



City of Miami Beach, 1700 Convention Center Drive, Miami Beach, Florida 33139, www.miamibeachfl.gov

COMMITTEE MEMORANDUM

TO: Members of the Finance and Citywide Projects Committee
FROM: Jimmy L. Morales, City Manager
DATE: March 2, 2015

This shall serve as written notice that a meeting of the Finance and Citywide Projects Committee has been scheduled for March 2, 2015, at 3:00 P.M. in the Commission Chambers.

The agenda is as follows:

OLD BUSINESS

1. **Discussion Regarding The Greater Miami Convention and Visitors Bureau Interlocal Agreement** (*March 5, 2014 Commission Item C4F*)(188)

Max Sklar – Tourism, Cultural and Economic Development Director

2. **Discussion Regarding The Live Nation Management Agreement For The Jackie Gleason Theater** (*November 19, 2014 Commission Item C4F*)(234)

Max Sklar – Tourism, Cultural and Economic Development Director

3. **Discussion asking the Commission for \$10,000 for 2015 Senior Group Programs. He wants to reach out to senior citizens throughout Miami Beach** (*November 19, 2014 Commission Item R9B*)(239)

Maria Ruiz – Housing and Community Services Director

4. **Discussion Regarding The Miami Beach Convention Center Booking Policy** (*November 19, 2014 Commission Item R9G*)(240)

Max Sklar – Tourism, Cultural and Economic Development Director

5. **Discussion Regarding The Renewal Of The City Manager Jimmy Morales's Employment Contract** (*December 17, 2014 Commission Item C4B*)(244)

Jonah Wolfson – Chairperson

ITEMS REFERRED AT February 11, 2015 COMMISSION MEETING

6. **Discussion Regarding The Concession Agreement For The Management And Operation Of A Food And Beverage Concession, Currently Operated By Blissberry, LLC., Located In A Portion Of The South Pointe Park Pavilion Building** *(February 11, 2015 Commission Item C4A)(261)*

Max Sklar – Tourism, Cultural and Economic Development Director

7. **Discussion Regarding The Concession Agreement For The Management And Operation Of Concession Stand Buildings And Beachfront Concession Areas, Currently Operated By Tim Wilcox, Inc., Located At 21st And 46th Streets** *(February 11, 2015 Commission Item C4B)(262)*

Max Sklar – Tourism, Cultural and Economic Development Director

8. **Discussion Regarding The Construction Of A Parking Garage At The 27th Street And Collins Avenue Parking Lot** *(February 11, 2015 Commission Item C4C)(263)*

Saul Frances – Parking Director

9. **Discussion Regarding The Issuance Of A Solicitation For The Placement Of ATM Machines On City Owned Property (i.e. City Owned Parking Garages, etc.)** *(February 11, 2015 Commission Item C4Q)(264)*

Alex Denis – Procurement Director

Max Sklar - Tourism, Cultural and Economic Development Director

10. **Discussion Regarding Approval To Authorize The Issuance Of A Request For Proposals (RFP) For Security Guard Services** *(February 11, 2015 Commission Item R2A)(265)*

Chuck Tear – Emergency Management Director

Alex Denis – Procurement Director

11. **Discussion Regarding Life Guard Stands In Miami Beach** *(February 11, 2015 Commission Item R9E)(266)*

Virgil Fernandez – Fire Chief

NEW BUSINESS

12. **Discussion Regarding the Issuance of Additional Stormwater Revenue Bonds** *(January 27, 2015 Commission Item C4D)(260)*

Patricia Walker – Chairperson

Finance and Citywide Projects Committee Meetings for 2015:

April 8, 2015

May 11, 2015

June 3, 2015

July 1, 2015

August 12, 2015

September 4, 2015

October 5, 2015

November 4, 2015

December 7, 2015

PENDING ITEMS: REFER TO ATTACHMENT 1

PDW/rs/kd

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Cc. Mayor and Members of the City Commission
Management Team

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MIAMI BEACH

City of Miami Beach, 1700 Convention Center Drive, Miami Beach, Florida 33139, www.miamibeachfl.gov

COMMITTEE MEMORANDUM

TO: Finance and Citywide Projects Committee

FROM: Jimmy L. Morales, City Manager

DATE: February 2, 2015

SUBJECT: **DISCUSSION REGARDING THE GREATER MIAMI CONVENTION AND VISITORS BUREAU INTERLOCAL AGREEMENT.**

BACKGROUND

The City has been contracting with the Greater Miami Convention and Visitor's Bureau (GMCVB) since 1984 for the purpose of promoting the Miami Beach Convention Center and the destination. The GMCVB is the entity primarily responsible for pursuing and securing Convention business for the Convention Center, with the Convention Center management company also responsible for pursuing booking business, which typically includes shorter term uses. A booking policy governs priority of bookings. The GMCVB also engages in local, national and international marketing of the overall destination in an effort to promote tourism. The goal of both the convention booking and destination marketing is to secure hotel room nights in the City, and further enhance the City's tourism economy. Funding for the City's Agreement with the GMCVB is derived from the Municipal Resort Tax revenue. The GMCVB derives additional funding from Miami-Dade County, Village of Bal Harbour, member fees and cooperative marketing partnerships. The GMCVB's activities are focused primarily in marketing and convention sales/meeting sales.

In 1984, the City of Miami Beach (CMB), Miami Dade County, the City of Miami and the Village of Bal Harbour, entered into an Interlocal Agreement with the Greater Miami Convention and Visitor's Bureau to perform tourism and convention sales and promotion functions. On July 7, 1999 the Mayor and City Commission adopted Resolution No. 99-23237 approving an agreement with the GMCVB for an initial term commencing on October 1, 1999 and ending on September 30, 2002 with one, two (2) year renewal option, at the City's discretion. On December 8, 2004, the City Commission adopted Resolution No. 2004-25767 which approved an agreement with the GMCVB for five (5) years from October 1, 2004 – September 30, 2009. On July 7, 2009, the Finance and Citywide Projects Committee directed the Administration to negotiate a new five (5) year agreement with the GMCVB. On September 24, 2009, the City Commission adopted Resolution No. 2009-27217 approving a new five (5) year agreement commencing on October 1, 2009, and ending on September 30, 2014. I have also attached for your review a summary of the GMCVB current annual revenues, as well as a comparison of the City's funding allocation to the GMCVB versus the City's resort tax collections.

NEW AGREEMENT

In anticipation of the expiration of the GMCVB agreement, the City contracted with Strategic Advisory Group (SAG) to assist the City in analyzing the current GMCVB agreement and recommend revisions. As you know, SAG is the City's consultant for the Convention Center Renovation Project. In addition to these services SAG also has destination marketing experience. Mr. Daniel Fenton, Associate Partner with SAG, has over 25 years of Hospitality and Destination Marketing experience. Prior to joining SAG, Mr. Fenton was CEO of the San Jose Convention and

Visitors Bureau and has held senior management positions with Radisson, Amfac and Hyatt Hotels. He is a graduate of the Cornell School of Hospitality Management.

Mr. Fenton specifically performed the following services for the City:

1. Reviewed and analyzed the current GMCVB agreement;
1. Reviewed historical bookings and recommended future production goals and goal setting process;
2. Reviewed proposed Term Sheet by GMCVB;
3. Reviewed budget information from CMB and Bureau including summary data on key measures from the past three to five years;
4. Reviewed hotel inventory data for Miami Beach and the Greater Miami area, including trends in transient occupancy tax collections; and
5. Conducted interviews with stakeholders including City staff, and multiple interviews with key staff of the Convention Center.
6. This research effort established industry standards, as well as suggest alternative strategies that are currently working well in other locations (along with lessons learned from failed experiments elsewhere).
7. Identifying opportunities to refine approach to guiding future performance; and
8. Proposing revisions to current GMCVB agreement.

SAG RECOMMENDATIONS

SAG's primary recommendation was to change the overall direction of the proposed terms for the GMCVB contract with the City to a performance based agreement from a fee for services approach. This new direction focuses on the achievement of key metrics and the overall measureable success of GMCVB in their contractual relationship with the City. As part of this recommendation, the City would establish a base fee and establish an incentive fee to be paid based on the overall achievement of agreed-upon annual performance goals.

On July 18, 2014 this item was brought to Finance and Citywide Projects Committee meeting. The committee made no recommendation and moved the item to the August 13, 2014 Budget meeting and then to the September 10, 2014 Commission meeting for final discussion. On September 10, 2014, the City Commission adopted Resolution No. 2014-28745, which accepted the recommendations of the Finance And Citywide Projects Committee to extend the Interlocal Agreement with The Greater Miami Convention And Visitors Bureau (GMCVB) on a month-to-month basis under the current contracted terms, but not to exceed one (1) year from September 30, 2014, for the City Administration to re-negotiate an incentive based agreement that establishes a base fee and an incentive fee to be paid based on the overall achievement of annual performance goals; and further that funding to the GMCVB remain at the current level of \$5,366,000; and that the city hire an owner's representative in an amount not to exceed \$161,000 at the City Manager's discretion.

GMCVB Agreement
Finance and Citywide Projects Committee
February 2, 2015
Page 3 of 3

CONCLUSION

The Attached Term Sheet represents the culmination of negotiations to date and is being presented for your consideration.

JLM/KGB/MAS
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DRAFT TERM SHEET

Agreement between the City of Miami Beach (CMB)
and
Greater Miami Convention & Visitors Bureau (GMCVB)

Overview: The overall direction of the proposed terms for the GMCVB contract with the City of Miami Beach (City) is a shift to a performance based agreement from a fee for services approach. This new direction focuses on the achievement of key metrics and the overall measureable success of GMCVB in their contractual relationship with the City.

TERMS	
<p>1. Term</p>	<p>Five years, commencing October 1, 2015, with a five-year extension option based on the satisfactory achievement of performance metrics and overall execution of the contract.</p> <p>During the full term of this agreement, the GMCVB agrees to maintain a sales office at the Miami Beach Convention Center.</p> <p><i>Note: A "contract year" shall be defined as the period from October 1 through September 30 of the following year (coinciding with the City's Fiscal Year).</i></p>
<p>2. Base Fee</p>	<p>Base fee will be \$4,700,000. This fee will be indexed against the overall growth or reduction of the gross hotel and food and beverage tourist tax collections on an annual basis, provided however that the GMCVB achieves 100% of all incentive fee metrics.</p>
<p>3. Incentive Fee</p>	<p>The City will establish an incentive fee to be paid based on the overall achievement of agreed-upon annual performance goals. A fee of \$1.5 million will be paid for 100% achievement of all metrics and will be awarded on a pro-rated basis for achieving a minimum of 85% of the established goals and can be exceeded to a maximum of 135%.</p> <p>Additional Incentive for Leveraging City of Miami Beach Investment: GMCVB is eligible for an additional \$50,000 for every 100% match of the City of Miami Beach investment secured by the GMCVB from other public or private entities, not including Miami-Dade County.</p>
<p>4. Performance Metrics</p>	<p>Citywide Conventions</p> <ul style="list-style-type: none"> • Definite Room Nights <ul style="list-style-type: none"> ○ Associated with future Convention Center bookings ○ Associated with agreed-upon future need periods • Convention Center Fiscal Performance <ul style="list-style-type: none"> As a key partner in the overall success of the Miami Beach

	<p>Convention Center (MBCC), the GMCVB will have performance metrics tied to the fiscal results. The following are the performance metrics:</p> <ul style="list-style-type: none"> ○ MBCC Revenue <ul style="list-style-type: none"> ▪ Future Revenue booked into MBCC annually <ul style="list-style-type: none"> • Future revenue will be determined based on the estimated revenues in rent, food and beverage, electric and audio visual ▪ Current Revenue <ul style="list-style-type: none"> • As an indicator of past sales efforts, current annual MBCC revenue will be a performance metric ○ Economic Impact <ul style="list-style-type: none"> • Using an agreed-upon formula, the economic impact of future citywide bookings <p><i>Miami Beach Hotels "In house" group bookings</i></p> <ul style="list-style-type: none"> • Room Nights <ul style="list-style-type: none"> ○ Room nights associated with future "in house booking" • Economic Impact <ul style="list-style-type: none"> ○ Using an agreed-upon formula, the economic impact of "in house" bookings <p><i>Leisure Groups</i></p> <ul style="list-style-type: none"> • The efforts to secure group tour/leisure business will be measured with the following metrics: <ul style="list-style-type: none"> ○ Consumed Room Nights <ul style="list-style-type: none"> ▪ Consumed room nights are defined as actual rooms occupied by tour groups and others verified through hotel rooming lists ○ Economic Impact <ul style="list-style-type: none"> ▪ Using an agreed-upon formula, the economic impact of leisure groups will be determined <p><i>Individual Leisure Travel</i></p> <ul style="list-style-type: none"> • The marketing and conversion of leisure travel will be measured with the following metrics: <ul style="list-style-type: none"> ○ Room Night Conversion <ul style="list-style-type: none"> ▪ Using an agreed-upon methodology, an annual conversion study will be conducted to determine the direct impact of leisure travel marketing efforts. ○ Online Bookings <ul style="list-style-type: none"> ▪ Room nights booked through the online booking engine
<p>5. Incentive Matrix</p>	<p>A scoring matrix will be finalized utilizing the following weighted percentages:</p> <ul style="list-style-type: none"> ☑ Citywide Group Business – 55% ☑ In house Miami Beach Hotel Group Business – 20%

GMCVB ANNUAL PERFORMANCE REPORT (FY 12/13 as of September 30, 2013)

	FY 03/04 (Base Yr.)	FY 04/05 (Yr. 1)	FY 05/06 (Yr. 2)	FY 06/07 (Yr. 3)	FY 07/08 (Yr. 4)	FY 08/09 (Yr. 5)	FY 09/10 (Yr. 6)	FY 10/11 (Yr. 7)	FY 11/12 (Yr. 8)	FY 12/13 (Yr. 9)
Bookings/Meetings										
Hotel Bookings/Meetings	459	489	441	470	485	494	593	659	623	664
Est. Room Nights	273,294	224,528	149,272	225,296	240,890	236,466	281,660	347,057	304,552	324,535
Est. Economic Impact	\$101,100,439	\$79,775,772	\$47,939,779	\$97,827,253	\$135,281,343	\$100,696,959	\$122,115,579	\$168,934,382	\$143,835,846	\$145,624,929
MBCC Bookings	41	27	48	32	51	41	33	30	46	38
Est. Room Nights	250,078	89,148	231,021	86,747	229,541	102,924	111,918	165,540	233,503	166,089
Est. Economic Impact	\$159,033,151	\$63,678,452	\$175,294,443	\$69,585,557	\$132,533,411	\$80,248,014	\$70,763,961	\$138,802,385	\$195,505,343	\$157,304,331
Meeting Express Division										
Bookings/Meetings	N/A	191	195	206	261	153	295	345	325	342
Est. Room Nights	N/A	15,220	17,555	15,843	27,320	13,834	33,092	53,501	55,344	59,165
Est. Economic Impact	N/A	\$12,622,440	\$16,992,000	\$12,571,000	\$23,264,000	\$9,103,000	\$21,345,000	\$26,872,000	\$38,592,000	\$29,314,000
Total Bookings	500	516	483	520	536	525	659	727	703	742
Est. Room Nights	523,372	313,676	400,097	341,502	470,431	339,390	452,051	551,816	581,868	523,089
Est. Economic Impact	\$260,133,590	\$154,225,616	\$240,226,222	\$178,130,610	\$267,814,754	\$160,944,973	\$214,361,052	\$338,688,632	\$365,767,306	\$332,318,196
Leads Generated										
MBCC Leads Generated	93	77	96	81	119	104	109	77	98	111
Hotel Leads Generated	1,109	1,226	1,249	1,368	1,280	964	1,178	1,320	1,428	1,655
Other Center Leads	69	63	70	104	131	104	128	160	172	182
Total Leads Generated	1,271	1,366	1,417	1,553	1,530	1,172	1,415	1,557	1,698	1,948
Fam Trips										
Convention Sales Fam Trips	4	4	4	4	3	5	6	6	4	5
Meeting Planner Attendees	21	26	47	32	35	60	165	326	50	48
Site Inspections										
Meeting Planner Site Inspections	172	184	165	186	222	185	245	238	230	215
Meeting Planner Attendees	195	182	162	309	400	380	488	453	381	329
Convention Services										
Meetings Serviced	370	570	579	619	450	452	433	538	569	1,359
Total Delegates	189,726	220,000	275,611	362,664 *	265,723	228,606	293,671	236,170	450,675	728,416
* Superbowl										
Media Relations										
Fam Tours	19	19	28	27	23	26	27	26	42	24
Media Hosted	128	138	148	155	161	182	189	175	294	120
Media Missions	13	16	14	23	15	16	21	13	17	13
Media Contacts	420	575	580	590	432	464	609	377	493	392
Media Visits	119	166	130	200	136	173	327	368	392	349
Media Serviced	150	193	161	2,500	1,750	1,900	3,900	4,200	4,472	3,982
Special Media Projects	43	39	38	35	13	24	30	32	29	21
Audience Impressions Generated	471 m	572 m	567 m	658 m	700 m	1.1 b	3.3 b	2.7 b	3.0 b	13.5 b
Estimated/Comparable Ad Promotional	\$10.8 m	\$12.0 m	\$13 m	\$13.2 m	\$15.9 m	\$25.5 m	\$34.4 m	\$63.7 m	\$41.2 m	\$65 m

GMCVB ANNUAL PERFORMANCE REPORT (FY 12/13 as of September 30, 2013)

	FY 03/04 (Base Yr.)	FY 04/05 (Yr. 1)	FY 05/06 (Yr. 2)	FY 06/07 (Yr. 3)	FY 07/08 (Yr. 4)	FY 08/09 (Yr. 5)	FY 09/10 (Yr. 6)	FY 10/11 (Yr. 6)	FY 11/12 (Yr. 8)	FY 12/13 (Yr. 9)
Tourism Sales										
Trade Shows/Missions	122	194	177	207	183	140	122	186	220	317
Travel Trade Client Contacts	12,733	15,666	16,730	47,503	35,620	31,500	33,908	38,646	72,000	82,061
Fam Tours	80	98	85	75	82	60	51	52	53	66
Travel Trade Clients Hosted	1,468	1,903	1,764	1,902	1,950	1,380	1,297	668	890	1,038
Advertising										
Advertising Impressions	44,896,264	207,279,160	216,211,905	140,037,581	101,628,015	378,751,278	293,168,091	668,824,932	335,554,303	381,000,000
Call Center Inquiries	11,908	9,696	5,567	4,842	5,287	5,573	2,847	1,918	2,650	2,405
Website Visitors	1,308,546	2,082,456	2,685,882	3,454,840	3,907,226	3,088,979	4,380,748	2,548,551	1,590,600	1,910,032
Website Registered Users/Email Opt-ins	8,196	18,916	22,593	33,257	23,668	5,282	15,966	847	8,262	8,743
Website Brochure Requests	19,324	19,681	18,102	16,858	16,068	13,005	20,268	20,196	17,930	7,278
Publishing										
Advertising Revenue Generated	\$1,247,000	\$1,330,000	\$1,237,528	\$1,259,912	\$1,140,172	\$907,991	\$815,199	\$975,000	\$958,581	\$977,787
Collateral Projects	145	212	237	320	451	600	750	900	1,250	1,500
Collateral Projects Volume/Circulation	423,791	624,370	919,989	387,002	680,294	810,000	925,000	1,200,000	1,500,000	1,575,000
Membership										
Renewal Members	887	898	858	881	863	928	914	935	1,010	787
Renewal Revenue	\$1,044,900	\$1,047,111	\$1,053,632	\$902,733	\$907,013	\$1,111,395	\$1,200,733	\$1,177,114	\$1,982,816	\$1,255,689
New Members	159	127	163	153	171	151	152	150	63	191
New Member Revenue	\$125,000	\$114,878	\$154,522	\$120,864	\$162,769	\$140,544	\$145,642	\$121,488	\$198,668	\$189,603
Total Members	1,046	1,025	1,021	1,034	1,034	1,079	1,066	1,085	961	978
Total Member Revenue	\$1,170,040	\$1,161,989	\$1,208,154	\$1,023,598	\$1,140,782	\$1,251,939	\$1,346,376	\$1,299,603	\$1,291,585	\$1,445,292
Lost Members	-193	-148	-167	-144	-206	-203	-154	-131	-75	-185
Lost Member Revenue	\$145,759	\$142,425	\$122,246	\$132,840	\$177,483	\$194,946	\$135,402	\$115,618	\$55,051	\$160,181
Annual Membership Retention/Renewal Rate	79%	86%	83%	88%	91%	79%	83%	88%	93%	81%

