2296 <u>\$0.07521</u>	\$0.589 <u>\$0.5489</u>
Institutional	\$0.280 <u>\$0.5502</u>	\$0.036	\$0.1149 <u>\$0.156223</u>	\$0.2296 <u>\$0.07521</u>	\$0.661 <u>\$0.7816</u>
Wholesale/industrial	\$0.188 <u>\$0.2580</u>	\$0.024	\$0.1149 <u>\$0.156223</u>	\$0.2296 <u>\$0.07521</u>	\$0.557 <u>\$0.4894</u>
Hotel ¹	\$0.361 <u>\$0.3138</u>	\$0.018	\$0.1149 <u>\$0.156223</u>	\$0.2296 <u>\$0.07521</u>	\$0.724 <u>\$0.5452</u>
Residential ²	\$0.203 <u>\$0.1531</u>	\$0.011	\$0.1149 <u>\$0.156223</u>	\$0.2296 <u>\$0.07521</u>	\$0.558 <u>\$0.3846</u>
Recreation ³	\$0.437 <u>\$0.2733</u>	\$0.002	\$0.1149 <u>\$0.156223</u>	\$0.2296 <u>\$0.07521</u>	\$0.783 <u>\$0.5047</u>

Notes:

¹ These fee coefficients for hotel use are based upon an assumed average of 700 SF per hotel room, and shall be adjusted for each development based upon a transportation mitigation fee of ~~\$285.60~~ \$219.65 per room and an air quality fee of ~~\$12.69~~ per room.

² These fee coefficients for residential use are based upon an assumed average of 1,000 SF per DU, and shall be adjusted for each development based upon a transportation mitigation fee of ~~\$202.64~~ \$153.15 per DU and an air quality fee of ~~\$10.50~~ per DU.

³ These fee coefficients for attractions/recreation use are based upon an assumed average of 20 SF per seat and shall be adjusted for each development based upon a transportation mitigation fee of ~~\$8.74~~ \$5.47 per seat and an air quality fee of ~~\$0.03~~ per seat.

⁴ Transportation mitigation. The Increment III development order requires an updated fee of \$7,785,065.08 (in 2016 dollars) to mitigate the regional transportation impacts of total allowable development. This fee is derived from the following:

(a) Estimated improvements necessary to maintain the minimum level of service standard on regional roadways impacted by total allowable development (see Exhibit C of Ordinance No. XXXXX). The regional transportation mitigation fee of \$6,005,829 (in 2016 dollars) to be expended on transit projects as provided in Exhibit C of Ordinance No. XXXXX.

(b) Contribution of \$1,180,030.00 (in 2016 dollars) to the South Florida Regional Transportation Authority ("SFRTA") to be expended on the Tri-Rail Downtown Miami Link in accordance with the First Amendment to the Interlocal Agency Agreement approved pursuant to the Resolution No. R-16-0218 on May 12, 2016.

(c) Contribution of \$374,206.08 to be expended on transportation improvements, including but not limited to pedestrian and alternative transportation mode improvements within the Downtown DRI study area, and the turn lanes described in condition 14c of the Downtown Development Order, at the City's discretion.

⁴⁵ DRI/Master Plan Recovery. The total cost to the city for the Downtown Transportation Master Plan, the Increment III DDRI Applications, the Downtown Master Plan and related studies is estimated to be ~~\$1,700,000~~ \$4,628,129, which shall be distributed equally among all net new development on the basis of gross square footage of floor area. The total amount of new development is estimated to be ~~13,505,000~~ 29,625,173 SF during the time that the Increment III development order is in effect.

⁵⁶ Administration. ~~The administrative cost to the city for enforcing the requirements of the development order is estimated to be \$500,000.00 per year or a total of \$3,500,000.00 during the seven years that the Increment II development order is projected to be in effect. The administrative cost to the City for enforcing the requirements of the Downtown Development Order is estimated to be \$2,228,100.00 over nine (9) years.~~ These administrative costs shall be distributed equally among all net new development on the basis of gross square footage of floor area. The total amount of new development is estimated to be ~~13,505,000~~ 29,625,173 SF during the time that the Increment III development order is in effect.

