

## ST. PETERSBURG CITY COUNCIL

Meeting of October 1, 2009

**TO:** The Honorable Jeff Danner, Chair and Members of City Council

**SUBJECT:** Authorizing the Mayor, or his Designee, to execute a Temporary Parking Validation Agreement between the City of St. Petersburg and Muvico Entertainment, L.L.C., a Delaware limited liability company; and to execute all documents necessary to effectuate same; and providing an effective date.

**EXPLANATION:** As noted in the July 14, 2009 BayWalk Revitalization Plan, the City of St. Petersburg ("City") staff has been in discussions and working closely with Muvico Entertainment, L.L.C. ("Muvico") since late 2008 to ensure the theaters remain open and operating while BayWalk evolved through its ownership change and anticipated market repositioning. City staff has also been working closely with the new BayWalk property manager, Ciminelli Real Estate Services of Florida, LLC ("Ciminelli"), to coordinate its plans for BayWalk with Muvico's plans to accomplish the goal of helping Muvico recapture its successful prominence in the downtown area. Both City Administration and Ciminelli feel it is imperative that the Muvico theaters remain open and continue to serve as an anchor for BayWalk and the greater downtown area.

Likewise, as noted in the attached letter from Muvico, the success of the BayWalk Revitalization Plan is essential to Muvico's viability and ultimate successful revival. Further, Muvico notes it is prepared to execute the proposed "...agreement and commence with the Phase 1 work upon the City Council's approval ...along with the approval of the Vacation of the 2<sup>nd</sup> Avenue sidewalk." They go on to note that Muvico's improvements, "along with CW Capital's efforts and the City's Revitalization Plan for BayWalk are the critical steps needed to ensure the future success of BayWalk and downtown St. Petersburg."

On August 6, 2009, City Council approved Resolution No. 2009-415 authorizing a parking validation program to provide "free parking" for BayWalk and Muvico patrons on weekday evenings after 5 P.M. and weekends and holidays for four hours or less, except during special events for a period of six (6) months commencing January 1, 2010. Notwithstanding this program, Muvico has proposed to make significant improvements and upgrades to its facility if the City will agree to provide additional parking validations to its patrons.

The proposed Temporary Parking Validation Agreement ("Agreement") between the City and Muvico has been developed as part of Muvico's financial plan to revitalize the theaters and keep them open. Muvico has proposed a budget of approximately \$400,000 for Phase I upgrades and improvements to its theater complex at BayWalk as outlined below:

1. ART/21 Auditoriums. Muvico shall begin converting/remodeling four (4) of the existing auditoriums to ART/21 auditoriums with completion by December 1, 2009. An ART/21

auditorium is defined as an auditorium designated for age 21 and over patrons featuring the following:

- a. upgraded comfortable seating with special armrests and with a small table to rest drinks and small plates;
  - b. all the seats are reserved;
  - c. a small bar servicing the area associated with the auditorium or any grouping of such auditoriums, which shall comply with all liquor license requirements; and
  - d. the auditorium will have a unique brand to complement the nature of the programming which will mainly be art films, cross over art/ mainstream films, and may also host film festivals, special screenings, special broadcasts (such as Met opera simulcasts) and other related types of events.
2. IMAX. Muvico shall convert/remodel the existing IMAX Theater to digital projection technology, which will allow unlimited exhibition of IMAX products as well as other digital content, including 3D presentations, which shall be completed by March 31, 2010.

In consideration of the budget of approximately \$400,000 for Muvico's Phase I upgrades and improvements, Muvico has requested the City to provide additional free parking for its patrons effective retroactively to September 1, 2009. The Muvico program would cover a four (4) month period before, and a six (6) month period after the previously approved "free parking" period for up to 125,000 validations. The Muvico validation program would allow validated parking during the same times as provided for in the original BayWalk disposition agreement: Weekdays for up to three (3) hours between Noon and 5:00 P.M. or for up to four (4) hours during evenings, weekends and holidays; and, during City-defined special events.