Updated: April 7, 2014

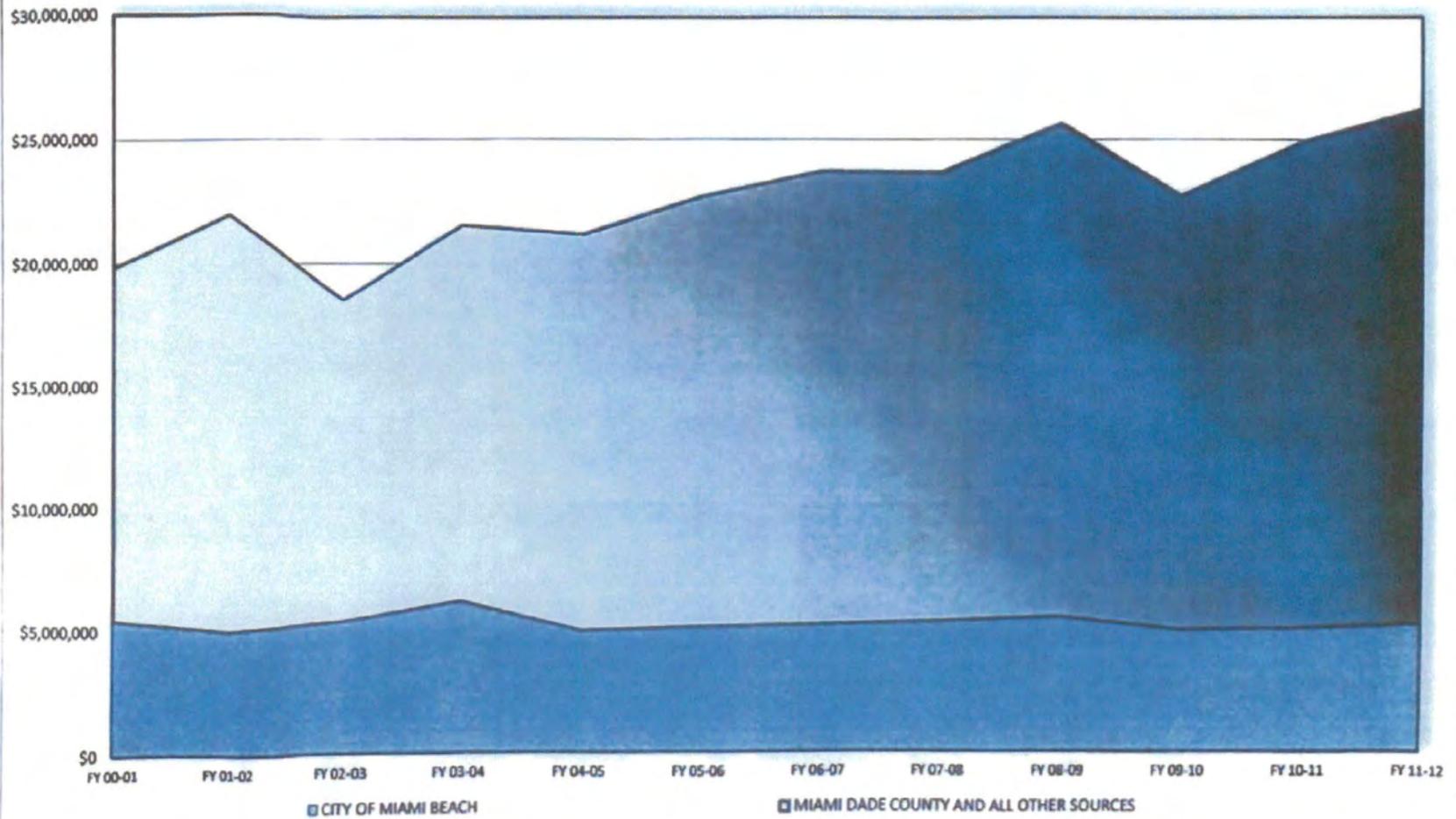
Greater Miami Convention & Visitors Bureau
Analysis of CMB Revenue as a % of Total Revenues

	Actual / Audited											Total All Years	
	FY 00-01	FY 01-02	FY 02-03	FY 03-04	FY 04-05	FY 05-06	FY 06-07	FY 07-08	FY 08-09	FY 09-10	FY 10-11		FY 11-12
MIAMI DADE COUNTY (TDT & FB)	10,470,737	9,070,487	9,539,409	10,978,954	12,392,838	13,720,824	14,701,149	14,908,491	11,895,916	12,738,323	14,755,015	16,545,542	151,717,685
CITY OF MIAMI BEACH	5,487,279	5,088,888	5,389,481	6,248,274	5,888,888	5,198,888	5,258,888	5,488,278	5,567,541	5,888,888	5,888,888	5,288,688	63,718,712
VILLAGE OF BAL HARBOUR	200,000	200,000	200,000	100,800	100,000	0	0	50,000	75,000	25,000	50,000	0	1,000,000
SUB-TOTAL PUBLIC REVENUE	16,108,116	14,270,487	15,128,900	17,328,228	17,492,838	18,870,824	19,959,149	20,363,869	17,538,456	17,763,323	19,860,015	21,752,192	216,436,396
PARTNER DUES	1,202,358	1,201,978	1,245,158	1,259,497	1,246,815	1,220,794	1,201,338	1,278,123	1,445,455	1,325,467	1,342,411	1,398,247	15,367,641
MEMBER PROGRAMS	1,494,882	5,710,783	1,263,362	2,044,016	1,249,760	1,150,739	1,127,661	794,333	4,938,533	2,442,808	1,608,093	1,188,847	25,013,018
REGISTRATION SERVICES	263,896	132,901	137,865	142,380	278,817	227,009	177,470	157,898	154,783	197,979	54,798	0	1,925,796
CONTRIBUTED SERVICES	625,960	620,688	716,612	762,111	804,479	952,985	910,914	929,807	1,528,187	978,982	1,994,796	1,873,434	12,698,954
SUB-TOTAL PRIVATE REVENUE	3,586,296	7,666,350	3,362,997	4,208,003	3,579,871	3,551,527	3,417,383	3,160,160	8,066,958	4,945,236	5,000,098	4,460,529	55,005,409
INTEREST INCOME	154,092	58,739	30,646	28,051	114,575	302,409	361,544	183,448	51,800	38,416	43,534	39,130	1,406,385
TOTAL ALL REVENUE	19,848,504	21,995,576	18,522,544	21,564,283	21,187,284	22,724,760	23,738,076	23,707,477	25,657,214	22,746,975	24,903,647	26,251,851	272,848,190

CMB % of Total	27%	23%	29%	29%	24%	23%	22%	23%	22%	22%	20%	20%	23%
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← Current Contract Term

Greater Miami Convention & Visitors Bureau Analysis of All Revenue Sources

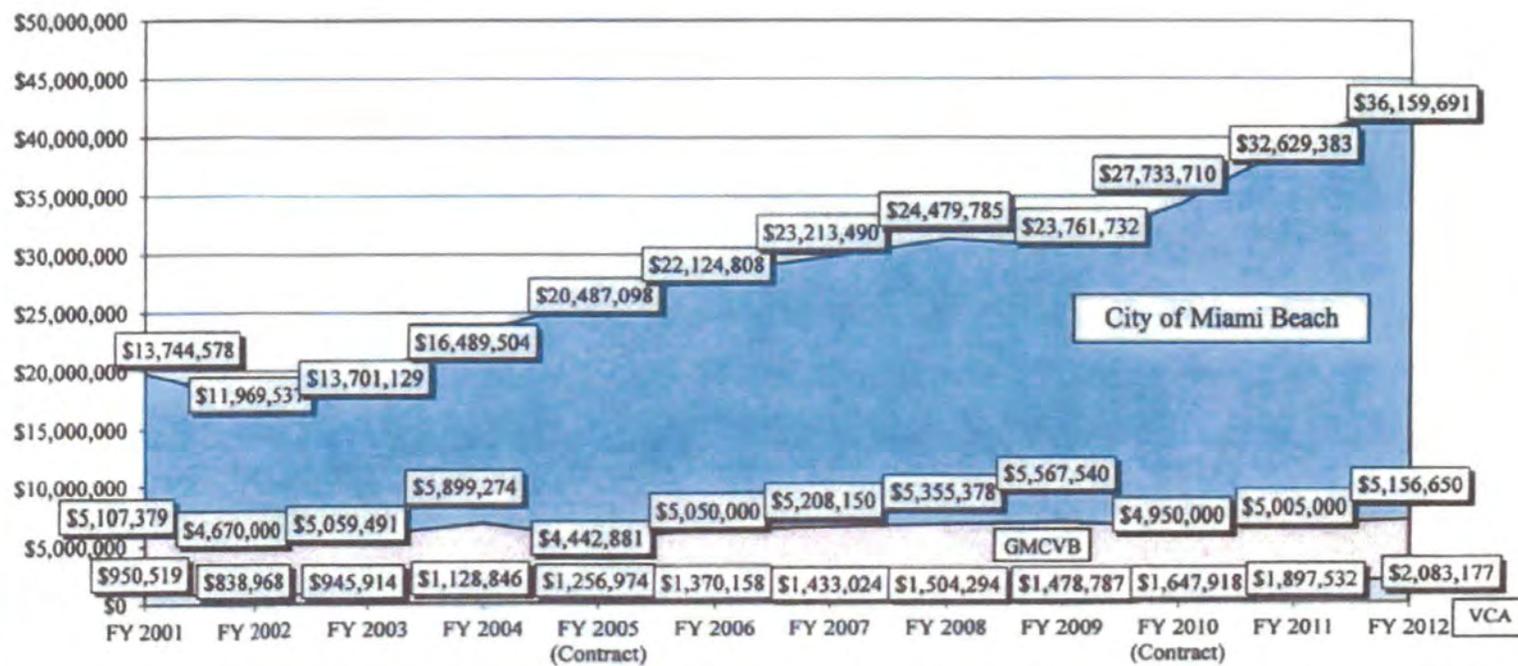


Greater Miami Convention & Visitors Bureau
Analysis of Distribution of Resort (Hotel & F & B) Tax Collected by the City of Miami Beach
 Fiscal Years 2001-2002-2003-2004-2005-2006-2007-2008-2009-2010-2011-2012

	GMCVB (Net)	VCA	City of Miami Beach	Total	% to CVB	% to VCA	% to CMB
FY 2001	\$5,107,379	\$950,519	\$13,744,578	\$19,802,476	26%	5%	69%
FY 2002	4,670,000	838,968	11,969,537	\$17,478,505	27%	5%	68%
FY 2003	5,059,491	945,914	13,701,129	\$19,706,534	26%	5%	70%
FY 2004	5,899,274	1,128,846	16,489,504	\$23,517,624	25%	5%	70%
FY 2005 (Comma)	4,442,881	1,256,974	20,487,098	\$26,186,953	17%	5%	78%
FY 2006	5,050,000	1,370,158	22,124,808	\$28,544,966	18%	5%	78%
FY 2007	5,208,150	1,433,024	23,213,490	\$29,854,664	17%	5%	78%
FY 2008	5,355,378	1,504,294	24,479,785	\$31,339,457	17%	5%	78%
FY 2009	5,567,540	1,478,787	23,761,732	\$30,808,058	18%	5%	77%
FY 2010 (Comma)	4,950,000	1,647,918	27,733,710	\$34,331,628	14%	5%	81%
FY 2011	5,005,000	1,897,532	32,629,383	\$39,531,915	13%	5%	83%
FY 2012	5,156,650	2,083,177	36,159,691	\$43,399,518	12%	5%	83%

Note: VCA receives 5% of the Resort Tax less a 4% collection fee.

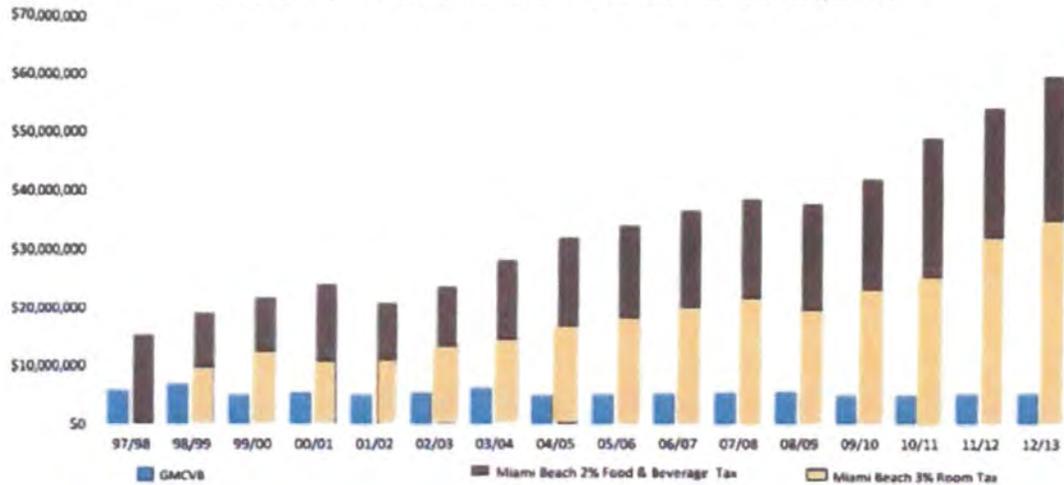
Greater Miami Convention & Visitors Bureau
Analysis of Distribution of Resort (Hotel & Food and Beverage)
Tax Collected by the City of Miami Beach



VCA
 GMCVB (Net)
 City of Miami Beach

**Greater Miami Convention Visitors Bureau
Analysis of City of Miami Beach Room and Food Beverage Tax Collections
Fiscal Years 1997/1998 to 2012/2013* (16 Years)
*Projected**

GMCVB and City of Miami Beach Room and F&B Tax Comparison



Fiscal Year	3% Room	Fiscal Year	2% F & B	Fiscal Year	GMCVB	Total Collections	GMCVB % of Collections
97/98	\$8,152,910	97/98	\$7,247,163	97/98	\$5,837,368	\$15,400,073	37.9%
98/99	\$10,636,299	98/99	\$8,528,672	98/99	\$5,912,500	\$19,184,971	36.1%
99/00	\$11,793,777	99/00	\$10,032,692	99/00	\$5,800,000	\$21,826,469	22.9%
00/01	\$12,989,436	00/01	\$11,130,708	00/01	\$5,437,379	\$24,120,144	22.5%
01/02	\$10,511,805	01/02	\$10,430,992	01/02	\$5,000,000	\$20,942,797	23.9%
02/03	\$12,015,479	02/03	\$11,663,794	02/03	\$5,389,491	\$23,679,273	22.8%
03/04	\$14,685,556	03/04	\$13,594,246	03/04	\$6,249,774	\$28,279,802	22.1%
04/05	\$16,554,553	04/05	\$15,490,526	04/05	\$5,000,000	\$32,045,079	15.6%
05/06	\$17,730,824	05/06	\$16,291,916	05/06	\$5,150,000	\$34,022,740	15.1%
06/07	\$19,308,252	06/07	\$17,376,319	06/07	\$5,250,150	\$36,674,571	14.3%
07/08	\$20,706,940	07/08	\$17,917,547	07/08	\$5,405,378	\$38,624,487	14.0%
08/09	\$19,678,107	08/09	\$18,150,738	08/09	\$5,367,539	\$37,828,945	14.2%
09/10	\$22,112,123	09/10	\$19,873,982	09/10	\$5,000,000	\$41,986,105	11.9%
10/11	\$26,285,403	10/11	\$22,735,978	10/11	\$5,050,000	\$49,011,381	10.3%
11/12	\$29,751,712	11/12	\$24,319,507	11/12	\$5,306,850	\$54,071,219	9.6%
12/13	\$33,500,428	12/13	\$26,216,429	12/13	\$5,303,580	\$59,716,857	8.9%

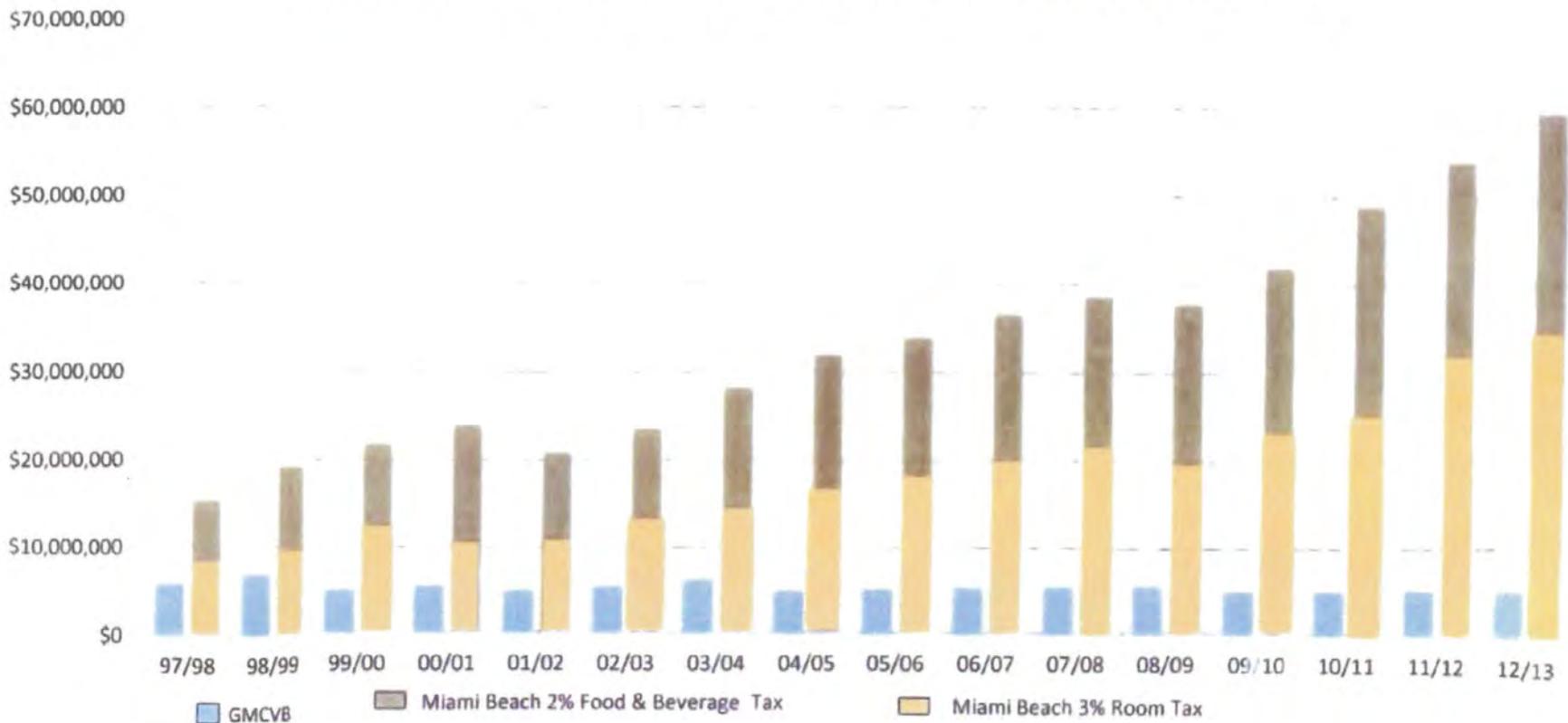
Greater Miami Convention Visitors Bureau