~~(b) The proportionate share for each unit of land use is calculated as follows:~~

~~(1) *Transportation mitigation.* The increment I and II development orders combined requires an updated fee of \$10,572,656.00 (in 2002 dollars) to mitigate the regional transportation impacts of total allowable development. This fee was derived from~~

~~(a) estimated improvements necessary to maintain the minimum level of service standard on regional roadways impacted by total allowable development (see exhibit 2. The regional transportation mitigation fee of \$10,572,656.00~~

~~is distributed among units of land use in total allowable development based upon the average rate of generation of p.m. peak hour external motor vehicle trips, as utilized in the CADA (see exhibit 3).~~

~~(2) *Air quality.* The increment I and II development orders require the city to perform monitoring and modeling for future carbon monoxide (CO) concentrations, and to take appropriate actions to prevent violations of the minimum standard for CO concentrations. The city estimates its total cost for compliance with the air quality requirements of the increment I and II development orders combined to be \$534,598.00 in 2002 dollars (see exhibit 4), which is distributed among units of land use in total allowable development based upon the average rate of generation of p.m. peak hour external motor vehicle trips, as utilized in the CADA (see exhibit 5).~~

~~(3) *DRI/master plan recovery.* The total cost to the city for preparing the Downtown Transportation Master Plan, the increment II Downtown DRI Application, and the Downtown Master Plan and related studies is estimated to be \$1,700,000.00, which shall be distributed equally among all net new development on the basis of gross square footage of floor area. The total amount of net new development is estimated to be 13,505,000 SF during the time that the increment II development order is in effect.~~

~~(4) Administration. The administrative cost to the city for enforcing the requirements of the development order is estimated to be \$500,000.00 per year or a total of \$3,500,000.00 during the seven years that the increment II development order is projected to be in effect. These administrative costs shall be distributed equally among all net new development on the basis of gross square footage to floor area the total amount of net new development is estimated to be 13,505,000 SF during the time that the increment II development orders in effect.~~

Sec. 13-56.1. - Consumer price index adjustment.

~~The coefficients in the table above shall be adjusted annually on May 1st of each year with the first adjustment occurring on May 1st, 2005 by multiplying each coefficient in the table by the formula set forth in this paragraph (the adjustment factor). The adjustment factor shall be the lesser of:~~

- ~~(1) The percentage increase in the annual consumer price index of the prior calendar year as compared to the annual consumer price index for 2003 (184.0), or~~
- ~~(2) Seven percent per year compounded for each year after 2004. The formula for the adjustment factor is as follows:~~

Prior year's Consumer Price Index	= Adjustment Factor
184.0	

~~For these purposes, the consumer price index to be utilized shall be that published by the Bureau of Labor Statistics of the U.S. Department of Labor, using the U.S. city average, all Urban Consumers (1982—1984 = 100) Not Seasonally Adjusted. In no event shall the adjustment factor for any year be less than one. In the event that the consumer price index referred to above is no longer published, then a comparable index which measures inflationary factors, and the corresponding decrease in the purchasing power of the U.S. Dollar, shall be selected by the city, and the adjustment factor shall be based upon such index.~~

Fees shall be adjusted every twelve (12) months beginning March 1, 2018 based upon the change in the Consumer Price Index – All Urban Consumers Not Seasonally Adjusted, U.S. city average for all items (1982-84=100) which for purposes of the formula below shall be referred to as “Annual CPI”.

The change shall be calculated as follows:

$$\frac{\text{(Annual CPI for Prior Calendar Year minus Annual CPI for Calendar Year Two Years Prior)}}{\text{(Annual CPI for the Calendar Year Two Years Prior)}} = \text{Change in CPI}$$

-then-

$$\text{(Change in CPI + 1) * (Fee Currently in Force) = (New Fee for Next 12 months).}$$

Notwithstanding the calculation above, if the “Change of CPI” for any twelve (12) month period is greater than 0.10, then 0.10 shall replace the actual “Change in CPI” in the calculation for that twelve (12) month period. Additionally, if the “Change in CPI” is less than 0.0, then 0.0 shall replace the actual “Change in CPI” in the calculation for that twelve (12) month period.