The proposed temporary parking validation agreement would result in the potential loss of \$125,000 of revenue for the MidCore garage, assuming the Muvico theaters would remain open in the absence of the proposed agreement. However, Muvico has committed to invest approximately \$400,000 in its theater complex and continue to show "first-run" movies, in addition to converting four of its theaters to an "Art/21" attraction. Effectively, Muvico will invest approximately \$3.2 dollars for every dollar the City is foregoing in potential parking revenue. In addition, the City will have no up front expenses and is able to spread the reduction in parking revenues over three (3) fiscal years. Subject to the success of the Revitalization Plan for BayWalk, Muvico also makes reference to a potential second phase of improvements in its letter to the City "Altogether, Muvico is prepared to invest approximately \$750,000 for all improvements in both phases."

Muvico will provide the City with an accounting of 1.) all upgrade and improvement expenditures of the ART/21 auditorium conversion/remodeling and 2.) all upgrade and improvement expenditures related to the IMAX conversion/remodeling, not later than thirty (30) days following the completion of each item.

In addition, Muvico has requested that the City promote the new amenities through ongoing City promotion programs such as the City's website, St. Pete-TV, media interactions and publications such as the City's quarterly events calendar, e-news and fast facts.

The attached Agreement also provides for early termination in the event any of the following occur:

1. If Muvico fails to complete the upgrades and improvements.
2. If Muvico fails to maintain and operate the BayWalk Muvico theater open daily to the public with a minimum of fifteen (15) auditoriums comprised of at least eleven (11) "First-run" auditoriums including the IMAX theater and four (4) ART/21 auditoriums during movie industry standard operating hours.
3. If Muvico or an affiliate or subsidiary files any litigation against the City.

**RECOMMENDATION:** Administration recommends that City Council authorize the Mayor, or his Designee, to execute a Temporary Parking Validation Agreement between the City of St. Petersburg and Muvico Entertainment, L.L.C., a Delaware limited liability company and to execute all documents necessary to effectuate same.

**COST/FUNDING/ASSESSMENT INFORMATION:** The City is providing Muvico up to 125,000 parking validations. This will result in up to \$125,000 less revenue being generated from the BayWalk garage. This reduction in revenue for the Parking Revenue Fund will be spread out over three (3) fiscal years based upon historical garage usage.

**ATTACHMENTS:** Muvico letter dated September 10, 2009  
Sketch showing location of ART/21 theaters  
Resolution

**APPROVALS:**

Administrative:

R. Messert 9-17-09 [Signature]

Budget:

N/A

Legal:

[Signature]

(As to consistency w/attached legal documents)



The World's Premier Movie Experience

September 10, 2009

VIA EMAIL

Mr. Rick Musset  
Economic Development  
City of St. Petersburg  
Rick.Mussett@stpete.org

Dear Mr. Musset:

Attached for your review, please find the final draft of the Temporary Parking Validation Program for City Council approval.

We are pleased to have reached accord on the terms and are prepared to execute this agreement and commence with the Phase 1 work upon the City Council's approval of this document along with the approval of the Vacation of the 2<sup>nd</sup> avenue sidewalk, the latter being vital step toward the success of Baywalk and Muvico, providing proper and unencumbered access for patrons.

Further to the work outlined as Phase 1 (and contingent on positive leasing activity of the Baywalk center), Muvico is also prepared to perform a series of additional improvements, including the creation of a Premier Lounge area for patrons 21 and older, complete with a Bar and restaurant servicing two new luxury balcony areas, in the 2 largest auditoriums. Altogether, Muvico is prepared to invest approximately \$750,000 for all improvements in both phases. These improvements, along with CW Capitals efforts and the City's Revitalization plan for Baywalk are the critical steps needed to ensure the future success of Baywalk and downtown St. Pete.