Analysis of City of Miami Beach Room and Food Beverage Tax Collections

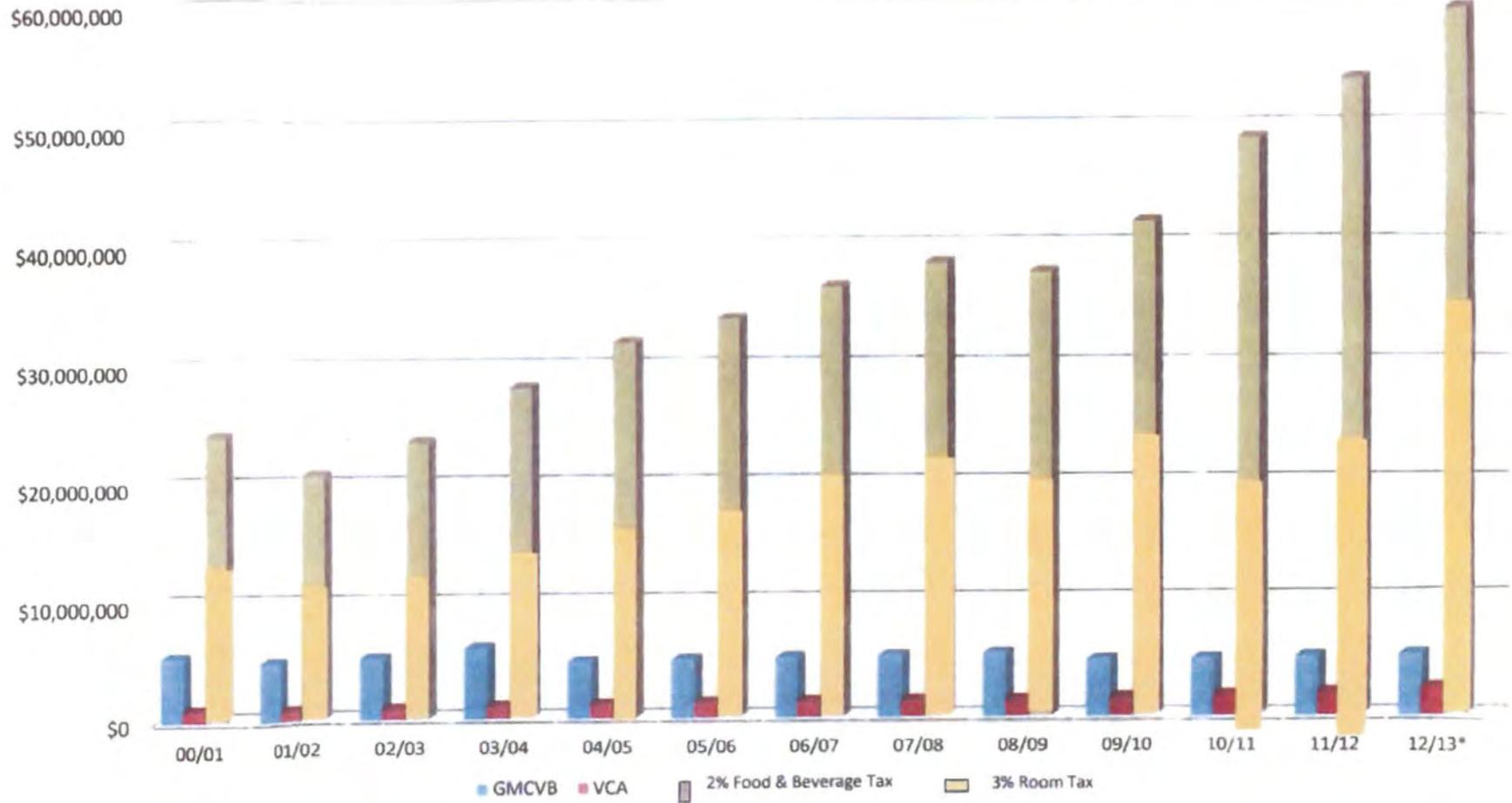
Fiscal Years 1997/1998 to 2012/2013* (16 Years)

***Projected**

GMCVB and City of Miami Beach Room and F&B Tax Comparison



GMCVB, VCA and City of Miami Beach Room and F&B Tax Comparison



GMCVB and City of Miami Beach Room and F&B Tax Comparison

City of Miami Beach Tax Collections

	Fiscal Year	3% Room
16	97/98	\$8,152,910
15	98/99	\$10,636,299
14	99/00	\$11,793,777
13	00/01	\$12,989,436
12	01/02	\$10,511,805
11	02/03	\$12,015,479
10	03/04	\$14,685,556
9	04/05	\$16,554,553
8	05/06	\$17,730,824
7	06/07	\$19,398,252
6	07/08	\$20,706,940
5	08/09	\$19,678,107
4	09/10	\$22,112,123
3	10/11	\$26,285,403
2	11/12	\$29,751,712
1	12/13*	\$33,500,428

	Fiscal Year	2% F & B
	97/98	\$7,247,163
	98/99	\$8,528,672
	99/00	\$10,032,692
	00/01	\$11,130,708
	01/02	\$10,430,992
	02/03	\$11,663,794
	03/04	\$13,594,246
	04/05	\$15,490,526
	05/06	\$16,291,916
	06/07	\$17,276,319
	07/08	\$17,917,547
	08/09	\$18,150,738
	09/10	\$19,873,982
	10/11	\$22,725,978
	11/12	\$24,319,507
	12/13*	\$26,216,429

	Fiscal Year	G MCVB	Total Collections
	97/98	\$5,837,568	\$15,400,073
	98/99	\$6,912,500	\$19,164,971
	99/00	\$5,000,000	\$21,826,469
	00/01	\$5,437,379	\$24,120,144
	01/02	\$5,000,000	\$20,942,797
	02/03	\$5,389,491	\$23,679,273
	03/04	\$6,249,274	\$28,279,802
	04/05	\$5,000,000	\$32,045,079
	05/06	\$5,150,000	\$34,022,740
	06/07	\$5,258,150	\$36,674,571
	07/08	\$5,405,378	\$38,624,487
	08/09	\$5,567,539	\$37,828,845
	09/10	\$5,000,000	\$41,986,105
	10/11	\$5,055,000	\$49,011,381
	11/12	\$5,206,650	\$54,071,219
	12/13*	\$5,305,580	\$59,716,857

* FY 2012/13 IS PROJECTED

GMCVB , VCA and City of Miami Beach Room and F&B Tax Comparison

City of Miami Beach Tax Collections

	Fiscal Year	3% Room
13	00/01	\$12,989,436
12	01/02	\$10,511,805
11	02/03	\$12,015,479
10	03/04	\$14,685,556
9	04/05	\$16,554,553
8	05/06	\$17,730,824
7	06/07	\$19,398,252
6	07/08	\$20,706,940
5	08/09	\$19,678,107
4	09/10	\$22,112,123
3	10/11	\$26,285,403
2	11/12	\$29,751,712
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	Fiscal Year	2% F & B
	00/01	\$11,130,708
	01/02	\$10,430,992
	02/03	\$11,663,794
	03/04	\$13,594,246
	04/05	\$15,490,526
	05/06	\$16,291,916
	06/07	\$17,276,319
	07/08	\$17,917,547
	08/09	\$18,150,738
	09/10	\$19,873,982
	10/11	\$22,725,978
	11/12	\$24,319,507
	12/13*	\$26,216,429

Fiscal Year	GMCVB	VCA	Total Collections
00/01	\$5,437,379	\$950,519	\$24,120,144
01/02	\$5,000,000	\$838,968	\$20,942,797
02/03	\$5,389,491	\$945,914	\$23,679,273
03/04	\$6,249,274	\$1,128,846	\$28,279,802
04/05	\$5,000,000	\$1,256,974	\$32,045,079
05/06	\$5,150,000	\$1,370,158	\$34,022,740
06/07	\$5,258,150	\$1,433,024	\$36,674,571
07/08	\$5,405,378	\$1,504,294	\$38,624,487
08/09	\$5,567,539	\$1,478,787	\$37,828,845
09/10	\$5,000,000	\$1,647,918	\$41,986,105
10/11	\$5,055,000	\$1,897,532	\$49,011,381
11/12	\$5,206,650	\$2,083,177	\$54,071,219
12/13*	\$5,305,580	\$2,427,502	\$59,716,857

* FY 2012/13 IS PROJECTED

GREATER MIAMI CONVENTION AND VISITORS BUREAU

TOP 25 HOTEL MARKETS

REVPAR

2013 Rank	City	Oct. 2013	Oct. 2012	Oct. 2008	% Change 13 vs 12	% Change 13 vs 08
1	New York	\$270.91	\$260.79	\$257.43	3.9%	5.2%
2	San Francisco	\$197.09	\$181.70	\$135.06	8.5%	45.9%
3	Boston	\$171.69	\$149.61	\$131.75	14.8%	30.3%
4	Oahu Island	\$162.57	\$147.75	\$116.67	10.0%	39.3%
5	New Orleans	\$117.37	\$115.85	\$76.06	1.3%	54.3%
6	Miami	\$111.45	\$114.59	\$91.20	-2.7%	22.2%
7	Washington	\$108.84	\$114.55	\$126.36	-5.0%	-13.9%
8	Los Angeles	\$107.94	\$103.38	\$91.87	4.4%	17.5%
9	Chicago	\$105.25	\$111.38	\$98.78	-5.5%	6.5%
10	San Diego	\$97.35	\$93.50	\$94.79	4.1%	2.7%
11	Seattle	\$96.54	\$90.49	\$85.29	6.7%	13.2%
12	Anaheim	\$94.70	\$93.09	\$76.82	1.7%	23.3%
13	Philadelphia	\$89.96	\$86.83	\$93.08	3.6%	-3.4%
14	Nashville	\$83.06	\$72.39	\$62.81	14.7%	32.2%
15	Denver	\$82.29	\$82.10	\$66.68	0.2%	23.4%
16	Minneapolis	\$81.00	\$73.33	\$62.88	10.5%	28.8%
17	Houston	\$77.15	\$68.04	\$93.02	13.4%	-17.1%
	United States	\$73.48	\$70.57	\$66.82	4.1%	10.0%
18	Phoenix	\$69.26	\$65.34	\$72.20	6.0%	-4.1%
19	Dallas	\$68.81	\$61.97	\$60.83	11.0%	13.1%
20	Orlando	\$67.33	\$63.22	\$65.97	6.5%	2.1%
21	St Louis	\$65.36	\$58.82	\$55.00	11.1%	18.8%
22	Atlanta	\$61.02	\$57.24	\$54.16	6.6%	12.7%
23	Tampa	\$56.49	\$54.59	\$52.67	3.5%	7.3%
24	Detroit	\$55.66	\$55.89	\$46.51	-0.4%	19.7%
25	Norfolk	\$39.30	\$39.68	\$40.95	-1.0%	-4.0%

Source: Smith Travel Research

GREATER MIAMI CONVENTION AND VISITORS BUREAU

TOP 25 HOTEL MARKETS

OCCUPANCY

2013 Rank	City	Oct. 2013	Oct. 2012	Oct. 2008	% Change 13 vs 12	% Change 13 vs 08
1	San Francisco	90.3%	87.8%	79.6%	2.8%	13.4%
2	New York	89.1%	89.0%	82.7%	0.1%	7.7%
3	Boston	86.1%	81.0%	76.4%	6.3%	12.7%
4	Oahu Island	80.8%	82.0%	73.3%	-1.5%	10.2%
5	Los Angeles	78.4%	77.6%	70.9%	1.0%	10.6%
6	Anaheim	75.7%	75.7%	65.7%	0.0%	15.2%
7	Denver	75.1%	72.4%	62.1%	3.7%	20.9%
8	New Orleans	74.9%	78.0%	64.5%	-4.0%	16.1%
9	Minneapolis	74.6%	69.7%	61.0%	7.0%	22.3%
10	Nashville	74.5%	70.2%	62.9%	6.1%	18.4%
11	Seattle	73.6%	72.7%	66.2%	1.2%	11.2%
12	Miami	73.5%	75.4%	66.2%	-2.5%	11.0%
13	Chicago	73.4%	75.7%	69.4%	-3.0%	5.8%
14	Houston	72.7%	69.6%	84.8%	4.5%	-14.3%
15	San Diego	70.8%	70.1%	68.6%	1.0%	3.2%
16	Philadelphia	70.6%	70.2%	71.8%	0.6%	-1.7%
17	Dallas	70.0%	66.7%	61.8%	4.9%	13.3%
18	Orlando	67.6%	65.5%	61.7%	3.2%	9.6%
19	Washington	67.4%	72.3%	73.6%	-6.8%	-8.4%
20	St Louis	66.7%	64.8%	62.0%	2.9%	7.6%
21	Atlanta	66.6%	63.3%	57.5%	5.2%	15.8%
	United States	64.7%	64.2%	61.9%	0.8%	4.5%
22	Detroit	64.6%	67.9%	54.3%	-4.9%	19.0%
23	Phoenix	61.3%	59.6%	59.4%	2.9%	3.2%
24	Tampa	59.6%	58.5%	52.0%	1.9%	14.6%
25	Norfolk	50.2%	52.0%	51.7%	-3.5%	-2.9%

Source: Smith Travel Research

GREATER MIAMI CONVENTION AND VISITORS BUREAU

TOP 25 HOTEL MARKETS

ROOM RATE

2013 Rank	City	Oct. 2013	Oct. 2012	Oct. 2008	% Change 13 vs 12	% Change 13 vs 08
1	New York	\$304.02	\$293.02	\$311.19	3.8%	-2.3%
2	San Francisco	\$218.18	\$206.93	\$169.73	5.4%	28.5%
3	Oahu Island	\$201.12	\$180.29	\$159.09	11.6%	26.4%
4	Boston	\$199.42	\$184.59	\$172.46	8.0%	15.6%
5	Washington	\$161.47	\$158.47	\$171.72	1.9%	-6.0%
6	New Orleans	\$156.76	\$148.55	\$117.87	5.5%	33.0%
7	Miami	\$151.72	\$152.07	\$137.86	-0.2%	10.1%
8	Chicago	\$143.36	\$147.05	\$142.43	-2.5%	0.7%
9	Los Angeles	\$137.71	\$133.29	\$129.50	3.3%	6.3%
10	San Diego	\$137.55	\$133.39	\$138.20	3.1%	-0.5%
11	Seattle	\$131.18	\$124.42	\$128.87	5.4%	1.8%
12	Philadelphia	\$127.42	\$123.74	\$129.69	3.0%	-1.8%
13	Anaheim	\$125.14	\$122.97	\$116.84	1.8%	7.1%
	United States	\$113.48	\$109.86	\$107.89	3.3%	5.2%
14	Phoenix	\$112.96	\$109.71	\$121.58	3.0%	-7.1%
15	Nashville	\$111.48	\$103.17	\$99.83	8.1%	11.7%
16	Denver	\$109.62	\$113.38	\$107.43	-3.3%	2.0%
17	Minneapolis	\$108.65	\$105.25	\$103.07	3.2%	5.4%
18	Houston	\$106.09	\$97.83	\$109.65	8.4%	-3.2%
19	Orlando	\$99.63	\$96.48	\$106.99	3.3%	-6.9%
20	Dallas	\$98.32	\$92.90	\$98.41	5.8%	-0.1%
21	St Louis	\$98.05	\$89.57	\$88.73	9.5%	10.5%
22	Tampa	\$94.72	\$93.33	\$101.19	1.5%	-6.4%
23	Atlanta	\$91.69	\$90.46	\$94.22	1.4%	-2.7%
24	Detroit	\$86.20	\$82.29	\$85.67	4.8%	0.6%
25	Norfolk	\$78.24	\$76.35	\$79.27	2.5%	-1.3%

Source: Smith Travel Research

MIAMI BEACH TARGETED INITIATIVES

	2011/12	2012/13
Art Basel Miami Beach	\$ 55,000	
Art Basel (Art Fairs Unlimited - Pavillion and installation)		\$ 25,040
Art Basel (Media Support/airline tickets)	\$ 10,000	\$ 10,000
Art Basel, Basel, Switzerland - Staff Travel	\$ 5,771	\$ 6,161
Miami Beach Resident Program		
South Beach Wine and Food Festival Marketing	\$ 46,800	\$ 46,800
South Beach Comedy Festival	\$ 5,000	\$ 5,000
Marketing-Public Relations / LGBT Social Media with Current MB Golf Club and Normandy Golf Course and Shop Miami Beach - HCP Ads	\$ 250,000	\$ 250,000
Wellcome Channel (Shop MB, Park & Culture and Events	\$ 15,925	\$ 17,850
Miss Miami Beach USA	\$ 22,500	\$ 15,000
Shop Miami Beach	\$ 5,000	
Shop Miami Beach Brochure Distribution through CTM	\$ 15,000	\$ 16,871
Miami Beach Itineraries Bochures	\$ 4,600	\$ 3,067
Miami Beach Police/Water Safety Brochure Translations	\$ 3,970	\$ 1,342
Funding for Miami Beach Visitor Center currently operated by the Miami Beach Chamber	\$ 30,000	\$ 30,000
Customer Service	\$ 10,000	\$ 10,000
Boutique Hotel Program	\$ 225,000	\$ 225,000
Boutique Hotel Brochure Repring		\$ 60,468
Gay & Lesbian Tourism Research & Co-op Advertising	\$ 145,000	\$ 150,000
Gay Pride Miami Beach	\$ 5,000	
Orgullo	\$ 15,000	\$ 5,000
Miami Beach OutGames		\$ 50,849
Miami Beach OutGames Delegation Expenses		\$ 5,000
Film, Fashion & Entertainment		
Trade Shows/events (Graham Winick's Expenses)	\$ 27,941	\$ 20,541
Miami Beach Website	\$ 24,247	\$ 10,854
Respect the Scene Campaign	\$ 59,288	\$ 25,524
Polo Life, LLC	\$ 20,000	\$ 10,000
Film Life, Inc. (American Black Film Festival)	\$ 15,000	\$ 17,250
Miami Beach Latin Chamber Visitor Center	\$ 5,000	\$ 5,000
Total	\$ 1,021,042	\$ 1,022,617

November 25, 2013

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Office of Housing & Community Services

DATE:	February 2, 2015
TO:	Jimmy L. Morales, City Manager
FROM:	Maria L. Ruiz
SUBJECT:	Finance & Citywide Projects Committee package for Mr. Stanley Shapiro's proposal for promotion services

Routing

Kathie G. Brooks	Assistant City Manager

For: (check the one that applies)

<input type="checkbox"/>	Information Only
<input type="checkbox"/>	Review and approval
<input checked="" type="checkbox"/>	City Manager's Signature
<input type="checkbox"/>	Form Approval by City Attorney
<input type="checkbox"/>	Other

Comments:

As amended

Return to:

Maria L. Ruiz @ #6491

Date Needed:

February 20, 2015

Ramon-

Cell me if you have any questions
 Attached is follow up item to December meeting
 addressing Stanley Shapiro. Committee asked that
 it be brought back no earlier than February.
 Thank.



MIAMI BEACH

COMMITTEE MEMORANDUM

TO: Finance & Citywide Projects Committee

FROM: Jimmy L. Morales, City Manager

DATE: March 2, 2015

SUBJECT: **Stanley Shapiro Proposal to Serve as Promoter of Elder Cultural Programming**

Background

During the Stanley Sutnick Citizen's Forum at the November 19, 2014 City Commission meeting, Mr. Stanley Shapiro spoke. As part of his comments, Mr. Shapiro requested \$10,000 from the City so that he could administer cultural programming for our community's elder residents. As a result of this request, the Commission referred this item to the Finance and Citywide Projects Committee.