As an example, and for illustrative purposes only, to calculate the change on March 1, 2019 where the fee currently in force was \$1.64 per square foot, 2018 Annual CPI was 251 and 2017 Annual CPI was 245; the calculation would be as follows:

$$\underline{251-245= 6 / 245 = 0.0245}$$

-then-

$$\underline{0.0245 + 1 = 1.245 * \$1.64 = \$2.04 \text{ per square foot fee between March 1, 2019 and February 29, 2020.}}$$

Sec. 13-57. - Procedure for calculation of downtown development supplemental fee.

Upon receipt of an application for a building permit or a MUSP for a new development, the planning and zoning department shall determine the amount of the downtown development supplemental fee due pursuant to the following procedure.

The DRI supplemental fee calculated by the processes as outlined above is collected prior to the issuance of a building permit. The sequencing for the collection of DRI fees depends on whether a project is built "by-right" under Miami 21 or if the project requires a Zoning Permit, as defined herein.

- (a) *DRI Fees for projects that are approved with a Zoning Permit.* For projects receiving Zoning Permits as defined herein, the payment of the DRI Administration Fee and the DRI Master Plan Recovery Fee is due at the time the Zoning Permit is granted. At the time these projects are presented for building permits, DRI fees for Transportation Mitigation shall be paid.
- (b) *DRI fees for projects that are approved "by-right."* Projects that are built in the Downtown DRI "by-right" which do not require a Zoning Permits shall pay all DRI fees for at the time of building permit. Projects which are referred to the Department of Planning during a building permitting review may request a DRI review and may reserve DRI development credits by paying the DRI Administration Fee and DRI Master Plan Recovery Fee prior to obtaining for a building permit, when all DRI fees are due in full.

Application for reservation of development credits for net new development within the Downtown DRI area is completed by submitting project plans to the Director of Planning or his/her designee for a DRI review. This submission will generate a fee schedule for the assessment of the associated DRI fees based on the project. Project modifications require new DRI review. Each review will generate a fee schedule assessing fees for net new development and credit for demolition, if applicable.

- ~~(1) Determine whether the development is exempt by virtue of the conditions specified herein. Any net new development that is exempt from the imposition and payment of development impact fees pursuant to subsection 13-2(b)(8) shall additionally be exempt from the imposition and payment of the proportionate share of the downtown development supplemental fee attributable only to the DRI/master plan recovery and administration. Said exemption shall not extend to the imposition and payment of the proportionate shares for transportation mitigation and air quality.~~

- (21) Determine the applicable land use(s) based upon the applicant's intended use and the design and configuration of the space and, in the event that a proposed use is not included in one of the land use categories defined herein in Section 13-53, apply the defined land use category most similar to the proposed use in terms of the average rate of generation of p.m. peak hour external motor vehicle trips, in consultation with the City's Office of Transportation.
- (32) Calculate the gross square footage, number of dwelling units, number of hotel rooms, and number of seats in attractions/recreation facilities as appropriate for each land use.
- ~~(4)~~(3) Multiply the appropriate units of each land use in the development by the appropriate downtown development supplemental fee coefficients.
- (54) Upon written request of the applicant, review and adjust the amount of downtown development supplemental fee calculated, if appropriate.

Sec. 13-58. - Administration of downtown development supplemental fee.

