

ADDITIONAL AGENDA ITEM

FLORIDA INLAND NAVIGATION DISTRICT Board of Commissioners Meeting

**9:00 a.m., Friday, November 17, 2023
Wyndham Grand Jupiter at Harbourside Place
122 Soundings Ave.,
Jupiter, Palm Beach County, Florida 33477**

Item 19b. Reconsideration of City of Miami Morningside Park 2023 Waterways Assistance Program Project Agreement, Miami, Miami Dade County, FL

At the Final Tax hearing in September 2023, the Florida Inland Navigation District (FIND) Board of Commissioners approved the listing of the 2023 Waterway Assistance Program (WAP) grant awards which included a grant to the City of Miami in the amount of \$4,352,670 for the construction of the bulkhead and baywalk, and improvements to the boat ramp and trailer parking area at Morningside Park (the "Morningside Grant"). This is the 6th grant awarded to the City of Miami for this project. Previous grants to the City for projects at Morningside Park include:

Project Number	Project Name	Grant Award
DA-MI-96-44	Morningside Seawall Improvements	\$34,250.00
DA-MI-16-202	Morningside Floating Docks, PH I	\$16,500.00
DA-MI-18-230	Morningside Park Floating Dock, PH II	\$110,276.00
DA-MI-20-255	Morningside Park Baywalk, Kayak Launch & Ramp Phase I	\$256,637.00
DA-MI-23-284	Morningside Park Phase II Part 1	\$4,352,670.00

Despite FIND's longstanding partnership with the City on public access projects in this area, and without any consultation or communication to FIND, the City has taken preliminary steps which could significantly restrict boating, fishing and public access to this area of Biscayne Bay. Specifically, at the Thursday, November 16, 2023, the City of Miami Board of Commissioners meeting, the District 2 City Commissioner has sponsored a Resolution with File ID: #14954 (the "Resolution"), which would direct the City Administrator to submit applications to establish a boating restricted area around an alleged Brown Pelican nesting rookery on a City owned Spoil Island (the "Spoil Island"). No evidence of a nesting rookery on the Spoil Island has been provided to FIND by the City, nor does any such evidence exist in the City's published legislative back-up. Brown Pelicans are not a State or Federally listed species.

From additional information uncovered in association with this Resolution, it appears as if this application would be the first step in a multi-stage request to create a Florida Fish and Wildlife Conservation Commission (FWC) Critical Wildlife Area (CWA) directly off the shoreline of Morningside Park to include nearby recreational spoil islands on both sides of the Intracoastal Waterway (IWW). This action would have potential negative

impacts on boating and public access in the area of Morningside Park.

The City's actions in this regard would be inconsistent with the intent of FIND grant programs and the recently completed Miami-Dade County Waterfront Recreational Access Plan, funded by FIND. The City's actions would restrict the public's ability to boat, recreate and fish in this area of Biscayne Bay, thereby undermining significant drivers of economic output in Miami-Dade County as confirmed by two recently completed economic studies (2023 Economic Analysis of the District Waterways: Miami-Dade County, Florida; prepared for the Florida Inland Navigation District by The Balmoral Group, Seidel, V., Cortez, C., Barker, A., Winter Park, FL, and Biscayne Bay Economic Study Update Final Report; prepared for the South Florida Water Management District and Miami-Dade County, Florida by Hazen and Sawyer, Johns, G., September 15, 2023).

Staff are requesting that the Board authorize the Executive Director to delay the final execution of the Morningside Park 2023 Waterways Assistance Program Project Agreement, (i) due to the significance of the potential change in project conditions which would result from City creation of a boating restricted area and FWC designation of a CWA, adjacent to Morningside Park, and (ii) until such time as Staff can confirm that public access to the area will not be restricted. Staff would also like to transmit a record of the Board's position on this matter to the City of Miami and FWC, regardless of the City's action this week on the Resolution, so that FIND's position on any such application is clear. Finally, Staff would like authorization to prepare an item for the Board's reconsideration of the Morningside Grant, to be placed on FIND's next meeting agenda, in the event that the City approves the Resolution.