The Finance and Citywide Projects Committee held a discussion at its December 12, 2014 meeting directing the Administration to meet with Mr. Shapiro to establish a scope of work with performance measures and outcomes that Mr. Shapiro could do while ensuring that there is no duplication of efforts. The Committee further established a framework by delineating the following parameters:

- The goal would be to serve up to 40 elder residents not currently participating in other activities; and
- The target population is elder residents (over the age of 55) whose household income establishes them as middle income.

Analysis

Beginning in December, staff from the Office of Community Services and Parks and Recreation Department met with Mr. Shapiro to discuss his proposal and capacity to do the work proposed. Staff requested that Mr. Shapiro submit his proposal and line item budget in writing as there were incongruences in his spoken presentation. The written proposal submitted by Mr. Shapiro is attached (Attachment A). In short, Mr. Shapiro proposes to promote a variety of elder programming including current Parks and Recreation Department activities as well as original programming led by Mr. Shapiro himself. The goal would be to serve affluent, elder residents (aged 55 and older). As a compromise in determining eligibility, middle income was revised downward at Mr. Shapiro's request to \$50,000. Please note that the area median income for our City is \$48,400. Middle income households are usually identified as those earning greater than \$100,000 per year (singles).

Conclusion

The City has a variety of cultural, recreational and support programming available to its elder residents. These programs are provided by long-serving, professional community

organizations that leverage community resources to ensure their services are equitably available and accessible by all elder residents.

Typically, the City would establish greater performance measures and documentation of capacity than those included in Mr. Shapiro's proposal. Having said this, the attached proposal (Attachment B) summarizes the compromises established in order to accommodate Mr. Shapiro's initial intent to serve affluent, elder residents of our City while still establishing some measure of accountability for City funds.

Finally, this initiative is currently unfunded. If it will be pursued, funding will need to be identified.

JML/KGB/MLR

F:\neig\Homeless\CHILDREN\ALL\Commission Committees\Stanley Shapiro Elder Services 03022015.doc

From Stanley K Shapiro -
576 75th Street
Miami Beach, Fla 33139 Dec 24, 2014

Purpose

To motivate Elderly Seniors not of
The proverbial level to participate
in quality programs to increase
their life style and bring
enjoyment into their lives.

The goal of the group is to
meet weekly possibly on hopefull
on Wednesdays AT a meeting
place to be determined. The time
will be determined by members
Hopefully 100-300pm which would
enable them to bring a
light lunch if so desired and
permitted.

Program
The anticipated will include
1 Cultural Trip and month and
one program a month honor
a Cultural Group such as Black
History Month, Jewish History Month
etc. The other 2 programs can
include one program run by
me - Current Events, or How Dade
County Functions. A #65 program
could be either a book Review

(Maybe a Volunteer?) or Yoga by Ros

A possible Monthly Trip to Casino can be arranged at no cost to anyone.

Promotion:

Phone Calls to Prospective Participant: Goal 50 members
Commissioners - Goal 1 Each (7)

City Press Release - Families of Employees - If permitted

Mayor's Newsletter - Churches - Synagogues

Channel 77 - High Rise Condos - Meet with

Herald Story Condo Leaders and visit with each Condo Building President
Goal - Eventually 30

Goal - To make This Program viable ~~vibrate~~ during The Summer Months.

The Program would start March 1st

Goal - 10-15 to Start

Goal - 5 new members each month

Chopin Foundation Feb 28-7^{PM} MDC A
4/26 SAT 3^{PM}

TRIPS

1

2

3

4

5

6

1) 11

2 11

3 7/2

4 50

5 7/2

6 7

7 23

8 2

9 40

10 9

11 25

1/ 6-3-8 3 2-10

6/3/11 20010

Questionnaire

DATE

Name

Address

Phone

E-mail

Programs
✓ If Interested

Current Events

This Week in Miami Beach

This Week in Israel

Book Review

Yoga

Music Appreciation (Old Time Records
Al Jolson, Maria Lanza, Keitjue Pic
Carousel, Oklahoma, etc)

Sing along

Museum Trips (Perez, Zoo, Viscaya
Casino's (Mardi gras, Kratak, Gulstien
Seminotes, Hard Rock, Isle of Capri

Financial Statement

I consider my self in the

Following: ✓

Low Income

Low Moderate Income

Moderate Income

High Moderate Income

Wealthy

Note: Your answers will be held by Miami Beach and will ^{to} account be devulged to Anyone by Miami Beach

Breach of this agreement will result in Criminal proceedings against the Violator

Thank You For Participating in this question and sincerely enjoy our new program

300 Special Events

Month 1

Month 5

1	Current Events	1	Yoga (75)
2	Social Security	2	Zoo
3	Perez Museum	3	Current Events
4	Theme Program	4	Theme Program

Month 2

Month 6

1	Sing a Song (75)	1	Current Events
2	Current Events	2	Book Review (75)
3	Viscaya	3	Tropical Gardens Botanical Gardens
4	Theme Program	4	Theme Program

Month 3

Month 7

1	Alliance Aging	1	Science Museum - Plantation
2	Current Events	2	
3	Bass Museum	3	
4	Theme Program	4	

Month 4

Month 8

1	Botanic Gardens	1	
2	Current Events	2	
3	Walfsonian	3	
4	Theme Program	4	

Note: If we do How Dade County Functions we will try for 1st

Note

This program will only succeed with the lead being taken by our Commission.

In Addition group purchases for Ballet, Plays, Concerts, at group Sales Rates will be available as demand decreases Also Major League Games (Free)

* Note: It is intended to use a bus monthly under the Senior Citizen Bus Grant.

I would like a Waiver to enable Parents of M. Beach employees be exempt from Residence Restriction

I would like a clarification of income restrictions. I was looking to just eliminate the low income group.

My credentials are enclosed

QUESTIONNAIRE

Private and Confidential

Name

Address

Cell

E-Mail

Please Check below ✓

1) Do you consider yourself

- a) Poor
- b) Low Income
- c) Moderate Income-Low
- d) Moderate Income High
- e) Wealthy

Check subjects I would appreciate having - let

- | | |
|--|----------------------|
| Yoga | Current Event |
| Book Review | Sing-A-Long |
| Casino Trips | Viscaya |
| Ferry Museum | Jewish Museum |
| Watkinson | Fairchild Grand |
| How Government Functions in Dade Con. | |
| Medicare Medicaid | Social Security |
| Viscaya | Jewish Museum |
| Saw Grass | Current Gov't Issues |
| How Gov't Functions in Dade Con. | |
| Cultural Appreciation Month | |
| Anglo-Hispanic - Jewish - Black - Haitian - others | |

The main goal of this program is to improve the quality of life of people not of low income, who have the means to enjoy cultural life on a different level because of their buying power. Group sales (10 or more) to R. Opera, Theatre (Actors Playhouse) New World Symphony.

How do we intend to get members?

- 1) Contact all Churches - Synagogue
- 2) Chambers of Commerce
 - M. B. Chamber of Commerce
 - Hispanic Chamber of Commerce
 - Gay Lesbian Chamber
- 3) Ask Mayor + each Commissione
To get 1 or 2 members for us
- 4) Contact MB Condo Assn
- 5) Visit with each Condo Leader
in The Collins Ave Corridor

Goal by end of 6 month
Group is 30-40 people

↳ anticipate 10-15 in the

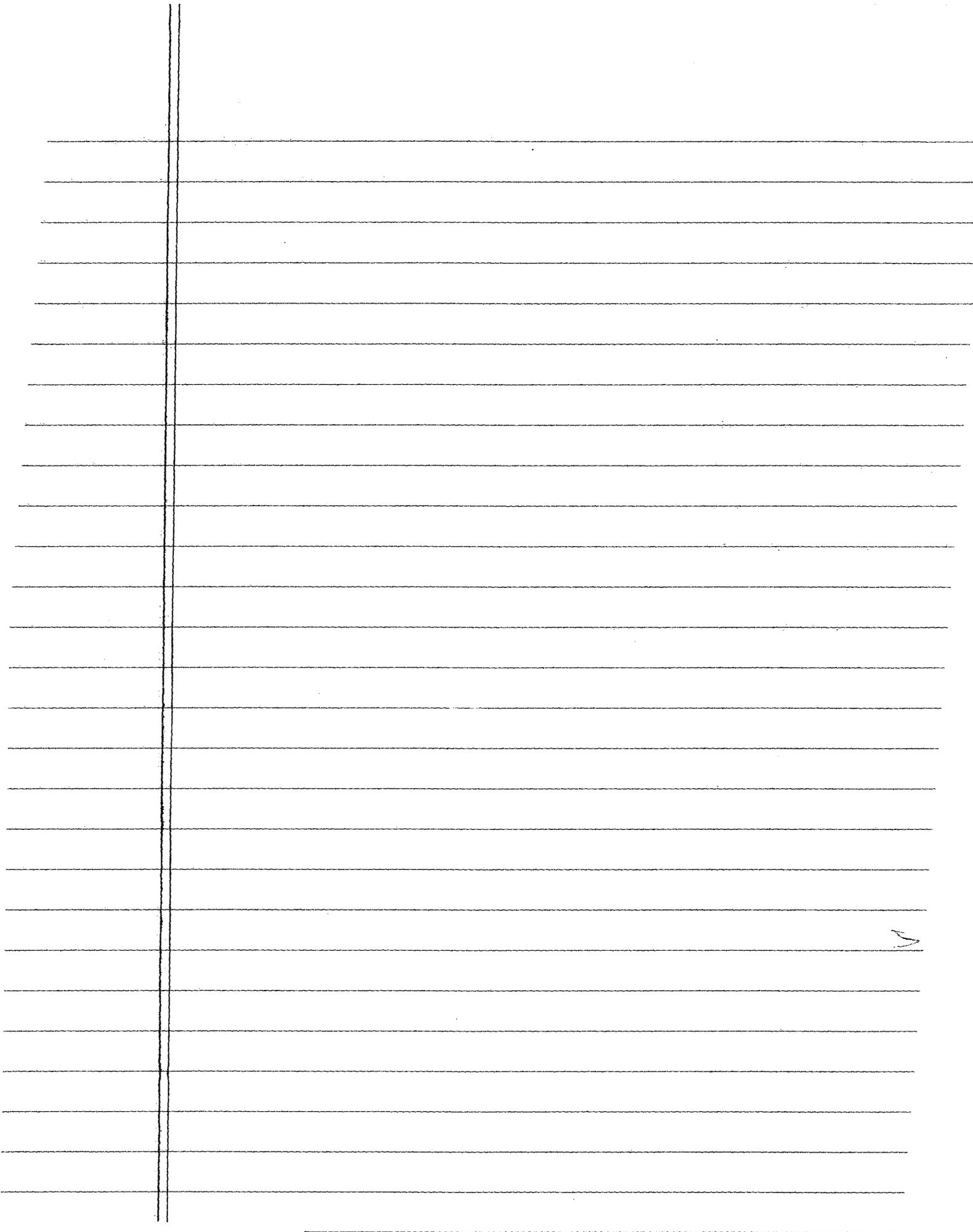
First Month of Operations

Note: We plan to use a City
Chartered Bus Once a Month

I would suggest a Commissioner
or their aide should be assigned
our Program as a liaison.

Respectfully,

Stanley K. Shapiro
SK Citizen Consultant



6/4/15

Proposed Budget - March 1, 2015
for 180 days

Re Stanley K. Shapiro Employment

250 weekly	Salary	6500
75 weekly	Week Program	1950
	* Veterans Letter	500
	Channel 77	0
	** Variety Show	(?)
	Making	500
	Media Advertising	500
	Special Funding for	
	"How Dade County	500
	Function	

→ 10,450

* Letters to Servicemen

** Possibly SR Citizen Variety Show

Rental Colby Theatre \$1500

72nd Street Bandshell \$500

This Agreement is entered into on this **1st** day of **April, 2015**, between **Stanley K. Shapiro** (Contractor), and the City of Miami Beach, Florida (City), for a period of **Six (6) Months**, with an effective starting date of **April 1, 2015**, and an end date of **September 30, 2015** (the Term).

1. Scope of Work/Services.

This Agreement is for the purpose of providing **Event and Activities Promotion** to Middle-Income Elder Residents to the City's Office of Housing & Community Services and Parks and Recreation Department. Specifically, throughout the Term of this Agreement, Contractor shall provide and/or perform the following minimum services:

Please refer to Scope of Services, Attachment "A"

2. Fee.

In consideration of the work and/or services to be provided pursuant to this Agreement, the City agrees to pay Contractor a fee, in the not to exceed amount of **\$6,500 (Six Thousand Five Hundred Dollars)**, which shall be paid as follows:

Please refer to Fee Summary, Attachment "B"

The total fee paid to Contractor pursuant to this Agreement shall not exceed **\$8,000 (Eight Thousand Dollars)** for the Term provided herein.

3. Work Schedule.

During the Term of the Agreement, Contractor shall provide the work and/or services in accordance with the following minimum work schedule:

Please refer to Deliverables, Attachment "C"

Contractor's work and/or services shall be overseen by the following City Department/Individual: **Office of Housing & Community Services/ Maria L. Ruiz, and Parks and Recreation Department Andrew Plotkin.**

4. Termination.

This Agreement may be terminated for convenience of either party, with or without cause, by giving written notice to the other party of such termination, which shall become effective upon fourteen (14) days following receipt by the other party of the written termination notice. Upon termination in accordance with this paragraph, the Contractor shall be paid a sum equal to all payments due to him/her up to the date of termination; provided Contractor is satisfactorily continuing to satisfactorily perform all work and/or services up to the date of termination. Thereafter, the City shall be fully discharged from any further liabilities, duties, and terms arising out of, or by virtue of, this Agreement.

5. Indemnification/Hold Harmless.

Contractor agrees to indemnify, defend, and hold harmless the City of Miami Beach and its officers, employees and agents, from and against any and all actions, claims, liabilities, losses and expenses, including but not limited to, attorney's fees, for personal economic or bodily injury, wrongful death, loss of or damage to property, at law or in equity, which may arise or be alleged to have arisen from the negligent acts or omissions or other wrongful conduct of Contractor, and/or any and all subcontractors,

DRAFT

employees, agents, or any other person or entity acting under Contractor's control, in connection with the Contractor's performance of the work and/or services pursuant to this Agreement. Contractor shall pay all such claims and losses and shall pay all costs and judgments which may arise from any lawsuit arising from such claims and losses, and shall pay all costs and attorney's fees expanded by the City in defense of such claims and losses, including appeals. The parties agree that one percent (1%) of the total compensation to Contractor for performance of the work and/or services under this Agreement is the specific consideration from the City to Contractor for the Contractor's agreement to indemnify and hold the City harmless, as provided herein. Contractor and the City hereby agree and acknowledge that this indemnity provision is intended to and shall survive the termination (or earlier expiration) of this Agreement.

6. Limitation of Liability.

The City desires to enter into this Agreement only if in so doing the City can place a limit on City's liability for any cause of action for money damages due to an alleged breach by the City of this Agreement, so that its liability for any such breach never exceeds the sum of the compensation/fee to be paid to Contractor pursuant to this Agreement, less any amounts actually paid by the City as of the date of the alleged breach. Contractor hereby expresses his willingness to enter into this Agreement with Contractor's recovery from the City for any damage action for breach of contract to be limited to a maximum amount equal to the compensation/fee to be paid to Contractor pursuant to this Agreement, less any amounts actually paid by the City as of the date of the alleged breach. Accordingly, and notwithstanding any other term or condition of this Agreement, Contractor hereby agrees that the City shall not be liable to Contractor for damages in the amount in excess of the compensation/fee to be paid to Contractor pursuant to this Agreement, less any amounts actually paid by the City as of the date of the alleged breach, for any action or claim for breach of contract arising out of the performance or non-performance of any obligations imposed upon the City by this Agreement. Nothing contained in this subparagraph or elsewhere in this Agreement is in any way intended to be a waiver of the limitation placed upon City's liability as set forth in Section 768.28, Florida Statutes.

7. Notices.

All notices and communications in writing required or permitted hereunder may be delivered personally to the representatives of the Contractor and the City listed below or may be mailed by registered mail, postage prepaid (or airmailed if addressed to an address outside of the city of dispatch).

Until changed by notice in writing, all such notices and communications shall be addressed as follows:

CONTRACTOR: **Stanley K. Shapiro**
 516 – 15th Street
 Miami Beach, Florida 33139
 (305)726-5300

CITY: Maria L. Ruiz
 City of Miami Beach
 Office of Housing & Community Services
 1700 Convention Center Drive
 Miami Beach, FL 33139
 (305) 673-7491

Notices hereunder shall be effective:

If delivered personally, on delivery; if mailed to an address in the city of dispatch, on the day following the date mailed; and if mailed to an address outside the city of dispatch on the seventh day following the date mailed.

8. Venue.

This Agreement shall be governed by, and construed in accordance with, the laws of the State of Florida, both substantive and remedial, without regard to principles of conflict of laws. The exclusive venue for any litigation arising out of this Agreement shall be Miami-Dade County, Florida, if in state court, and the U.S. District Court, Southern District of Florida, if in federal court. BY ENTERING INTO THIS AGREEMENT, CITY AND CONTRACTOR EXPRESSLY WAIVE ANY RIGHTS EITHER PARTY MAY HAVE TO A TRIAL BY JURY OF ANY CIVIL LITIGATION RELATED TO, OR ARISING OUT OF, THIS AGREEMENT.

9. Duty of Care/Compliance with Applicable Laws.

With respect to the performance of the work and/or service contemplated herein, Contractor shall exercise that degree of skill, care, efficiency and diligence normally exercised by reasonable persons and/or recognized professionals with respect to the performance of comparable work and/or services.

In its performance of the work and/or services, Contractor shall comply with all applicable laws, ordinances, and regulations of the City, Miami-Dade County, the State of Florida, and the federal government, as applicable.

The Contractor agrees to adhere to and be governed by the Miami-Dade County Conflict of Interest Ordinance, as same may be amended from time to time; and by any and all ethics/standards of conducts as referenced in Chapter 2 of the City of Miami Beach Code (as may be amended from time to time).

Contractor covenants that it presently has no interest and shall not acquire any interest, direct or indirectly which should conflict in any manner or degree with the performance of the work and/or services. Contractor further covenants that in the performance of work and/or services under this Agreement, no person having any such interest shall knowingly be employed by the Contractor. No member of or delegate to the Congress of the United States shall be admitted to any share or part of this Agreement or to any benefits arising there from.

10. Ownership of Documents/Patents and Copyrights.

Any and all documents prepared by Contractor pursuant to this Agreement are related exclusively to the work and/or services described herein, and are intended or represented for ownership by the City. Any re-use distribution, or dissemination of same by Contractor, other than to the City, shall first be approved in writing by the City Manager, which approval, if granted at all, shall be at the City Manager's sole and absolute discretion.

Any patentable and/or copyrightable result arising out of this Agreement, as well as all information, specifications, processes, data and findings, shall be made available to the City, in perpetuity, for public use.

No reports, other documents, articles or devices produced in whole or in part under this Agreement shall be the subject of any application for patent or copyright by or on behalf of the Contractor (or its employees or sub-contractors, (if any) without the prior written consent of the City Manager, which consent, if given at all, shall be at the Manager's sole and absolute discretion.

11. No Assignment/Transfer.

This section intentionally left blank.

12. Liability for Sub-contractors.

Contractor shall be liable for its work and/or services, responsibilities and liabilities under this Agreement and the services, responsibilities and liabilities of any sub-contractors (if any), and any other person or entity acting under the direction or control of Contractor (if any). When the term "Contractor" is used in this Agreement, it shall be deemed to include any sub-contractors (if any) and/or any other person or entity acting under the direction or control of Contractor (if any). All sub-contractors (if any) must be approved in writing by the City Manager prior to their engagement by Contractor, which approval, if granted at all, shall be at the City Manager's sole and absolute discretion.