- (a) *Collection of downtown development supplemental fee.* Downtown development supplemental fees due pursuant to this article for administration fees and DRI/master plan recovery fees shall be collected by the planning and zoning department at the time of application for a MUSP or, if a MUSP is not required, Zoning Permit or at any time prior to issuance of a building permit. Downtown development supplemental fees due pursuant to this article for transportation impacts and air quality impacts shall be collected by the planning and zoning department at any time prior to issuance of a building permit (except as specified in section 13-55).
- (b) *Transfer of funds to finance department.* Upon receipt of downtown development supplemental fees, the ~~planning, building and zoning~~ Department of Planning shall transfer such funds to the city finance department which shall be responsible for placement of such funds into separate accounts ~~as hereinafter specified~~. All such funds resulting from the collection of the supplemental fees shall be deposited in interest-bearing accounts in a bank authorized to receive deposits of city funds. Interest earned by each account shall be credited to that account and shall be used solely for the purposes specified for ~~such~~ such funds of such account.
- (c) *Establishment of and maintenance of accounts.* The city finance department shall establish separate accounts and maintain records for each ~~such~~ such account, ~~whereby~~ into which the downtown development supplemental fees that are collected can be segregated by each of the ~~four~~ three (3) fee components, ~~transportation mitigation fees, air quality fees, DRI/master plan recovery fees, and administration fees.~~
- (d) *Maintenance of records.* The city finance department shall maintain and keep adequate financial records for each ~~such~~ such account which shall show the source and disbursement of all revenues, which shall account for all moneys received, and which shall ensure that the disbursement of funds from each account shall be used solely and exclusively for the provision of projects specified in the downtown development orders, the administration fee and the DRI/master plan recovery fee. In connection with capital improvement projects, funds may be used for planning, design, construction, land acquisition, financing, financial and legal services, and administrative costs.
- (e) *Refund of downtown development supplemental fee.*
 - (1) The current owner of property on which a downtown development supplemental fee for transportation mitigation ~~and air quality~~ has been paid may apply for a refund of such

fee if: the city has failed to encumber or spend the collected fees by the end of the calendar quarter immediately following six years of the date of payment of the fee, or the building permit for which the transportation mitigation or air quality fee has been paid has been terminated or expired for non-commencement of construction; or the project for which a building permit has been issued has been altered resulting in a decrease in the amount of the transportation mitigation ~~or air quality~~ fee due. Downtown development supplemental fees paid for administration and DRI/master plan recovery are not refundable.

- (2) Only the current owner of property may petition for a refund. A petition for refund shall be filed within one year of any of the above-specified events giving rise to the right to claim a refund.
 - (3) The petition for refund shall be submitted to the city manager or his or her duly designated agent on a form provided by the city for such purpose. The petition shall contain a notarized affidavit that petitioner is the current owner of the property; a certified copy of latest tax records of Metropolitan Dade County showing the owner of the subject property; a copy of the dated receipt for payment of the fee issued by the city's planning, building and zoning department, and a statement of the basis upon which the refund is sought.
 - (4) Within one month of the date of receipt of a petition for refund, the city manager or his or her duly designated agent must provide the petitioner, in writing, with a decision on the refund request. The decision must include the reasons for the decision including, as may be appropriate, a determination of whether the collected fees have been encumbered or spent in accordance with the requirements of this article. If a refund is due to the petitioner, the city manager or his or her duly designated agent shall notify the city's finance director and request that a refund payment be made to the petitioner.
 - (5) Any money returned pursuant to this subsection shall be returned with interest at the rate of three percent per annum.
 - (6) Petitioner may appeal the determination of the city manager to the impact fee board of review subject to the time limitations and procedures for appeals to that board set forth in section 13-16 of the city Code.
- (f) *Annual review and modification.* The city shall annually review downtown development supplemental fee ordinance procedures, assumptions, formulas, and fee assessments and make such modifications as are deemed necessary as a result of:
- (1) Development occurring in the prior year.
 - (2) Amendments to the development order.
 - (3) Changing needs for facilities and/or services.
 - (4) Inflation and other economic factors.
 - (5) Revised cost estimates for public improvements and/or services.
 - (6) Changes in the availability of other funding sources.
 - (7) Such other factors as may be relevant.