RECOMMEND: **The Board authorizes the Executive Director to delay the final execution of the Morningside Park 2023 Waterways Assistance Program Project Agreement (i) due to the significance of the potential change in project conditions and negative impacts on boating and public access in the area of Morningside Park, and (ii) until such time as Staff can confirm that public access to the area will not be restricted. Further, the Board directs the Executive Director to transmit a record of the Board's position on this matter to the City of Miami and FWC. Finally, the Board directs staff to prepare an item for the Board's reconsideration of the Morningside Grant, to be placed on FIND's next meeting agenda, in the event that the City approves the Resolution.**

**AGENDA ITEM COVER PAGE****File ID: #14954****Resolution****Sponsored by: Commissioner Sabina Covo**

A RESOLUTION OF THE MIAMI CITY COMMISSION DIRECTING AND AUTHORIZING THE CITY MANAGER TO UNDERTAKE AND EXECUTE THE NECESSARY APPLICATIONS WITH AGENCIES OF MIAMI-DADE COUNTY, THE STATE OF FLORIDA, AND THE UNITED STATES OF AMERICA TO ESTABLISH A BOATING RESTRICTED AREA AROUND THE NESTING ROOKERY ON CITY OF MIAMI OWNED MANGROVE ISLAND, FOLIO 01-3217-000-0040, IN NORTHERN BISCAYNE BAY AQUATIC PRESERVE.



City of Miami

Legislation

Resolution

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

File Number: 14954

Final Action Date:

A RESOLUTION OF THE MIAMI CITY COMMISSION DIRECTING AND AUTHORIZING THE CITY MANAGER TO UNDERTAKE AND EXECUTE THE NECESSARY APPLICATIONS WITH AGENCIES OF MIAMI-DADE COUNTY, THE STATE OF FLORIDA, AND THE UNITED STATES OF AMERICA TO ESTABLISH A BOATING RESTRICTED AREA AROUND THE NESTING ROOKERY ON CITY OF MIAMI OWNED MANGROVE ISLAND, FOLIO 01-3217-000-0040, IN NORTHERN BISCAYNE BAY AQUATIC PRESERVE.

WHEREAS, the southernmost island of the Morningside Picnic Islands located in the City of Miami ("City"), described as Folio No. 01-3217-000-0040 ("Property"), further described as a Rectangular Tract in Biscayne Bay, 500 feet in width and 1000 feet in length lying in Sections 17 and 18 per Deed #24164 from the Board of Trustees of the Internal Improvement Trust Fund of the State of Florida, has been identified as a critical bird nesting rookery; and

WHEREAS, established by Florida Statute, aquatic preserves are submerged lands of exceptional beauty that are to be maintained in their natural or existing conditions; and

WHEREAS, the intent was to forever set aside submerged lands with exceptional biological, aesthetic, and scientific values as sanctuaries, called aquatic preserves, for the benefit of future generations; and

WHEREAS, a new established nesting rookery on Mangrove Island on the Property in the Northern Biscayne Bay Aquatic Preserve was surveyed and confirmed by the Florida Fish and Wildlife Commission; and, the City of Miami ("City") unanimously adopted Resolution No. 23-0312, to work with the Florida Fish and Wildlife Commission to protect the rookery on July 13, 2023; and

WHEREAS, the nesting rookery on Mangrove Island is one of only two (2) active nesting rookeries in the Northern Biscayne Bay Aquatic Preserve; and

WHEREAS, the conservation of this sensitive species requires consideration of local population trends, especially those that may represent a special genetic haplotype; and

WHEREAS, although the Brown Pelican responded well to conservation efforts, the species continues to face threats including climate change and habitat loss and is also vulnerable to starvation during sharp declines in food fish and fish kills, and are injured or killed by fishing line and hooks, and when they ingest plastics and other pollution; and

WHEREAS, disturbance by boaters and or human activity around nesting colonies can cause nest abandonment; and