13. Independent Contractor/No Joint Venture.

THIS AGREEMENT SHALL NOT CONSTITUTE OR MAKE THE PARTIES A PARTNERSHIP OR JOINT VENTURE. FOR THE PURPOSES OF THIS AGREEMENT, THE CONTRACTOR SHALL BE DEEMED TO BE AN INDEPENDENT CONTRACTOR, AND NOT AN AGENT OR EMPLOYEE OF THE CITY, AND SHALL NOT ATTAIN ANY RIGHTS OR BENEFITS UNDER THE CIVIL SERVICE OR PENSION ORDINANCE OF THE CITY, OR ANY RIGHT GENERALLY AFFORDED CLASSIFIED OR UNCLASSIFIED EMPLOYEES INCLUDING ANNUAL AND SICK DAY ACCRUAL. FURTHER, THE CONTRACTOR SHALL NOT BE DEEMED ENTITLED TO FLORIDA WORKER'S COMPENSATION BENEFITS AS AN EMPLOYEE OF THE CITY OR ACCUMULATION OF SICK OR ANNUAL LEAVE.

14. Waiver of Breach.

A party's failure to enforce any provision of this Agreement shall not be deemed a waiver of such provision or modification of this Agreement. A party's waiver of any breach of a provision of this Agreement shall not be deemed a waiver of any subsequent breach and shall not be construed to be a modification of the terms of this Agreement.

15. Severance.

In the event this Agreement or a portion of this Agreement is found by a court of competent jurisdiction to be invalid, the remaining provisions shall continue to be effective unless City elects to terminate this Agreement.

16. Joint Preparation.

The parties hereto acknowledge that they have sought and received whatever competent advice and counsel as was necessary for them to form a full and complete understanding of all rights and obligations herein and that the preparation of this Agreement has been a joint effort of the parties, the language has been agreed to by parties to express their mutual intent and the resulting document shall not, solely as a matter of judicial construction, be construed more severely against one of the parties than the other.

17. Purchase Order Requirement.

This agreement shall not be effective until executed by the parties hereto and until the City has issued a Purchase Order for this agreement.

18. Entire Agreement.

This writing and any exhibits and/or attachments incorporated (and/or otherwise referenced for incorporation herein) embody the entire Agreement and understanding between the parties hereto, and there are no other agreements and understandings, oral or written, with reference to the subject matter hereof that are not merged herein and superseded hereby.

19. Contractor's Compliance with Florida Public Records Law.

To the extent that **Stanley K. Shapiro** is acting on behalf of the City, as provided under Section 119.011(2), Florida Statutes, this Agreement shall be subject to Florida Public Records Law including, without limitation, Chapter 119, Florida Statutes, as same may be amended from time to time.

As required pursuant to Section 119.0701, Florida Statutes, **Stanley K. Shapiro** shall comply with public records law; specifically to:

- (a) keep and maintain public records that ordinarily and necessarily would be required by the public agency in order to perform the service;
- (b) provide the public with access to public records on the same terms and conditions that the public agency would provide the records and at a cost that does not exceed the cost provided in Chapter 119, Florida Statutes or as otherwise provided by law;
- (c) ensure that public records that are exempt or confidential and exempt from public records disclosure requirements are not disclosed except as authorized by law; and
- (d) meet all requirements for retaining public records and transfer, at no cost, to the public agency all public records in possession of the contractor upon termination of the contract, and destroy any duplicate public records that are exempt or confidential and exempt from public records disclosure requirements. All records stored electronically must be provided to the public agency in a format that is compatible with the information technology systems of the public agency.

Stanley K. Shapiro's failure to comply with this Section, or to comply with a public records request brought pursuant to this Section, may be deemed by the City to be an event of default under this Agreement.

[REMAINDER OF PAGE LEFT INTENTIONALLY BLANK]

IN WITNESS WHEREOF, the parties hereto have caused these presents to be executed by the respective officials thereunto duly authorized, this date and year first above written.

FOR CITY:

CITY OF MIAMI BEACH, FLORIDA

ATTEST:

By: _____
City Clerk

City Manager

FOR CONTRACTOR:

Stanley K. Shapiro

WITNESS:

By: _____
Print Name

Signature

By: _____

Print Name & Title

Print Name

Approved:

Department Director

Office of Budget & Performance Improvement

Assistant City Manager

Human Resources

Attachment "A"
Scope of Services

The Contractor shall provide the following services:

Quantity/Unit	Frequency	Activity/Event/Service
1	Monthly	Promotion of Parks and Recreation Department-sponsored field trip serving elder residents
1	Monthly	Delivery/production of current event's discussion for elder residents, such as: "This Week in the City of Miami Beach, County, Nation", held at the Scott Rakow Youth Center
1	Monthly	Informational workshop that provides education and information on topics, services and resources of interest to the elder community of the City and held at the Scott Rakow Youth Center
1	Monthly	Themed program that highlights awareness topics of the month (i.e. Hispanic Heritage, Black History Month, etc.) and held at the Miami Beach Regional Library ¹

1 – Please note that Contractor must provide a letter asserting participation by the Miami-Dade County Library System prior to the execution of this agreement.

These services will commence upon execution of this agreement and will include up to twenty-six (26), individual weekly activities/events.

Attachment "B" **Fee Summary**

The Contractor shall be paid \$250 (Two Hundred Fifty Dollars) per week for up to four (4) weeks per month for the term of this agreement for a total of \$6,600 (Six Thousand Five Hundred Dollars). Payment shall be made by the City upon submission of an invoice from the Contractor delineating the provision of services noted in Attachment "A" no earlier than the first day of the subsequent month and as supported by the submission of the following documentation:

1. Detailed invoice delineating the service provided, date and location of provided service and the total number of attendees
2. Agenda or summary of activity provided or promoted
3. Attendance log or sign-in sheet that identifies those attendees whose household income is at least \$50,000 per year and whose age is at least 55
4. List of marketing and promotion efforts to ensure participation by the target population and as documented by a verifiable contact list inclusive of agency name, person contacted, telephone number, and date contacted

The Contractor may bill up to \$500 (Five Hundred Dollars) for any costs associated with direct mailings that promote events and activities covered under this Agreement. Reimbursement for such expenses may be billed in the monthly invoice and must include the following documentation:

1. Receipt delineating expense for printing and/or mailing costs and evidence of payment
2. Mailing list indicating names and addresses of those receiving direct mailings
3. Sample of items distributed through the direct mailings

The Contractor may bill up to \$500 (Five Hundred Dollars) for the cost of placing advertisements in local newspapers (i.e. The Miami Herald, Miami New Times, or Miami Sun Post) promoting events and activities covered under this agreement. Reimbursement for such expenses may be billed in the monthly invoice and must include the following documentation:

1. Copy of advertisement placed in the local newspaper
2. Invoice from the local newspaper for the advertisement
3. Evidence of payment to local newspaper as demonstrated by cancelled check

The Contractor may bill up to \$500 (Five Hundred Dollars) for the purchase of refreshments for event and activity participants at a cost no greater than \$20 (Twenty Dollars) per event or activity. Reimbursement for such expenses may be billed in the monthly invoice and must include the following documentation:

1. Receipt for refreshments purchased (excluding tax)

Attachment "C"
Deliverables

The target beneficiaries of this agreement are Miami Beach residents aged 55 years of age or older with household incomes greater than \$50,000 per year. The performance threshold for this Agreement is for the Contractor to serve a minimum of forty (40) such residents who are not currently recipients of Parks and Recreation Department services by the fifth weekly event covered under this Agreement.

The City reserves the right to terminate this agreement by week six (6) if the Contractor fails to meet this Deliverables threshold.

The Contractor's work schedule, at a minimum, must include attendance at each event promoted or delivered under this Agreement. It is the Contractor's responsibility to devote the time necessary to achieve the stated Deliverables threshold. Failure to attend an event under this Agreement shall be deemed a cause for default and the subsequent termination of this Agreement.

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City of Miami Beach, 1700 Convention Center Drive, Miami Beach, Florida 33139, www.miamibeachfl.gov

COMMITTEE MEMORANDUM

TO: Finance and Citywide Projects Committee

FROM: Jimmy L. Morales, City Manager 

DATE: March 2, 2015

SUBJECT: **A DISCUSSION REGARDING THE MIAMI BEACH CONVENTION CENTER BOOKING POLICY**

BACKGROUND AND ANALYSIS

The City approved the Booking Policy for the Miami Beach Convention Center on June 7, 1989, which was subsequently revised on October 4, 1989, June 6, 1990, July 8, 1992, June 3, 1998, May 12, 1999, July 7, 1999, and April 16, 2001. The most recent revision on April 16, 2001 was approved pursuant to Resolution No. 2001-24394 which clarified designation of First Priority status and City Manager discretion concerning same. The Booking Policy has not been revised since 2001.

As you know, in April 9, 2014, Request for Qualifications No. 2014-142ME for the Design Criteria Professional (DCP) services for the Miami Beach Convention Center Renovation was awarded to Fentress Architects. Construction is anticipated to begin immediately following Art Basel in Miami Beach 2015 and is expected to be completed in middle 2018. Group business generally books their events more than 24 months (2 years) into the future. With that in mind, the City needs to decide, in very near future, what if any changes to the Booking Policy should be considered in order to set booking goals for the Greater Miami Convention and Visitors Bureau (GMCVB) and Global Spectrum (Global).

In considering potential changes the type of event (convention, trade show and consumer shows) determines what demands the facility and surrounding area are likely to experience and what kinds of attendees and exhibitors can be expected. To a large degree the Center must also consider the overall economic impact the show will have to the City at large. Tax generation and City fees inclusive of the additional sales tax revenue from visitors and increased local consumption patterns can provide a significant amount of revenue to the City and the local businesses. The propensity of the various attendees and exhibitors to spend money in local businesses, hotels, shops, restaurants, tourist attractions, use of local public transportation (taxis, and rental cars) and entertainment establishments need to be considered and included in the overall assessment of the show as a net revenue contributor to the local economy. The purpose of the Convention Center is not to make money, but to generate business for our hotels and restaurants, which in turn generates resort tax revenue.

Below is a table broadly defining event impact:

	Conventions	Trade Shows	Consumer Shows
Example	Dermatologists	Jewelers International	Home Show
2014 Average Attendance *	4,800	4,900	11,600
Economic Impact	High	Moderate	Low
Building Revenue Impact	Moderate	Moderate +	High
Typically arrive	Via Taxi/Bus	Car	Car
Traffic Impact	Low	Moderate	High

* Excludes Art Basel and the Boat Show with 70,000 and 140,000 in attendance respectively.

The current Booking Policy includes First Priority designation for long standing shows, defined as one which has a minimum of 20 consecutive years usage in Convention Center under the same ownership (Grandfathered First Priority). If the show has multiple events in MBCC in a calendar year, the first priority designation applies to only one of the show events in the calendar year. This is a rather unique aspect of our policy and not something found in other destination's booking policies. These grandfathered events include Antique Show, Miami International Boat Show, Jewelry International Show, Miami Auto Show and the Home Show. With the exception of Jewelry International Show, all are consumer shows. It is no secret the Convention Center is below the national average as it pertains to the total number of annual conventions held in the Center.

In considering Booking Policy changes, the City Commission should also be aware that Grandfathered First Priority shows are currently able to obtain License Agreements for use of the Convention Center up to 36 months prior to the show. Group business (conventions) typically book shows at least 24 months in advance. A large group attempting to book during a date pattern conflicting with a Grandfathered First Priority show, even if they contract for more hotel rooms on peak, would not be able to book in the Convention Center unless the Grandfathered First Priority agrees to move their dates. There have been examples in the past where Grandfathered First Priority shows have accommodated the destinations desire to book another show during their dates, but there are also examples where the destination has lost conventions as a result of this policy.

The Administration believes that peak room nights should be the overarching requirement used to determine whether an event receives First Priority designation. Additionally, the Booking Policy also allows for the rooms night verification to be used as a method of confirming peak room nights generated as a result of the event. The City has a prescribed verification process that is used which allows an independent third party accounting/auditing firm licensed in the State of Florida to be used to verify the peak room nights. Audited reports will be submitted to the Convention Center General Manager and Greater Miami Convention and Visitors Bureau Senior Vice President of Sales along with the statement from the auditor indicating their validation of the method of data collection, the accuracy of the data as determined by their testing of the data, and their agreement with the conclusions of room night consumption as presented by the client.

Additionally, the City Code does require review and a recommendation from the Convention Center Advisory Board (CCAB) before the City Commission makes a final decision. The CCAB had an initial discussion of the policy and unanimously passed a motion recommending elimination of the Grandfather First Priority designation and also recommended the City allow First Priority events to book at least 18 months prior to the show instead of the current policy of 24 months. The Administration, Global Spectrum and the GMCVB all agree with the CCAB recommendation. This recommendation is in line with the sentiment expressed by the City Commission at the November 2014 meeting, which was to amend the Booking Policy to prioritize convention bookings.

The Administration continued to work with Global Spectrum, the GMCVB and Strategic Advisory Group to prepare revisions to the Booking Policy that prioritizes room night generating business. A draft of these changes is attached at Exhibit "1". The following highlights the changes being recommended:

- Addition of a second and third priority booking category
- Requirement of an executed License Agreement with the Convention Center to be considered a confirmed booking
- Reduction of move-in and move-out days required for an event

Priority	Booking Window	Minimum Peak Room Night requirement
1	> 24 months (exclusive access)	1,500 (peak)
2	13 – 24 months	500 – 1,499 (peak)
3	0 – 13 months	No requirement

This item was discussed briefly at the February 11, 2015 Finance Committee meeting. The Committee recommended bringing this item back to the March meeting of the Finance Committee after Administration has had a chance to do outreach to the Convention Center clients and the Convention Center Advisory Board (CCAB). The CCAB discussed the draft policy at their February 3, 2015 meeting, but deferred action to its March 3, 2015 meeting in order to give the board members more time to review it. The City and Global Spectrum have distributed the draft policy to Convention Center clients and several have stated they will attend the March 2 Finance Committee meeting.

CONCLUSION

The Administration is seeking direction from the Finance Committee before proceeding to the City Commission.


JLM/KGB/MAS

MIAMI BEACH CONVENTION CENTER
MIAMI BEACH, FLORIDA

BOOKING POLICY GUIDELINES

I. STATEMENT OF PURPOSE:

The Miami Beach Convention Center (the "MBCC" or the "Center") is a national and international convention, tradeshow, and multi-purpose facility owned by the City of Miami Beach. The MBCC was enlarged and remodeled in part with Convention Development Tax proceeds with the primary objective of promoting and facilitating events and activities which have a significant impact in terms of Convention Development Tax generated.

In addition, the MBCC was developed with a secondary objective of providing services and facilities to respond to the needs of County and local activities which promote business and generally enhance the quality of life for the community the MBCC serves.

When booking the MBCC, consideration shall be given by both the Greater Miami Convention and Visitors Bureau (the "Bureau") and the Convention Center management to the following factors:

- i. Significant impact in terms of Convention Development Tax generated;
- ii. Total number of hotel rooms required;
- iii. Projected revenue to the MBCC both in terms of direct space rental revenue, as well as projected revenue from concessions and other building services;
- iv. Time of year;
- v. Number of move-in and move-out dates required for the event;
- vi. Potential for repeat booking;
- vii. Previous history and experience of the potential user with respect to use of similar facilities; and
- viii. Economic Impact/Direct spending.

II. SCHEDULING PRIORITIES:

- A. **First Priority Events:** Generally speaking, first priority for scheduling facilities and dates in the MBCC is available to regional, national and international conventions, trade shows (open to the trade only), cultural shows, corporate meetings and other activities which have a significant impact in terms of Convention Development Tax generated and overall economic impact. In order to be considered for a First Priority designation, an event shall:

- i. require in excess of 115,000 gross square feet of exhibit space contracted in the MBCC;
- ii. require a minimum of three nights with 1,500 hotel rooms occupied on the peak night in Miami-Dade County;
AND
- iii. generate over 4,000 room nights in total.

Convention Development Tax impact and hotel room count calculations are based on contracted room nights as demonstrated by room block agreements with hotels in Miami-Dade County subject to verification by the Bureau. Alternatively, for an event that is booked in the future, this impact may be based on prior history of the event; subject to verification by (1) the Bureau; and (2) at user's expense, a qualified independent auditor licensed to perform audits within the State of Florida, if deemed necessary. An independent auditor will be used only when the event cannot demonstrate the history or does not enter into hotel contracts as a practice. In order to be considered for First Priority designation, an event shall have demonstrated the hotel room count history during presentation of the identical event either in Miami-Dade County or, in the case of events which move from city to city on a rotational basis or are relocating from another location, the hotel room count history of the identical event shall be verified by the Bureau using generally accepted industry standards, (i.e., DMAI MINT system or written verification from a prior location CVB) for such history verification.

Within the First Priority category, the Bureau will give preference to the event with the most significant impact in terms of Convention Development Tax generated.

In the event that First Priority Event status is granted, based in part upon the hotel room on peak night requirement as set forth above, the City, shall require recertification of said hotel room requirement from First Priority Events annually when hotel contract verification is used. If the above audit process is utilized, the City will require an audit every three years. In the instance that an event interrupts its regular scheduling, defined as failing to take place within six (6) months of its next anticipated presentation, First Priority status may be revoked.

- B. **Second Priority Events:** Second Priority Events will have similar characteristics as first priority events. The room block requirement will be for two nights with one peak night ranging from 500 to 1,499 rooms. A second priority event will utilize 1,500 to 3,999 room nights in total. The other characteristics that are mentioned above will also be considered.

In the event that Second Priority Event status is granted, based in part upon the hotel room on peak night requirement as set forth above, the City, shall require recertification of said hotel room requirement from Second Priority Events annually when hotel contract verification is used. If the above audit process is utilized, the City will require an audit every three years. In the instance that an event interrupts its regular scheduling, defined as failing

to take place within six (6) months of its next anticipated presentation, Second Priority status may be revoked.

- C. **Third Priority Events:** Third Priority for scheduling facilities and dates in the MBCC is available to all other events. Third Priority Events do not have a peak room night requirement. MBCC revenue and community impact will be important characteristics in securing Third Priority Events.
- D. **Discretion:** Subject to the priorities set forth above, the General Manager may exercise his discretion as to the issuance, modification, or termination of scheduling reservations.

III. BOOKING PROCEDURES

Reservations more than twenty-four (24) months before an event are normally handled through the Greater Miami Convention and Visitors Bureau, subject to approval of the MBCC, and are subject to the guidelines of Section II herein.

Facility and space scheduling commitments for First Priority Events may be made as far in advance as is necessary or appropriate and may supersede requests for other events and activities, unless a License Agreement has been previously executed by the MBCC and the user for such other event. License Agreements for First Priority Events may be entered into as far in advance as necessary or appropriate at the discretion of the General Manager of the MBCC (the "General Manager"). License Agreement will be produced by the MBCC no longer than 60 days from the date the event is secured at MBCC. Provided that the event is secured at least 24 months in advance, the user will be allowed 90 days from the receipt of the License Agreement to sign and return it to the MBCC, along with the required deposit. In the event the License Agreement is not signed and the deposit is not received within 90 days, the event will lose its Priority status and another event can secure the requested dates and space. The General Manager will determine an appropriate period of time for signature acceptance of a License Agreement and deposits for events that secure fewer than 24 months in advance.

Facility and date scheduling reservations for Second Priority Events will not be secured more than 24 months in advance, and are subject to change to accommodate First Priority Events, prior to a License Agreement being executed by the MBCC and user for such event. License Agreements for Second Priority Events, shall, upon request of the party holding the reservation, be issued twenty-four (24) months prior to the event.