* * * *

The city commission (hereinafter "commission") hereby finds and declares that:

- (1) The real property which is the subject of this article, the project area, is legally described in as set forth in ~~exhibit B of Resolution 02-1307~~ Exhibit E of Ordinance No. XXXX.
- (2) The DDA has filed a CADA with the city, the South Florida Regional Planning Council, and the state department of community affairs.
- (3) The purpose of the CADA is to identify and assess regional impacts and to obtain approval for total allowable development in accordance with the general guidelines set forth in the development orders and the CADA. The city has recognized the project area as a single area of high intensity development and focused on the impacts that the total allowable development within the project area will have on land, water, transportation, environmental, community services, energy and other resources and systems of regional significance. The CADA seeks a single state DRI review process for overall phased development of the downtown area rather than requiring each individual DRI scale development within the downtown area to be reviewed separately other than for a major use special permit and as a means of accommodating the impacts of the non-DRI scale cumulative growth on the downtown area.
- (4) Development within the project area is expected to continue to be accomplished over an extended period of time by a variety of developers, which may include the city. These developers may respond to market demand and technologies that can only be estimated in the CADA. The CADA and the DO are intended to serve as flexible guides for planned development of the project area rather than a precise blueprint for its development. Therefore, pursuant to F.S. § 380.06(~~21~~ 22)(~~2004-2017~~), the CADA seeks master development approval for three increments of development over a period of approximately ~~25-38~~ 25-38 years and specific development approval for increment I, II, and III, ~~and increment II~~. Subsequent incremental applications may need to be adjusted to more nearly serve the evolution of market demand and technologies.
- (5) The project area contains a total of approximately ~~903-927~~ 903-927 acres, including approximately 78 acres presently zoned and developed as city parks. The CADA has proposed a quantity of net new development within the project area for the land uses and phases defined herein as total allowable development.
- (6) A comprehensive assessment of the probable impacts that will be generated by the total allowable development has been conducted by various city departments, as reflected in the CADA, and as reviewed by the South Florida Regional Planning Council staff.
- (7) The impacts found in the development order are consistent with the report and recommendations of the South Florida Regional Planning Council, entitled "Development of Regional Impact Assessment for Downtown Miami," dated October 5, 1987, ~~and~~ "Development of Regional Impact Assessment for Downtown Miami" dated July 1, 2002, ~~and~~ "Development of Regional Impact Report Downtown Miami Increment III" dated June 2016.
- (8) Net new development imposes demands upon public facilities and services benefiting the region and requires additional regional infrastructure.
- (9) To the extent that net new development places demands upon regional public facilities and services, those demands should be satisfied by developments actually creating the demands.

- (10) The limiting factors determining the amount of potential development in the project area are the effects of net new development on transportation facilities and air quality.
- (11) The downtown DRI and the downtown master plan are of benefit to all net new development in the project area and expenses incurred by the city and/or DDA in connection with the preparation and adoption of the downtown DRI/master plan, and future related studies, and for the enforcement of the development orders should be reimbursed to the city by the net new development benefiting therefrom.
- (12) The total amount of the downtown development supplemental fee is determined by the cost of the ~~four~~ three (3) components of the fee:
 - a. Transportation mitigation fee;
 - ~~b.~~ b. Air quality fee;
 - ~~c.~~ c. Downtown DRI/master plan recovery fee; and
 - ~~d.~~ d. Administration fee.

The most appropriate measure to distribute the proportionate share of the cost of the transportation mitigation fee ~~and the air quality fee~~ shall be the average rate of generation of p.m. peak hour external motor vehicle trips for net new development in each land use category, as utilized in the CADA DRI/master plan recovery fees and administration fees are most appropriately allocated to all net new development at an equal rate for all land use categories.

- (13) The downtown development supplemental fee is being imposed on all net new development in order to pay the costs of certain development order related requirements, as described above. Since the demand for such development order related requirements are uniquely created by the new development, the downtown development supplementary fee is equitable and does not impose an unfair burden on such development is in the best interest of the city and its residents.

* * * * *

Section 3. This Resolution shall be effective immediately upon its adoption.