WHEREAS, Florida Fish and Wildlife Conservation Commission has placed no trespassing signage on the rookery, and citizens with boats and watercraft continue to speed close to the rookery and boats are docking on the rookery for the purpose of fishing; and

WHEREAS, Section 327.40, Florida Statutes, provides that no person or municipality, county, or other governmental entity shall place any uniform waterway marker in, on, or over the waters or shores of the State of Florida without a permit from the Division of Law Enforcement of the Fish and Wildlife Conservation Commission;

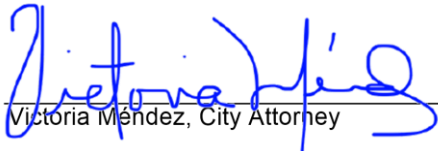
NOW, THEREFORE, BE IT RESOLVED BY THE COMMISSION OF THE CITY OF MIAMI, FLORIDA:

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. The City Manager is directed and authorized¹ to undertake and execute the necessary applications with agencies of Miami-Dade County, the State of Florida, and the United States of America to establish a boating restricted area around the nesting rookery on City owned mangrove island, Folio 01-3217-000-0040, in Northern Biscayne Bay Aquatic Preserve, further described as a Rectangular Tract in Biscayne Bay, 500 feet in width and 1000 feet in length lying in Sections 17 and 18 per Deed #24164 from the Board of Trustees of the Internal Improvement Trust Fund of the State of Florida.

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

APPROVED AS TO FORM AND CORRECTNESS:


Victoria Méndez, City Attorney 11/6/2023

¹ The herein authorization is further subject to compliance with all legal requirements that may be imposed, including but not limited to, those prescribed by applicable City Charter and City Code provisions.









**Miami
FL**

**Resolution
R-23-0312**

ADOPTED
Jul 13, 2023 9:00 AM

A RESOLUTION OF THE MIAMI CITY COMMISSION DIRECTING THE CITY MANAGER TO INSTALL EDUCATIONAL SIGNAGE NEAR AND AROUND THE SOUTHERNMOST ISLAND OF THE "LEGION PICNIC ISLANDS" IN COLLABORATION WITH THE FLORIDA FISH AND WILDLIFE COMMISSION TO PROTECT THE RECENTLY IDENTIFIED BIRD NESTING ROOKERY.

Information

Department:	City Commission	Sponsors:	Commissioner, District Two Sabina Covo
Category:	Non-Agenda Item		

Body/Legislation

WHEREAS, the southernmost island of the Legion Picnic Islands, Folio No. 01-3217-000-0040 ("Property"), owned by the City of Miami ("City"), has been identified as a critical bird nesting rookery; and

WHEREAS, the rookery provides nesting and roosting grounds for a variety of bird species, including those that are state threatened, offering protection from mainland predators; and

WHEREAS, the rookery faces disturbances from boating, jet skiing, trespassing, and other activities that threaten the nesting ground and its vulnerable bird population; and

WHEREAS, the Florida Fish and Wildlife Commission ("FWC") has requested permission to install educational signage near and around the Property to raise awareness and reduce disturbance to the rookery; and

WHEREAS, the preservation of and protection of our natural environment and wildlife is of the utmost importance; and

WHEREAS, it is necessary for the City to take immediate action and work collaboratively with the FWC to ensure the installation of appropriate signage that will educate the public about the sensitivity and importance of the rookery; and

WHEREAS, in accordance with Section 2-33(f) of the Code of the City of Miami, Florida, as amended ("City Code"), the City Commission, by a majority vote, hereby deems this Resolution to be of an emergency nature;

NOW, THEREFORE, BE IT RESOLVED BY THE COMMISSION OF THE CITY OF MIAMI, FLORIDA:

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

Section 2. The City Manager is hereby directed to install educational signage near and around the Property in collaboration with the FWC.