Facility and date scheduling for Third Priority Events will not be secured more than 13 months in advance. License Agreements will not be finalized prior to 13 months in advance. MBCC will execute License Agreements when eligible to ensure timely execution for Third Priority users.

Priority	Booking Window	Minimum Peak Room Night requirement
1	> 24 months (exclusive access)	1,500 (peak)
2	13 – 24 months	500 – 1,499 (peak)
3	0 – 13 months	No requirement

Facilities and dates will be tentatively held pending notification to the contrary by either party. In the event a tentative commitment is released by the MBCC, the requesting party will be notified the facilities and/or dates have been released.

Facilities and dates reserved on First Option are reserved tentatively, but a conflicting commitment for the facilities and dates generally will not be made in favor of a second requesting party within the same scheduling priority without the party holding a First Option having the opportunity to execute a License Agreement within the timeline specified or release its reservation. A First Option held by a Second or Third Priority Event can always be superseded by a First or Second Priority Event, unless a License Agreement has been previously executed. At the discretion of the General Manager, a party with a First Priority Event holding a First Option may be required, within seven (7) days of written notice, to execute a License Agreement and post a deposit at any time that the General Manager has a good faith request in writing from another First Priority Event for the same dates.

Facilities and dates reserved on a Second Option basis will be reserved tentatively, and the absence of a valid First Option hold for the same space and time shall not guarantee the elevation of a Second Option hold to a First Option hold.

Facilities and dates are considered as Definite (under contractual commitment) only upon execution of a License Agreement by the event sponsor and the City of Miami Beach, specifying all details of the commitment and accompanied by the required initial deposit. In the case of large, city-wide conventions (defined as groups that require the use of all four Exhibition Halls at the Miami Beach Convention Center and have at minimum 3,500 rooms on their peak night) taking place more than five years in the future and where the sponsoring organization is unable to execute a formal License Agreement, the reservation of the facilities and dates may be considered Definite upon the execution of a Letter of Intent by an officer of the event, the Greater Miami Convention and Visitor Bureau, and the General Manager of the Miami Beach Convention Center (or City Manager as appropriate) accompanied by a non-refundable deposit of no less than \$1,000 and evidence of a room block(s) totaling no fewer than 8,000 room nights, including specific documentation from the hotel(s) of the overall hotel package . The Letter of Intent must be of the standard form used by the Greater Miami Convention and Visitors Bureau (as approved by the City of Miami Beach) which at minimum shall require that a License Agreement be executed no later than five years in advance of the first move-in day of the event and shall define a schedule for incremental, non-refundable deposits that shall be paid to the Miami Beach Convention Center to maintain the booking as Definite.

IV. PROTECTION CLAUSE: REPEAT BUSINESS

A Protection Clause shall, upon the recommendations of the General Manager, and subject to the approval of the City Manager, be granted to recurring events with a proven record of success, defined herein as the successful completion of at least two consecutive shows in two years, which have produced significant revenue to the MBCC or significant impact in terms of Convention Development Tax generated. First Priority users will be required to furnish the required room night consumed and economic impact results within 90 days of the events final event day. If the consumed room nights falls below the agreed upon first priority threshold, the user may lose First Priority status. If granted, such Protection Clause will be included in the License Agreement and, thereafter re-reviewed at minimum every three (3) years by the General Manager, and subject to the approval of the City Manager, in future License Agreements. Notwithstanding the foregoing, the granting of a Protection Clause in a License Agreement shall not vest any right(s) or reliance on the part of the Licensee as to the granting of said clause in subsequent or future License Agreements, but shall at all times be subject to the review and approval procedures set forth here:

The Protection Period shall not exceed a total of sixty (60) days, plus the show days. The number of days prior to and after the event shall be the subject of agreement between the Licensee and the General Manager, but a minimum of fifteen (15) days shall be required on each side of the event.

If a Protection Clause is granted, it will read as follows:

PROTECTION CLAUSE:

Licensor agrees that it will not license any portion of the Convention Center facility to any Competing Event for the period commencing 30 days before Licensee's first show day, and concluding 30 days after Licensee's last show day (the "Protection Period"). A "Competing Event" is hereby defined as an event which has thirty percent (30%) or more of the total number of exhibitors/booths in the same event showing/selling product lines in the Licensee's event; provided, however, that a show that is open to the public shall never be deemed a Competing Event with a show open only to the trade, and vice versa. The determination of whether or not an event is a "Competing Event" shall be solely within the discretion of the General Manager, and shall be based upon the product lines in the proposed event's prior shows.

V. DEPOSIT SCHEDULES:

Deposits are required for all activities upon execution of a formal MBCC License Agreement.

- A. **First Priority Events:** A deposit in the amount of one day's minimum guaranteed rental per hall, or such other deposit as the General Manager may authorize, is required upon

execution of the License Agreement. For events licensed five years or more in advance (as allowed by this policy), special arrangements may be negotiated, at the Center's option, for a lesser deposit upon License Agreement execution and a defined schedule for intermediate deposit payments, with the balance of all estimated charges being due and payable sixty (60) days in advance of the event.

B. **Second Priority Events:** A minimum deposit will be required upon execution of the License Agreement as follows: one day's minimum guaranteed rental for the first hall, and an additional 33-1/3% of one day's minimum guaranteed rental for each additional hall. However, first-time events without a past history of success, and event sponsors with inadequate references, or prior event sponsorships, a record of slow payment, etc., may be required, at the Center's option, to remit up to one hundred percent (100%) of anticipated rental and related expenses upon execution of License Agreement.

C. **Third Priority Events:** A minimum of 100% of one day's minimum guaranteed rent for all MBCC secured space will be required.

VI. MOVE IN/MOVE OUT GUIDELINES:

MBCC will offer one complimentary move-in or move-out day for every show day (open to attendees or public). MBCC will charge the standard rental rates with any additional service charges for days needed beyond the stated allocation. MBCC may ask for paid move in and/or move-out days to be released based on other group needs for that timeframe.

VII. VARIANCE FROM POLICY:

Events and circumstances not covered in the above scheduling policies may be subject to special conditions, and as deemed appropriate by the City Manager. No variance from the Center's policies, as represented in the above terms, may be made without first being submitted to the General Manager for consideration, but shall be subject to final consideration and approval of the City Manager.

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MIAMI BEACH

OFFICE OF THE MAYOR AND COMMISSIONER

MEMORANDUM

To: Patricia Walker,

From: Jonah Wolfson, Commissioner

Date: February 24, 2015

Re: **Finance & Citywide Projects Committee Agenda Discussion Item**

Please place on the March 2, 2015, Finance Committee Agenda the following issue for discussion:

A discussion regarding the terms for the renewal of the City Manager Jimmy Morales's employment contract.

JW

City Manager Contract Term Sheet

- Duration:** 4 year term at \$262,650.00 annual salary
- Bonus:** 10% (\$25,500.00) one-time non-pensionable to be awarded on March 31, 2015
- COLA increase:** 3% one-time increase on salary to \$262,650.00.
- 457 Funding:** Increase city contribution from \$3,900.00 to \$24,000.00 for term of contract.

2013-28184

EMPLOYMENT AGREEMENT

THIS EMPLOYMENT AGREEMENT (the "Agreement") is entered into, by, and between JIMMY L. MORALES ("Morales") and the CITY OF MIAMI BEACH, FLORIDA (the "City") (collectively, the "Parties").

WHEREAS, the City, acting by and through its City Commission, desires to employ Morales as its City Manager on the terms and conditions set forth in this Agreement and Morales desires to accept employment as City Manager on those same terms and conditions;

NOW, THEREFORE, the Parties agree as follows:

1. Recitations. Parties agree that the recitations above are true and correct and are incorporated as if fully set forth here.

2. Employment. The City agrees to employ Morales as its City Manager and Morales agrees to be so employed. Morales will devote his full working time to his duties as City Manager and will not accept or perform any other employment, paid or unpaid, while he is employed as City Manager except as expressly set forth herein or expressly agreed to by the City Commission by resolution and modification of this Agreement according to its terms. However, nothing in this Agreement shall prohibit Morales from occasional other work, such as teaching, writing, community activities, pro bono work, or civic or charitable activities as is appropriate to this position of City Manager, provided, however, that such work shall not interfere with Morales' duties as City Manager and shall not in any way reflect unfavorably on the City. Morales shall at all times apply his best efforts to the performance of his duties as City Manager.

3. Employment At Will. Morales is employed at will and serves at the pleasure of the City Commission. This Agreement and his employment may be terminated by the City Commission at any time and for any reason or for no reason, subject only to the express Termination provisions of this Agreement.

4. Duties. Morales will perform the duties of the office of City Manager as set forth in the Charter of the City of Miami Beach, Florida, and in the Code of the City of Miami Beach, Florida, and all such duties customary and appropriate to this position of City Manager and such other appropriate duties as may be assigned by the City Commission or its designee from time to time.

5. Effective Date. This Agreement shall become effective April 1, 2013 (the "Effective Date").

6. Term. The term of this Agreement shall commence at 12:01 a.m., April 1, 2013, and shall expire at midnight, March 31, 2015, unless terminated earlier or renewed as set forth herein.

7. Compensation. Morales shall receive compensation for performing the duties of City Manager as set forth in this Section 7. Nothing other than those items set forth in this Section 7 shall be considered or treated as compensation, wages, salary, earnings, or

#20207 PE 042213

remuneration to Morales for any purpose whatsoever, including pension or for purposes of Section 448.08, Florida Statutes, or in arbitration.

a. Salary. The City shall pay Morales a salary of annualized at \$255,000.00 to be earned and to accrue bi-weekly. This salary shall likewise be paid bi-weekly according to the usual payroll practices of the City applicable to unclassified general employees. Morales may participate in the Section 457 deferred compensation plan offered by the City and may designate a portion of his salary to be contributed thereto according to the terms of the plan and applicable law. It is understood and agreed that any contributions to the plan shall be made by Morales and not the City. The City agrees to review the annual salary and/or other benefits of Morales at the time of evaluation of performance as provided in Section 7.d. and make adjustments as the City may determine. An annual salary review of Morales will be made every year within 30 days after April 1 of each year.

b. Insurance. The City will pay the full amount of premiums for the City-offered group medical and group dental plan selected by Morales, for himself and his eligible dependents. The City will pay the full amount of premiums for the City-offered life insurance policy on Morales. Morales may (or, if participation is mandatory, shall) participate in other City-offered insurance for which he is eligible on the terms applicable to unclassified general employees.

c. Leave. Morales will be eligible to accrue, use, and convert leave hours to the extent and on the terms applicable to unclassified general employees.

d. Performance Evaluation and Incentive.

i. An annual review and evaluation of Morales shall be in accordance with the specific criteria developed jointly by the City Commission and Morales as set forth in Section 7.d.ii. The Mayor shall provide Morales with a summary written statement of the findings of the City Commission and provide an adequate opportunity for Morales to discuss the review and evaluation with the City Commission.

ii. Within 90 days of the Effective Date of this Agreement and annually thereafter, the City Commission, in consultation with Morales, shall set quantitative measures and goals upon which to evaluate the performance of Morales. Such measures may include, but are not limited to, the City's financial performance, progress on capital projects, improvements in customer service, and successful implementation of agreed upon priority initiatives. Based on the measures and goals established and the performance achieved pursuant to the City Commission's review of those measures and goals as provided in Section 7.d.i., the City Commission may provide to Morales a onetime Performance Incentive of up to 10 percent of the annualized salary amount set forth in Section 7.a. The Performance Incentive shall not be deemed a part of "base pay" or other earnings for purposes of pension.

8. Non-Compensation Expenses and Reimbursements. The City will pay for, reimburse, or otherwise provide for the items set forth in this Section 8. These items are paid for, reimbursed, or otherwise provided because they inure to the benefit of the City and do not constitute compensation, wages, salary, earnings, or remuneration to Morales for any purpose whatsoever, including pension or for purposes of Section 448.08, Florida Statutes, or in arbitration.

a. Vehicle. The City will pay to Morales a vehicle allowance in the amount of \$6,000.00 annually, paid in proportionate bi-weekly installments to reimburse him for the use of his personal vehicle for the benefit of the City.

b. Moving Allowance. The City will pay to Morales a onetime allowance of up to \$3,500.00 to reimburse Morales for reasonable moving-related expenses should Morales, in his sole discretion, choose to move his primary residence into the City during the first 12 months of this Agreement. The moving allowance will be paid upon submission of satisfactory documentation of the moving-related expenses.

c. Information and Communications Technology Expenses. The City will provide to Morales adequate and reasonable information and communications hardware, software, and services to support him in the performance of his duties as City Manager.

d. Subscriptions, Memberships, and Fees. Morales may include as an expense item in the budget of the Office of the City Manager an amount to be used to pay for such reasonable subscriptions, memberships, and fees and other similar costs, such as travel and lodging, as may be incurred for development and advancement related to, in support of, and inuring to the benefit of the City. No payment authorized hereunder may be made to an entity that illegally discriminates on the basis of race, color, gender, religion, national origin, age, disability, marital status, or sexual orientation.

9. Renewal and Non-Renewal. The City Commission may renew or extend the original term of this Agreement by resolution for succeeding periods as specified by the City Commission on the same terms and conditions as then set forth in this Agreement or on such modified terms and conditions to which it may agree with Morales. Should the City Commission not renew or extend the original or any succeeding term, this Agreement shall expire at the end of such original or succeeding term. Morales' employment shall simultaneously end with the expiration of the original or succeeding term or period. Should the City not renew this Agreement, it will either give Morales 90 days' notice of intent not to renew or, if no notice is given, the City shall, commencing upon the end of his employment, pay Morales an amount equivalent to 12 weeks of the salary amount set forth in Section 7.a. (the "Separation Payments"), along with all payments due for work performed through the date of termination and other payments due, if any, upon termination on the same terms and conditions applicable to unclassified general employees and shall have no further liability to him whatsoever. The Separation Payments will be paid bi-weekly according to the City's usual payroll practices. Should Morales accept employment prior to the expiration of 12 weeks after the date of expiration of the original or succeeding term, the Separation Payments shall immediately cease and the City shall have no obligation to make Separation Payments then remaining unpaid.

10. Termination by Morales.

a. With Notice. Should Morales terminate this Agreement by giving notice not less than 90 days prior to termination, the City shall pay him in like manner as if the Agreement were not renewed.

b. Without Notice. Should Morales terminate this Agreement by giving notice less than 90 days prior to termination, the City shall pay him any payments due for work performed through the date of termination and other payments due, if any, upon termination on the same terms and conditions applicable to unclassified general employees and shall have no further liability to him whatsoever.

11. Termination by the City. The City Commission may terminate this Agreement and, thereby, Morales' employment at any time, without or without notice, and for any reason or for no reason.

a. Without Cause. Should the City terminate this Agreement without Cause, as defined in Section 11.b., it shall pay Morales an amount equivalent to 20 weeks of the salary amount set forth in Section 7.a. (the "Severance Payment"), along with all payments due for work performed through the date of termination and other payments due, if any, upon termination on the same terms and conditions applicable to unclassified general employees and shall have no further liability to him whatsoever. Should Florida law be changed to permit a Severance Payment greater than that permitted under law at the time of the execution of this Agreement, the City Commission will review the amount of the Severance Payment set forth in this Agreement. In the event the City at any time during the term of this Agreement reduces the salary or other financial benefits of Morales in a greater percentage than an applicable across the board reduction for all employees of the City or in the event the City refuses after written notice to comply with any other provision of this Agreement benefitting Morales or if a majority of the entire City Commission in a public meeting requests that Morales resign then Morales may, at his option, be deemed to be terminated at the date of such reduction or such refusal to comply within the meaning and context of this Section 11.a.

b. With Cause. Should the City terminate this Agreement with Cause, as herein defined, it shall pay Morales any payments due for work performed through the date of termination and other payments due, if any, upon termination on the same terms and conditions applicable to unclassified general employees and shall have no further liability to him whatsoever, including no obligation to pay the Severance Payment as defined in Section 11.a. Cause is defined as one or more of the following: material breach of this Agreement; conviction of any felony; admission of conduct that would constitute any felony; conduct that would constitute a violation of any applicable code of ethics or professional conduct; conduct that would constitute malfeasance or misfeasance in office as those terms are interpreted under Section 112.3187, Florida Statutes; or other similar conduct that the City Commission reasonably determines merits termination.

12. Pension. Morales shall become a member of the Miami Beach Employees Retirement Plan as a condition of his employment pursuant to the governing ordinance of the

plan (which plan, at the time of the execution of this Agreement, includes an accrual factor of 4 percent for the position of city manager).

13. Bonds. The City shall bear the full expense of any fidelity or other bond required of Morales in his capacity as City Manager under any statute, ordinance, or regulation.

14. Indemnification. The City shall indemnify and defend Morales or, at its option, provide a defense to Morales against claims arising out of and in the course and scope of his employment or function, consistent with and to the extent of Florida law under Chapter 111, Florida Statutes, and a public official's right to a defense against claims arising from their performance of their public duties performed while serving a public purpose under the common law of Florida.

15. Notice. Any notice hereunder shall be effective if made by delivery, postage paid, to the United States Postal Service or by a manner valid for personal service under the Florida Rules of Civil Procedure or by public statement on the record during a meeting of the City Commission in the presence of the party to whom notice is to be given. Notice, for purposes of this Agreement, is to be given to:

City: Mayor Matti Herrera Bower (or successor)
City of Miami Beach
1700 Convention Center Drive
Miami Beach, Florida 33139

and

City Attorney Jose Smith (or successor)
City of Miami Beach
1700 Convention Center Drive
Miami Beach, Florida 33139

Morales: Jimmy L. Morales (or heirs)
6815 Corsica Street
Coral Gables, Florida 33146

16. No Assignment or Delegation; No Third-Party Beneficiaries. The services provided by Morales are considered unique and personal to him. Accordingly, Morales may not delegate or assign any duty, obligation, or benefit attaching or accruing hereunder. This Agreement is entered into and intended for the benefit solely of the City and of Morales and not for the benefit of any other person or entity.

17. Entire Agreement, Severability, Modification, Waiver. The provisions of this Agreement constitute the entire agreement between the Parties on its subject matter and this Agreement supersedes any other agreement, understanding, representation, or promise whatsoever. Morales agrees that he has relied solely upon the express language of this Agreement in determining whether to enter into this Agreement and not upon any other understanding or communication of any kind, whether written or oral. Should a court or arbitrator of competent jurisdiction determine that any provision or portion thereof of this Agreement is illegal, invalid, or unenforceable, the remaining provisions or portions thereof shall

remain in full force and effect. This Agreement may be modified only by a writing signed by both Parties and approved by the City Commission by resolution. Waiver of any right or of any breach of this Agreement by either party in any instance or instances shall not constitute or be construed as a waiver in any other instance.

18. Construction, Governing Law, Headings. This Agreement shall be construed according to its express language and not strictly for or against either Party, regardless of authorship. This Agreement shall be governed by and according to the laws of the State of Florida. Section headings are for convenience only and shall have no legal effect.

19. Arbitration. The Parties agree that any claim or dispute arising from this Agreement, its interpretation, its renewal, or its breach shall be settled in final and binding arbitration by a single arbitrator under the Arbitration Policies and Procedures of the Federal Mediation and Conciliation Service. A panel of arbitrators may be requested by either Party and the Parties will select an arbitrator by alternative strikes. The first Party to strike will be determined by agreement or coin flip. Each Party may one time reject a proposed panel of arbitrators and request another. The party requesting any panel shall bear the expense of the request. The Parties shall bear equally the expense of the arbitrator and the location of the arbitration hearing. The Parties shall each bear their own litigation costs, including attorney's fees, court reporter fees, and witness fees, if any. The arbitrator shall apply a preponderance of the evidence standard of proof. The party asserting a claim or affirmative defense shall have the burden of persuasion as to that claim or affirmative defense. The arbitrator shall not have authority to make any award of attorney's fees or the costs of the arbitration. The arbitrator shall confine himself or herself strictly to the language of this Agreement and shall have no authority to add to, subtract from, or modify any term or provision of this Agreement. The arbitrator shall have no authority to construe any law, regulation, rule, principle of law, decision, or provision or provisions of this Agreement or to make any award that would result in or obligate the City, directly or indirectly, to incur any debt, cost, expense, or liability in excess of the amount initially budgeted, approved, and appropriated for the funding of this Agreement. Any such purported construction or award will be null and void. The arbitrator's award shall be subject to enforcement or vacation by the Circuit Court according to law. Moreover, and without waiving the preceding limitation, in no case shall the City be liable for any punitive, consequential, indirect, or incidental damages whatsoever.