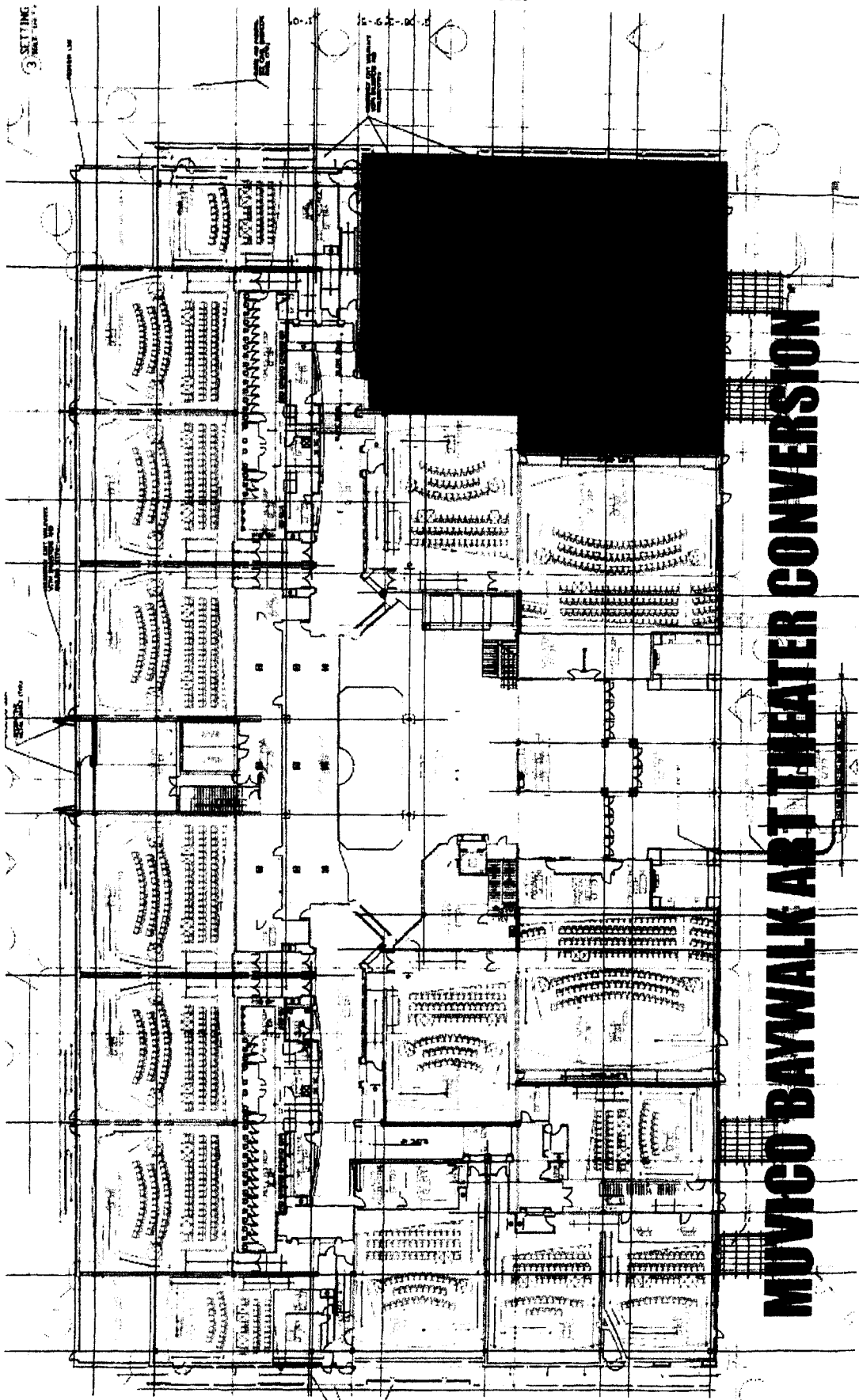
Sincerely,

Mike Wilson  
Muvico Theaters  
SVP Strategic Development  
cc. Mike Whalen- President & CEO, Muvico Theaters

3101 North Federal Highway, 6th Floor  
Fort Lauderdale, FL 33306-1042  
Tel: (954) 564-6550  
Fax: (954) 564-6553

3rd Avenue North

1st Street North



**MUVICO BAYWALK ART THEATER CONVERSION**

2nd Street North

A RESOLUTION AUTHORIZING THE MAYOR, OR HIS DESIGNEE, TO EXECUTE A TEMPORARY PARKING VALIDATION AGREEMENT BETWEEN THE CITY OF ST. PETERSBURG AND MUVICO ENTERTAINMENT, L.L.C., A DELAWARE LIMITED LIABILITY COMPANY; AND TO EXECUTE ALL DOCUMENTS NECESSARY TO EFFECTUATE SAME; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, as noted in the July 14, 2009 BayWalk Revitalization Plan, the City of St. Petersburg ("City") staff has been in discussions and working closely with Muvico Entertainment, L.L.C. ("Muvico") since late 2008 to ensure the theaters remain open and operating while BayWalk evolved through its ownership change and anticipated market repositioning; and