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

Meeting History

Jul 13, 2023 9:00 AM **City
Commission** **City Commission Meeting**

RESULT: **ADOPTED [UNANIMOUS]**
MOVER: Sabina Covo, Commissioner, District Two
SECONDER: Alex Diaz de la Portilla, Commissioner, District One
AYES: Christine King, Alex Diaz de la Portilla, Sabina Covo, Manolo Reyes
ABSENT: Joe Carollo

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City of Miami

Resolution

Legislation

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

File Number: 14954

Final Action Date:

A RESOLUTION OF THE MIAMI CITY COMMISSION DIRECTING AND AUTHORIZING THE CITY MANAGER TO UNDERTAKE AND EXECUTE THE NECESSARY APPLICATIONS WITH AGENCIES OF MIAMI-DADE COUNTY, THE STATE OF FLORIDA, INCLUDING THE FLORIDA INLAND NAVIGATION DISTRICT ("FIND") COMMISSION, AND THE UNITED STATES OF AMERICA TO LIMIT THE IMPACT OF POTENTIALLY HARMFUL HUMAN ACTIVITY AROUND THE NESTING ROOKERY ON CITY OF MIAMI OWNED MANGROVE ISLAND, FOLIO 01-3217-000-0040, IN NORTHERN BISCAYNE BAY AQUATIC PRESERVE.

SPONSOR(S): Commissioner Sabina Covo

WHEREAS, the southernmost island of the Morningside Picnic Islands located in the City of Miami ("City"), described as Folio No. 01-3217-000-0040 ("Property"), further described as a Rectangular Tract in Biscayne Bay, 500 feet in width and 1000 feet in length lying in Sections 17 and 18 per Deed #24164 from the Board of Trustees of the Internal Improvement Trust Fund of the State of Florida, has been identified as a critical bird nesting rookery; and

WHEREAS, established by Florida Statute, aquatic preserves are submerged lands of exceptional beauty that are to be maintained in their natural or existing conditions; and

WHEREAS, the intent was to forever set aside submerged lands with exceptional biological, aesthetic, and scientific values as sanctuaries, called aquatic preserves, for the benefit of future generations; and

WHEREAS, a new established nesting rookery on Mangrove Island on the Property in the Northern Biscayne Bay Aquatic Preserve was surveyed and confirmed by the Florida Fish and Wildlife Commission; and, the City of Miami ("City") unanimously adopted Resolution No. 23-0312, to work with the Florida Fish and Wildlife Commission to protect the rookery on July 13, 2023; and

WHEREAS, the nesting rookery on Mangrove Island is one of only two (2) active nesting rookeries in the Northern Biscayne Bay Aquatic Preserve; and

WHEREAS, the conservation of this sensitive species requires consideration of local population trends, especially those that may represent a special genetic haplotype; and

WHEREAS, although the Brown Pelican responded well to conservation efforts, the species continues to face threats including climate change and habitat loss and is also vulnerable to starvation during sharp declines in food fish and fish kills, and are injured or killed by fishing line and hooks, and when they ingest plastics and other pollution; and

WHEREAS, disturbance by boaters and or human activity around nesting colonies can cause nest abandonment; and

WHEREAS, Florida Fish and Wildlife Conservation Commission has placed no trespassing signage on the rookery, and citizens with boats and watercraft continue to speed close to the rookery and boats are docking on the rookery for the purpose of fishing; and

WHEREAS, Section 327.40, Florida Statutes, provides that no person or municipality, county, or other governmental entity shall place any uniform waterway marker in, on, or over the waters or shores of the State of Florida without a permit from the Division of Law Enforcement of the Fish and Wildlife Conservation Commission;

NOW, THEREFORE, BE IT RESOLVED BY THE COMMISSION 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. The City Manager is directed and authorized¹ to undertake and execute the necessary applications with agencies of Miami-Dade County, the State of Florida, including the Florida Inland Navigation District ("FIND") commission, and the United States of America to take all appropriate steps necessary to limit the impact of potentially harmful human activity around the nesting rookery on City owned mangrove island, Folio 01-3217-000-0040, in Northern Biscayne Bay Aquatic Preserve, further described as a Rectangular Tract in Biscayne Bay, 500 feet in width and 1000 feet in length lying in Sections 17 and 18 per Deed #24164 from the Board of Trustees of the Internal Improvement Trust Fund of the State of Florida.

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