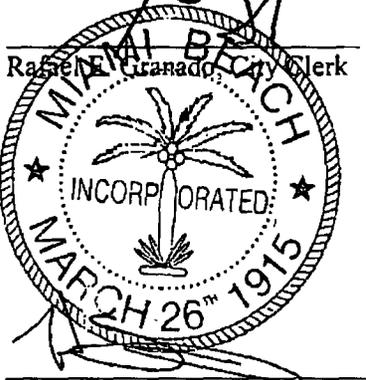
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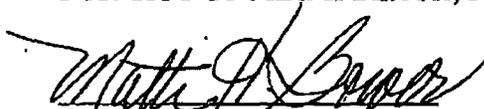
20. Counterparts, Electronic Signatures. This Agreement may be executed in one or more counterparts, each of which shall be deemed an original and all of which together shall constitute a single instrument. Execution and delivery of this Agreement by electronic exchange bearing the copies of a Party's signature shall constitute a valid and binding execution and delivery of this Agreement by such Party. Such electronic copies shall constitute enforceable original documents.

WHEREFORE, the Parties, after full consideration, including consultation with independent counsel, do knowingly, voluntarily, and intending to be legally bound, hereby enter into this Agreement duly executed on the dates written below.

Attest:

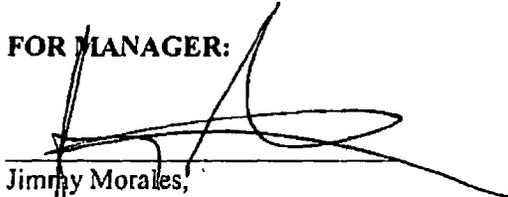
FOR CITY OF MIAMI BEACH, FLORIDA:


Rafael Granado, Clerk



Matti Herrera Bower, Mayor

17 day of April, 2013.

FOR MANAGER:


Jimmy Morales,

29th day of March, 2013.

Witness Signature

Humberto Crespo
Print Name

Marcos A. Poyar
Witness Signature

MARCOS A Poyar
Print Name

APPROVED AS TO
FORM & LANGUAGE
& FOR EXECUTION


City Attorney 3/29/13
Date

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MIAMI BEACH

City of Miami Beach, 1700 Convention Center Drive, Miami Beach, Florida 33139, www.miamibeachfl.gov

COMMITTEE MEMORANDUM

TO: Finance and Citywide Projects Committee Members

FROM: Jimmy L. Morales, City Manager 

DATE: March 2, 2015

SUBJECT: **A DISCUSSION REGARDING THE CONCESSION AGREEMENT FOR THE MANAGEMENT AND OPERATION OF A FOOD AND BEVERAGE CONCESSION, CURRENTLY OPERATED BY BLISSBERRY, LLC ("CONCESSIONAIRE"), LOCATED IN A PORTION OF THE SOUTH POINTE PARK PAVILION BUILDING.**

BACKGROUND

On May 12, 2010, the Mayor and City Commission approved the issuance of Request for Proposals (RFP) No. 34-09/10, for the management and operation of a food and beverage concession located in a portion of the South Pointe Park Pavilion Building.

Concessionaire was the top-ranked firm and on September 15, 2010, the Mayor and City Commission adopted Resolution No. 2010-27485, authorizing the Administration to enter into negotiations with Concessionaire; and further authorizing the Mayor and City Clerk to execute an agreement, upon conclusion of successful negotiations.

ANALYSIS

The City and Concessionaire are parties to a Concession Agreement (attached hereto as "Exhibit A"), dated November 24, 2010, for the management and operation of a food and beverage concession located in a portion of the South Pointe Park Pavilion Building.

The basic terms and conditions of the Concession Agreement are as follows:

- Concession Area:** A portion of the South Pointe Park Pavilion Building, consisting of approximately 240 square feet
- Initial Term:** Two (2) years commencing on December 1, 2010 and ending on November 30, 2012
- Renewal Options:** Three (3) renewal options for one (1) year each
- Concession Fee:** Fifteen percent (15%) of gross sales
- Minimum Guarantee:** Nine thousand dollars (\$9,000) annually, paid at the beginning of each contract year, with Consumer Price Index (CPI) increases annually, starting in the third year

For the first four (4) years of the Concession Agreement, Concessionaire's gross sales, and the corresponding fees paid to the City, are illustrated in the following chart:

Contract		Gross		Minimum	True-Up	Total
Year	Period	Sales	% Increase	Guarantee	(15% of Gross)	Rent
1*	12/10 - 11/11	74,652	-	9,000	2,198	11,198
2	12/11 - 11/12	124,846	67%	9,000	9,727	18,727
3	12/12 - 11/13	174,240	40%	9,576	16,560	26,136
4	12/13 - 11/14	224,666	29%	9,711	23,989	33,700
		598,404				89,761

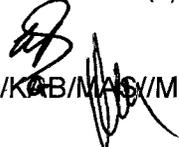
*Reflects Eight (8) Months of Sales Due to Delayed Opening

Concessionaire is currently in its final renewal term, ending on November 30, 2015, and has submitted a letter to the City (attached hereto as "Exhibit B"), requesting to extend the Concession Agreement for a period of five (5) years.

In the event the FCWP Committee agrees to extend the Concession Agreement, the Administration recommends maintaining the Concession Fee at fifteen percent (15%) of gross sales. However, based on recent conversations with the Concessionaire, and the average of the last two (2) years of actual gross sales, the Administration recommends increasing the Minimum Guarantee to thirty thousand dollars (\$30,000) annually, payable in equal quarterly installments of seven thousand dollars (\$7,500) each.

CONCLUSION

The Administration seeks a recommendation from the Finance and Citywide Projects Committee regarding the request from Concessionaire to extend the Concession Agreement for a period of five (5) years.


 JLM/KAB/MAS/MMM

Exhibits:

- A Concession Agreement
- B Letter From Concessionaire

Exhibit A

RECEIVED
3 FEB

CITY MANAGER'S OFFICE

Jimmy Morales
City Manager
1700 Convention Center Drive
Miami Beach, FL 33139

1/30/2015

Dear Mr. Morales,

As you may know, Blissberry was founded in Miami Beach in 2008. As a business operator and resident, it has always been my goal to deliver the utmost in service to our customers, tailored to satisfying their wishes with a personal touch.

Taking this approach has allowed us to increase sales by an average of 27% over the last three years.

We currently have plans for improving the facility to provide a more attractive venue and draw more people to the store and the park.

Prior to taking over the facility it was not state compliant regarding the State Regulations for said facility. We have invested \$5,000.00 and it now meets all State Regulations.

Naturally, our future plans will also involve capital expenditures.

Initially, we will upgrade the water filtration system and add a more functional ice machine.

We are requesting a lease extension of five years which we are confident will prove to be beneficial to the city and the park, as well as Blissberry.

Please contact me with any thoughts or questions. Thank you for your consideration of this matter.

Sincerely,

Kim Pham

Blissberry
1340 Monad Terrace #4
Miami Beach, FL 33139
305 915-5499

Exhibit B

**Blissberry, LLC
Concession
Agreement**

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**CONCESSION AGREEMENT BETWEEN
CITY OF MIAMI BEACH, FLORIDA AND
BLISSBERRY, LLC
FOR MANAGEMENT AND OPERATION OF A FOOD & BEVERAGE CONCESSION
IN A PORTION OF THE SOUTH POINTE PARK PAVILION BUILDING**

THIS AGREEMENT made the 24th day of November, 2010, between the **CITY OF MIAMI BEACH**, a municipal corporation of the State of Florida (hereinafter called "City"), having its principal address at 1700 Convention Center Drive, Miami Beach, Florida, 33139, and **BLISSBERRY, LLC**, a Florida limited liability company, having its principal place of business at 332 Lincoln Road, Miami Beach, Florida, 33139, (d/b/a Blissberry and hereinafter called "Concessionaire").

WITNESSETH

WHEREAS, on May 12, 2010, the Mayor and City Commission approved the issuance of Request for Proposals (RFP) No. 34-09/10, for a the management and operation of a concession facility within a portion of the structure commonly referred to as the "Pavilion Building" located in South Pointe Park; and

WHEREAS, Concessionaire was the top-ranked firm; and

WHEREAS, on September 15, 2010, the Mayor and City Commission adopted Resolution No. 2010-27485, authorizing the Administration to enter into negotiations with Concessionaire; and further authorizing the Mayor and City Clerk to execute an agreement, upon conclusion of successful negotiations; and

WHEREAS, accordingly, the City and Concessionaire have negotiated the following Concession Agreement.

NOW THEREFORE, in consideration of the premises and the mutual covenants and conditions herein contained and other good and valuable consideration, the receipt and adequacy of which are hereby conclusively acknowledged, it is agreed by the parties hereto as follows:

The City hereby grants to the Concessionaire, and the Concessionaire hereby accepts from the City, the right to maintain, manage and operate a food and beverage concession within the Concession Area (as hereinafter defined), in accordance with the purpose(s) and for the term(s) stated herein, and subject to all the terms and conditions herein contained.

SECTION 1. TERM.

1.1 This Agreement shall commence on the 1st day of December, 2010 (the "Commencement Date"), and terminate on the 30th day of November, 2012 (the Term).

For purposes of this Agreement, a "contract year" shall be defined as that certain period commencing on the 1st day of December, and ending on the 30th day of November.

- 1.2 Provided that the Concessionaire is not in default under Section 13 herein, and at the City Manager's sole discretion, and upon written notice from Concessionaire of its intent to renew, which notice shall be given no less than thirty (30) days prior to the expiration of the initial term (or any renewal term, as the case may be), the City Manager may extend the term of this Agreement, upon the same terms and conditions, for three (3) individual one (1) year renewal terms. Any such renewal may require Concessionaire to purchase new equipment for the renewal term, subject to the prior written approval of the City Manager.

SECTION 2. CONCESSION AREA.

The City hereby grants to Concessionaire the right, during the Term herein, to maintain, manage and operate a food and beverage concession in the following Concession Area:

- 2.1 Concession Area within the Pavilion Building:
An area comprised of 240 square feet within the Pavilion Building, located at 3 South Washington Avenue and as further delineated in Exhibit 2.1 hereto.
- 2.2 Notwithstanding the Concession Area granted to Concessionaire in Section 2.1, Concessionaire hereby understands, agrees, and acknowledges that the Concession Area, along with any and all other public facilities in South Pointe Park not specifically identified herein is intended to be open and available to the public and, as such, must remain available for the use and enjoyment of the general public. Notwithstanding the preceding, Concessionaire may designate areas within the Concession Area which shall not be open to and/or accessible to the general public (e.g. "kitchen areas, pantries, and/or storage closets, etc.).

SECTION 3. USE(S).

Concessionaire is hereby authorized to conduct the following kind(s) of businesses and provide the following kind(s) of services within the Concession Area, all at its sole expense and responsibility:

- 3.1 Food and Beverage Service.
- 3.1.1 Concessionaire shall prepare, or cause to be prepared, for sale within and from the Concession Area, such pre-cooked, prepared, and/or prepackaged foods and such non-alcoholic beverages as those set forth in Exhibit 3.1.1. The City Manager hereby approves the types of food and beverages, and prices for same (as those set forth in Exhibit 3.1.1). Any amendments to Exhibit 3.1.1, whether as to type of food and beverages to be sold, or as to changes in prices for same, must be approved in writing by the City Manager or his designee, such approval not to be unreasonably withheld, delayed or conditioned, prior to such changes being implemented within the Concession Area,

and a new updated Exhibit 3.1.1 will be incorporated into this Agreement.

- 3.1.2 All food and beverages sold within the Concession Area will be prepared using only the equipment and/or methodology approved by the City and as set forth in Exhibit 3.1.2, as well as properly prepared and served in compliance with all applicable health and sanitary standards, laws and regulations.
- 3.1.3 The quality of food, beverages, and service offered will be first-rate and comparable to that available at other public concession facilities at world class resorts on par with the City of Miami Beach.
- 3.1.4 In addition to Concessionaire's general maintenance obligations for the Concession Area, as set forth in Section 10 herein, the Concession Area and the immediately surrounding ten (10) foot adjacent areas, shall at all times be maintained in a clean and sanitary manner.
- 3.1.5 At least one supervisory employee must possess a Food Service Management Certification issued by a County Public Health Department in Florida. In addition, the Concession Area must be licensed by the Florida Department of Business Regulation, Division of Hotels and Restaurants, and/or the Department of Agriculture, and/or as may further be required by State law and/or by corresponding agencies.
- 3.1.6 Concessionaire agrees not to place any speakers, or any other device used to amplify sound, in, on or around the Concession Area.

3.3 City Business Tax Receipts.
Concessionaire shall obtain, at its sole expense and responsibility, any business tax receipts required by the City for the proposed use(s) contemplated herein. To the extent required by City law (as same may be amended from time to time), business tax receipts shall be obtained for each proposed use within a particular Concession Area.

3.4 Parking.
Concessionaire may request from the City's Parking Department, the use of one (1) designated parking space at the Municipal Parking Lot P1 (South Pointe Park parking lot) for delivery vehicle use only. The rate for said parking space is subject to change, and is currently Seventy Dollars (\$70.00) per month, plus applicable sales and use tax per space.

SECTION 4. CONCESSION FEES.

4.1 Minimum Guarantee (MG):
In consideration of the City's granting of the rights provided in this Agreement, on the 1st day of each contract year during the Term, the

Concessionaire shall pay to the City a Minimum Guaranteed Annual Concession Fee (MG) of Nine Thousand (\$9,000.00) Dollars.

Commencing with the third contract year (i.e. the first renewal term), and every subsequent contract year during the Term hereof, Concessionaire agrees that the MG shall be adjusted upward on the first day of each contract year during the Term hereof by the percentage change of the "Base Number" and the "Current Number" in the Consumer Price Index – All Urban Consumers – U.S. Food and Beverages - CUUR000SAf, as published by the Bureau of Labor Statistics of the U.S. Department of Labor, or of any revised or successor index hereafter published by the Bureau of Labor Statistics or other agency of the United States Government succeeding to its functions ("CPI"). The Base Number shall be the index for that month (i.e. July) and year which is four (4) months prior to the Commencement Date of this Agreement (the "Base Month"). The Current Number shall be the latest CPI published for the Base Month of each calendar year during the term of the Term of this Agreement.

4.2 Percentage of Gross (PG) vs. MG:

For each contract year during the Term, in the event that the amount equal to fifteen (15%) percent of Concessionaire's gross receipts (PG) exceeds the MG amount, then Concessionaire shall also pay to the City the difference between the PG amount and the MG amount, which payment shall be received no later than sixty (60) days after the end of each contract year.

The term "gross receipts" is understood to mean all income, whether collected or accrued, derived by Concessionaire under this Agreement, or any licensee, sub-concessionaire, or sub-tenant, as Concessionaire, from all business conducted upon or from the Concession Area, including but not limited to receipts from sale of food and beverages. The term "gross receipts" shall exclude amounts of any Federal, State, or City sales tax, or other tax, governmental imposition, assessment, charge or expense of any kind, collected by the Concessionaire from customers and required by law to be remitted to the taxing or other governmental authority.

4.3 Interest for Late Payment.

Any payment which Concessionaire is required to make to the City which is not paid on or before the respective date provided for in this Agreement shall be subject to interest at the rate of twelve (12%) percent per annum, or the maximum amount allowable under Florida law, whichever is greater, from the due date of payment until such time as payment is actually received by the City.

4.4 Sales and Use Tax.

It is also understood that the required Florida State Sales and Use Tax shall be added to Concessionaire's payments and forwarded to the City as part of said payments. It is the City's intent that it is to receive all payments due from Concessionaire as net of such Florida State Sales and Use Tax.

SECTION 5. MAINTENANCE AND EXAMINATION OF RECORDS.

Concessionaire shall maintain current, accurate, and complete financial records, on an accrual basis, related to its operations pursuant to this Agreement. Systems and procedures used to maintain these records shall include a system of internal controls; all accounting records shall be maintained in accordance with generally accepted accounting principles; and shall be open to inspection, copying, and audit by the City Manager or his designee upon reasonable verbal or written notice, during normal hours of operation. Concessionaire shall maintain all such records at its principal office, currently located at 332 Lincoln Road, Miami Beach, Florida, 33139, or, if moved to another location, all such records shall be relocated, at Concessionaire's sole expense, to a location in Miami Beach, within ten (10) days from notice of request for inspection from the City. Such records and accounts shall include, at a minimum, a breakdown of gross receipts, expenses, and profit and loss statements. Concessionaire shall maintain accurate receipt-printing cash registers (or a like alternative) in the Concession Area which will record and show the payment for every sale made or service provided in such Area. Such other records shall be maintained as would be required by an independent CPA in order to audit a statement of annual gross receipts and profit and loss statement pursuant to generally accepted accounting principles. Concessionaire records shall also be maintained for a period of three (3) years following expiration (or other termination) of this Agreement (regardless of whether such termination results from the expiration of the Term or for any other reason).

Concessionaire shall submit to the City Finance Department's Revenue Manager, within sixty (60) days of the end of each contract year, an annual statement of gross receipts, in a form consistent with generally accepted accounting principles.

SECTION 6. INSPECTION AND AUDIT.

The City Manager or his designee shall be entitled to audit Concessionaire's records as often as he/she deems necessary throughout the Term, and three (3) times within the three (3) year period following expiration (or other termination) of this Agreement. The City shall be responsible for paying all costs associated with such audit(s), unless the audit(s) reveals a deficiency of five (5%) percent or more in Concessionaire's statement of gross receipts for any year or years audited, in which case Concessionaire shall pay to the City, within thirty (30) days of the City deeming the audit final, the cost of the audit and a sum equal to the amount of the deficiency revealed by the audit, plus interest. These audits are in addition to periodic City audits of Resort Tax collections and payments (which are performed separately).

It is Concessionaire's intent to stay informed of comments and suggestions by the City regarding Concessionaire's performance under the Agreement. Within thirty (30) days after the end of each contract year, Concessionaire and the City may meet to review Concessionaire's performance under the Agreement for the previous contract year. At the meeting, Concessionaire and the City may discuss quality, operational, maintenance and any other issues regarding Concessionaire's performance under the Agreement.

Nothing contained within this Section shall preclude the City's audit rights for Resort Tax collection purposes.

SECTION 7. TAXES, ASSESSMENTS, AND UTILITIES.

Concessionaire agrees and shall pay, before delinquency, all taxes and assessments of

any kind (including, without limitation, ad valorem taxes, if assessed, and/or Resort Taxes) levied or assessed upon Concessionaire and/or the Concession Area including, without limitation, any such taxes and/or assessments that may be levied and/or assessed against Concessionaire and/or the Concession Area by reason of this Agreement, or by reason of the business or other operations and/or activities of Concessionaire upon or in connection with the Concession Area.

Concessionaire will have the right, at its own expense, to contest the amount or validity, in whole or in part, of any tax and/or assessment by appropriate proceedings, which Concessionaire shall conduct diligently and continuously, in good faith. Concessionaire may refrain from paying a tax to the extent it is contesting the imposition of same in a manner that is in accordance with law; provided, however, if, as a result of such contest, additional delinquency charges become due, Concessionaire shall be responsible for such delinquency charges, in addition to payment of the contested tax (if so ordered).