WHEREAS, City staff has also been working closely with the new BayWalk property manager, Ciminelli Real Estate Services of Florida, LLC ("Ciminelli"), to coordinate their plans for BayWalk with Muvico's plans to accomplish the goal of helping Muvico recapture its successful prominence in the downtown area; and

WHEREAS, both City Administration and Ciminelli feel it is imperative that the Muvico theaters remain open and continue to serve as an anchor for BayWalk and the greater downtown area; and

WHEREAS, Muvico has stated in a letter to the City that the success of the BayWalk Revitalization Plan is essential to Muvico's viability and ultimate successful revival and that a critical element of the plan is the ability of BayWalk to control the sidewalk areas; and

WHEREAS, on August 6, 2009, City Council approved Resolution No. 2009-415 authorizing a parking validation program to provide "free parking" for BayWalk and Muvico patrons on weekday evenings after 5 P.M. and weekends and holidays for four hours or less, except during special events for a period of six (6) months commencing January 1, 2010; and

WHEREAS, notwithstanding this six (6) month free parking program, Muvico has proposed to make significant improvements and upgrades to its facility if the City will agree to provide additional parking validations to its patrons; and

WHEREAS, Muvico has proposed a budget of approximately \$400,000 for its Phase I upgrades and improvements to its theater complex at BayWalk as follows:

1. ART/21 Auditoriums. Muvico shall begin converting/remodeling four (4) of the existing auditoriums to ART/21 auditoriums with completion by December 1, 2009. An ART/21 auditorium is defined as an auditorium designated for age 21 and over patrons featuring the following:
  - a. upgraded comfortable seating with special armrests and with a small table to rest drinks and small plates;
  - b. all the seats are reserved;
  - c. a small bar servicing the area associated with the auditorium or any grouping of such auditoriums, which shall comply with all liquor license requirements; and
  - d. the auditorium will have a unique brand to complement the nature of the programming which will mainly be art films, cross over art/ mainstream films, and may also host film festivals, special screenings, special broadcasts (such as Met opera simulcasts) and other related types of events.
2. IMAX. Muvico shall convert/remodel the existing IMAX Theater to digital projection technology, which will allow unlimited exhibition of IMAX products as well as other digital content, including 3D presentations, which shall be completed by March 31, 2010; and

WHEREAS, in consideration of the budget of approximately \$400,000 for Muvico Phase I upgrades and improvements, Muvico has requested the City to provide additional free parking for its patrons effective retroactively to September 1, 2009; and

WHEREAS, the Muvico program would cover a four (4) month period before, and a six (6) month period after the previously approved "free parking" period for up to 125,000 validations allowing validated parking during the same times as provided for in the original BayWalk disposition agreement: weekdays for up to three (3) hours between Noon and 5:00 P.M. or for up to four (4) hours during evenings, weekends and holidays, and during City-defined special events; and

WHEREAS, Muvico will provide the City with an accounting of 1.) all upgrade and improvement expenditures of the ART/21 auditorium conversion/remodeling and 2.) all upgrade and improvement expenditures related to the IMAX conversion / remodeling, not later than thirty (30) days following the completion of each item; and

WHEREAS, in addition, Muvico has requested that the City promote the new amenities at Muvico through ongoing City promotion programs such as the City's website, St. Pete-TV, media interactions and publications such as the City's quarterly events calendar, e-news and fast facts; and

WHEREAS, the Agreement also provides for early termination in the event any of the following occur:


1. If Muvico fails to complete the upgrades and improvements.
2. If Muvico fails to maintain and operate the BayWalk Muvico theater open daily to the public with a minimum of fifteen (15) auditoriums comprised of at least eleven (11) "First-run" auditoriums including the IMAX theater and four (4) ART/21 auditoriums during movie industry standard operating hours.
3. If Muvico or an affiliate or subsidiary files any litigation against the City.

NOW, THEREFORE BE IT RESOLVED by the City Council of the City of St. Petersburg, Florida, that the Mayor, or his Designee, is authorized to execute a Temporary Parking Validation Agreement between the City of St. Petersburg and Muvico Entertainment, L.L.C., a Delaware limited liability company and to execute all documents necessary to effectuate same.

This Resolution shall become effective immediately upon its adoption.

LEGAL

APPROVED BY:

  
\_\_\_\_\_  
City Attorney (Designee)

  
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