Concessionaire shall be solely responsible for and shall promptly pay when due all charges for utility service(s) provided to the Concession Area (including all hook-up fees and impact fees) for gas, electricity, water, sewer, cable, telephone, trash collection, etc.

Notwithstanding the preceding paragraph, the City shall charge Concessionaire a flat fee for 1) electricity, in the amount of One Hundred Twenty (\$120.00) Dollars per month; and 2) water usage, in the amount of Forty (\$40.00) Dollars per month. The City reserves the right, at its sole discretion, to adjust the flat monthly fees charged to Concessionaire for electric and water use at any time during the Term, upon thirty (30) days prior written notice to Concessionaire.

In addition to other rights and remedies hereinafter reserved to the City, upon the failure of Concessionaire to pay for such utility services when due, the City may elect to pay same and Concessionaire shall promptly reimburse the City upon demand. In no event shall the City be liable, whether to Concessionaire or to third parties, for an interruption or failure in the supply of any utilities services to the Concession Area.

SECTION 8. EMPLOYEES AND INDEPENDENT CONTRACTORS.

- 8.1 Concessionaire shall select, train, employ (or otherwise hire or retain) such number of employees and/or independent contractors as is necessary and appropriate for Concessionaire to satisfy its responsibilities hereunder, and as necessary to maintain the same levels of service as exist in similar first class concession facilities and operations. Concessionaire's employees and/or independent contractors shall be employees and/or independent contractors of Concessionaire and not of the City, and Concessionaire shall be solely responsible for their supervision and daily direction and control. Concessionaire shall be solely responsible for, and have the sole authority to hire, terminate and discipline any and all personnel and/or contractors employed or retained by Concessionaire.
- 8.2 Concessionaire and its employees and/or independent contractors shall wear identification badges and uniforms approved by the City, such approval not to be unreasonably withheld, delayed or conditioned, during all hours of

operation. All employees and/or independent contractors shall observe all the graces of personal grooming. Concessionaire shall hire people to work in its operation who are neat, clean, well groomed, and comport themselves in a professional and courteous manner. Concessionaire and any persons hired and/or retained by Concessionaire shall never have been convicted of a felony (excluding traffic offenses).

Concessionaire shall have an experienced manager or managers overseeing the concession operations at all times.

SECTION 9. HOURS OF OPERATION.

The Concession Area shall be open for business every day of the year, weather or events of force majeure permitting. Concessionaire's minimum hours of operation shall be:

9:00 AM to 7:00 PM or Sunset (whichever occurs earlier)

Any change in the hours of operation including, without limitation, any request by Concessionaire for an increase or decrease in same, shall be subject to the prior written approval of the City Manager or his designee, which approval, if granted at all, shall be at the City Manager's (or his designee's) sole option and discretion.

SECTION 10. IMPROVEMENTS, MAINTENANCE, REPAIR and OPERATION.

Concessionaire accepts the use of the Concession Area in its "AS IS" "WHERE IS" condition. Concessionaire assumes sole responsibility and expense for maintenance of the Concession Area (including all furniture, fixtures, equipment and any other improvements thereon). This shall include, without limitation, daily (i.e. 365 days) removal of litter, garbage and debris. Concessionaire shall also be responsible for all garbage disposal generated by its operations.

10.1 Improvements.

10.1.1 Any improvements to the Concession Area shall be at Concessionaire's sole expense and responsibility; provided, however, that any plans for such improvements shall be submitted to the City Manager or his designee for prior written approval, such approval not to be unreasonably withheld, delayed or conditioned, and a list of the approved improvements shall be attached hereto as Exhibit 10.1.1. Upon termination and/or expiration of this Agreement, all personal property and non-permanent trade fixtures may be removed by Concessionaire without causing damage to the Concession Area.

All permanent (fixed) improvements to the Concession Area shall remain the property of the City upon termination and/or expiration of this Agreement, except as provided in Subsection 10.1.2.

Concessionaire will permit no liens to attach to the Concession Area arising from, connected with, or related to, the design, construction, and installation of any improvements.

Construction of any approved improvements shall be diligently prosecuted to completion and accomplished through the use of licensed, reputable contractors who are acceptable to the City Manager or his designee. In addition to obtaining the prior approval of the City Manager or his designee (acting on behalf of the City, in a proprietary capacity), Concessionaire shall also be solely responsible for obtaining, at its sole cost and expense, any and all permits, licenses, and/or regulatory approvals; such regulatory approvals which may include, without limitation, land use board and/or the approvals of other required regulatory agencies having jurisdiction) required for the construction of improvements.

10.1.2 Notwithstanding Subsection 10.1.1 hereof, upon termination and/or expiration of this Agreement, Concessionaire shall immediately remove any permanent improvements made to the Concession Area during the Term, at Concessionaire's sole expense and responsibility. In such event, Concessionaire shall also restore the Concession Area to its original condition prior to the improvements being made, reasonable wear and tear excepted.

10.1.3 The above requirements for submission of plans and the use of specific contractors shall not apply to improvements (which term, for purposes of this subsection 10.1.3 only, shall also include improvements necessary for Concessionaire's ongoing maintenance and repair of the Concession Area) which do not exceed Five Hundred (\$500.00) Dollars; provided that the work is not structural, and provided further that it is permitted by applicable law.

10.2 Garbage Receptacles.

With respect to litter, garbage and debris removal, Concessionaire shall provide, at its sole expense, a sufficient number of trash receptacles for its own use and for the use of its patrons. Determination of the "number" of receptacles shall at all times be within the City Manager or his designee's sole discretion. Disposal of the contents of said receptacles (and removal of litter, garbage and debris within the Concession Area), shall be done on a daily (i.e. 365 days) basis. Any costs for removal of the contents of said trash receptacles by the City, because of the Concessionaire's failure to do so, will be assessed to, and become the responsibility of, the Concessionaire.

The dumping or disposal of any refuse, discards, trash or garbage, generated by, or as a result of Concessionaire's operations, into any of the South Pointe Park trash receptacles shall be strictly prohibited.

10.3 Maintenance/Repair.

Concessionaire shall maintain, at its sole expense and responsibility, all furniture, fixtures, and equipment (FFE) and any other improvements (whether permanent or not) required to operate the concession. In the event any FFE and/or other improvement(s) is lost, stolen, or damaged, it shall be replaced or repaired promptly, at the sole expense of Concessionaire.

- 10.3.1 All damage or injury of any kind to the Concession Area, and/or to any improvements and/or FFE thereon, except damage caused by the willful misconduct or gross negligence of the City, shall be the sole obligation of Concessionaire, and shall be repaired, restored and/or replaced promptly by Concessionaire, at its sole expense, to the satisfaction of the City Manager or his designee.
- 10.3.2 All of the aforesaid repairs, restoration and replacement shall be in quality and class equal to or better than the original work (or FFE, as the case may be) and shall be done in good and workmanlike manner.
- 10.3.3 If Concessionaire fails to make any repairs, restoration and/or replacement, the same may be made by the City, at the expense of Concessionaire, and all sums spent and expenses incurred by the City shall be collectable by the City and shall be paid by Concessionaire within ten (10) days after receipt of a bill or statement thereof. Notwithstanding that the City may elect to make such repairs, restoration, and/or replacement, the City shall have no obligation and/or affirmative duty to do so.
- 10.3.4 It shall be Concessionaire's sole obligation to ensure that any renovations, repairs and/or improvements made by Concessionaire to the Concession Area comply with all applicable permitting, building codes and life safety codes of governmental authorities having jurisdiction.
- 10.4 No Dangerous Materials.
Concessionaire agrees not to use or permit in the Concession Area the storage and/or use of gasoline, fuel oils, diesel, illuminating oils, oil lamps, combustible powered electricity producing generators, turpentine, benzene, naphtha, propane, natural gas, or other similar substances, combustible materials, or explosives of any kind, or any substance or thing prohibited in the standard policies of fire insurance companies in the State of Florida. Any such substances or materials found within the Concession Area shall be immediately removed.

In consideration of a separate and specific consideration of Ten (\$10.00) Dollars and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Concessionaire shall indemnify and hold the City harmless from any loss, damage, cost, or expense of the City, including, without limitation, reasonable attorney's fees, incurred as a result of, arising from, or connected with the placement by Concessionaire of any "hazardous substance" or "petroleum products" on, under, in or upon the Concession Area as those terms are defined by applicable Federal and State statutes, or any environmental rules and environmental regulations promulgated thereunder. The provisions of this subsection 10.4 shall survive the termination or earlier expiration of this Agreement.

10.5 Security.
Concessionaire shall be responsible for and provide such reasonable security measures as may be required to protect the Concession Area and any improvements and FFE thereon. Under no circumstances shall the City be responsible for any stolen or damaged FFE; damage to or loss of any improvements; or any stolen, lost, or damaged personal property of Concessionaire's employees, contractors, patrons, guests, invitees, and/or any other third parties, except if caused by the willful misconduct or gross negligence of the City, its officers, employees, contractors, agents or servants.

10.6 Inspection.
Concessionaire agrees that the Concession Area (and operations thereon) may be inspected at any time during hours of operation by the City Manager or his designee, or by any other municipal, County or State officer, or other agency having responsibility and/or jurisdiction for inspection of such operations. Concessionaire hereby waives all claims against the City for compensation for loss or damage sustained by reason of any interference with the concession operations, whether by the City or by any public agency or official, in enforcing their respective duties, or enforcing compliance with any applicable laws, or ordinances, or regulations.

SECTION 11. INSURANCE.

Concessionaire shall maintain, at all times throughout the Term, at its sole expense and responsibility, the following types of insurance coverage:

- a. Comprehensive General Liability, in the minimum amount of One Million (\$1,000,000.00) Dollars (subject to adjustment for inflation) per occurrence for bodily injury and property damage. This policy must also contain coverage for premises operations, products and contractual liability.
- b. Workers Compensation Insurance shall be required in accordance with the laws of the State of Florida.
- c. Automobile Insurance shall be provided covering all owned, leased, and hired vehicles and non-ownership liability for not less than the following limits (subject to adjustment for inflation):

Bodily Injury	\$1,000,000.00 per person
Bodily Injury	\$1,000,000.00 per accident
Property Damage	\$1,000,000.00 per accident

The policies of insurance referred to above shall not be subject to cancellation or changing coverage except upon at least thirty (30) days prior written notice to the City, and then only subject to the prior written approval of the City Manager or his designee, such approval not to be unreasonably withheld, delayed or conditioned. Prior to the Commencement Date of this Agreement, Concessionaire shall provide the City with a Certificate of Insurance for each such policy. **ALL POLICIES SHALL**

NAME THE CITY OF MIAMI BEACH FLORIDA AS AN ADDITIONAL NAMED INSURED. All such policies shall be obtained from companies authorized to do business in the State of Florida with an A.M. Best's Insurance Guide (latest edition) rating acceptable to the City's Risk Manager, and any replacement or substitute company shall also be subject to the approval of the City's Risk Manager, such approval not to be unreasonably withheld, delayed or conditioned.

Should Concessionaire fail to obtain, maintain or renew the policies of insurance referred to above, in the required amounts, the City may, at its sole discretion, obtain such insurance, and any sums expended by the City in obtaining said insurance, shall be repaid by Concessionaire to the City, plus ten (10%) percent of the amount of premiums paid to compensate the City for its administrative costs. If Concessionaire fails to repay the City's expenditures following written demand from the City (and within the time specified in the City's demand notice), such failure shall be deemed an event of default hereunder and the total sum owed shall accrue interest at the rate of twelve (12%) percent until paid.

SECTION 12. INDEMNITY.

- 12.1 In consideration of a separate and specific consideration of Ten (\$10.00) Dollars and other good and valuable consideration the receipt and sufficiency of which are hereby acknowledged, Concessionaire shall indemnify, hold harmless and defend the City, its officers, employees, contractors, agents or servants from and against any claim, demand or cause of action of whatsoever kind or nature arising out of error, omission, or negligent act of Concessionaire, its officers, employees, contractors, agents or servants in the performance of services under this Agreement.
- 12.2 In addition, and in consideration of a separate and specific consideration of Ten (\$10.00) Dollars and other good and valuable consideration the receipt and sufficiency of which are hereby acknowledged, Concessionaire shall indemnify, hold harmless and defend the City, its officers, employees, contractors, agents or servants from and against any claim, demand or cause of action of whatever kind or nature arising out of any misconduct of Concessionaire, its officers, employees, contractors, subconcessionaire(s), agents or servants not included in Subsection 12.1 herein and for which the City, its officers, employees, contractors, subconcessionaire(s), agents or servants are alleged to be liable.
- 12.3 Subsections 12.1 and 12.2 shall survive the termination or expiration of this Agreement. Subsections 12.1 and 12.2 shall not apply, however, to any such liability, that arises as a result of the willful misconduct or gross negligence of the City, its officers, employees, contractors, agents or servants.
- 12.4 Subrogation.
The terms of insurance policies referred to in Section 11 shall preclude subrogation claims against Concessionaire, the City and their respective officers, employees, contractors, agents or servants.

12.5 Force Majeure.
Whenever a period of time is herein prescribed for the taking of any action by the City or Concessionaire (as applicable), the City or Concessionaire (as applicable), shall not be liable or responsible for, and there shall be excluded from the computation of such period of time, any delays due to strikes, riots, acts of God, shortages of labor or materials, war, or governmental laws, regulations, or restrictions in the nature of a prohibition or moratorium, or any bona fide delay beyond the reasonable control of City or Concessionaire (as applicable). The foregoing shall not apply to any payments of money due under this Agreement.

12.6 Waiver of Loss from Hazards.
Concessionaire hereby expressly waives all claims against the City for loss or damage sustained by the Concessionaire resulting from an event of Force Majeure (as defined herein), and the Concessionaire hereby expressly waives all rights, claims, and demands against the City and forever releases and discharges the City from all demands, claims, actions and causes of action arising from any of the aforesaid causes.

SECTION 13. DEFAULT AND TERMINATION.

Subsections 13.1 through 13.3 shall constitute events of default under this Agreement. An event of default by Concessionaire shall entitle the City to exercise any and all remedies described as the City's remedies under this Agreement, including but not limited to those set forth in Subsection 13.4 and Section 14. An event of default by the City shall entitle Concessionaire to exercise any and all remedies described as Concessionaire's remedies under this Agreement, including but not limited to those set forth in Subsection 13.5.

13.1 Bankruptcy.
If either the City or Concessionaire shall be adjudged bankrupt or insolvent, or if any receiver or trustee of all or any part of the business property of either party shall be appointed, or if any receiver of all or any part of the business property shall be appointed and shall not be discharged within sixty (60) days after appointment, or if either party shall make an assignment of its property for the benefit of creditors, or shall file a voluntary petition in bankruptcy, or insolvency, or shall apply for reorganization or arrangement with its creditors under the bankruptcy or insolvency laws now in force or hereinafter enacted, Federal, State, or otherwise, or if such petitions shall be filed against either party and shall not be dismissed within sixty (60) days after such filing, then the other party may immediately, or at any time thereafter, and without further demand or notice, terminate this Agreement without being prejudiced as to any remedies which may be available to it for breach of contract.

13.2 Default in Payment.
In the event Concessionaire fails to submit any payment within five (5) days of its due date, there shall be a late charge of Fifty (\$50.00) Dollars per day for such late payment, in addition to interest at the highest rate allowable by law. If any payment and accumulated penalties are not received within fifteen (15) days after the payment due date, and such failure continues three (3)

days after written notice thereof, then the City may, without further demand or notice, terminate this Agreement without being prejudiced as to any remedies which may be available to it for breach of contract, and may begin procedures to collect the Performance Bond required in Section 14 herein.

13.3

Non-Monetary Default.

In the event that Concessionaire or the City fails to perform or observe any of the covenants, terms or provisions under this Agreement, and such failure continues thirty (30) days after written notice thereof from the other party hereto, such non-defaulting party may immediately or at any time thereafter, and without further demand or notice, terminate this Agreement. In the event that a default is not reasonably susceptible to being cured within such period, the defaulting party shall not be considered in default if it shall, within such period, commence with due diligence and dispatch to cure such default and thereafter completes with dispatch and due diligence the curing of such default, but in no event shall such extended cure period exceed ninety (90) days from the date of written notice thereof. In the event Concessionaire cures any default pursuant to this subsection, it shall promptly provide the City with written notice of same.

13.4

City's Remedies for Concessionaire's Default.

If any of the events of default, as set forth in this Section, shall occur, the City may, after notice (if required) and the expiration of cure periods, as provided above, at its sole option and discretion, institute such proceedings as in its opinion are necessary to cure such default(s) and to compensate the City for damages resulting from such default(s), including but not limited to the right to give to Concessionaire a notice of termination of this Agreement. If such notice is given, the Term of this Agreement shall terminate upon the date specified in such notice from the City to Concessionaire. On the date so specified, Concessionaire shall then quit and surrender the Concession Area to the City pursuant to the provisions of Subsection 13.7. Upon the termination of this Agreement by the City, all rights and interest of Concessionaire in and to the Concession Area and to this Agreement, and every part thereof, shall cease and terminate and the City may, in addition to any other rights and remedies it may have, retain all sums paid to it by Concessionaire under this Agreement, including but not limited to, beginning procedures to collect the Performance Bond in Section 14 herein.

In addition to the rights set forth above, the City shall have the rights to pursue any and all of the following:

- a. the right to injunction or other similar relief available to it under Florida law against Concessionaire; and/or
- b. the right to maintain any and all actions at law or suits in equity or other proper proceedings to obtain damages resulting from Concessionaire's default.

13.5 Concessionaire's Remedies for City's Default.

If an event of default, as set forth in this Section, by the City shall occur, Concessionaire may, after the expiration of the cure period, terminate this Agreement upon written notice to the City. Said termination shall become effective upon receipt of the written notice of termination by the City. On the date specified in the notice, Concessionaire shall quit and surrender the Concession Area to the City pursuant to the provisions of Subsection 13.7.

13.6 Termination for Convenience.

13.6.1 Notwithstanding any other provision of this Section 13, this Agreement may be terminated, in whole or in part, by the City, for convenience and without cause, upon the furnishing of sixty (60) days prior written notice to Concessionaire.

13.6.2 In the event of termination by the City pursuant to this subsection, Concessionaire herein acknowledges and agrees that it shall not have any claim, demand, or cause of action of whatsoever kind or nature, against the City, its agents, servants and employees (including, but not limited to, claims for any start-up costs, interference in business or damages for interruption of services, or interference in its concession operations). In no event shall the City be liable to Concessionaire for any indirect, incidental, special, lost profits or consequential damages.

13.7 Surrender of Concession Area.

At the expiration of this Agreement, or earlier termination in accordance with the terms of this Agreement, Concessionaire shall surrender the Concession Area in the same condition as the Concession Area was prior to the Commencement Date of this Agreement, reasonable wear and tear excepted. Concessionaire shall remove all its personal property, upon forty-eight (48) hours written notice from the City Manager or his designee unless a longer time period is agreed to by the City. Concessionaire's obligation to observe or perform this covenant shall survive the expiration or other termination of this Agreement. Continued occupancy of the Concession Area after termination of the Agreement shall constitute trespass by the Concessionaire, and may be prosecuted as such. In addition, the Concessionaire shall pay to the City One Thousand (\$1,000.00) Dollars per day as liquidated damages for such trespass and holding over.

SECTION 14. PERFORMANCE BOND OR ALTERNATE SECURITY.

Concessionaire shall, on or before the Commencement Date of this Agreement, furnish to the City Manager or his designee a Performance Bond in the penal sum as stated below for the payment of which Concessionaire shall bind itself for the faithful performance of the terms and conditions of this Agreement. A Performance Bond, in the amount of Two Thousand Two Hundred Fifty (\$2,250.00) Dollars, shall be required and be in faithful observance of this Agreement. A cash deposit, irrevocable letter of credit, or certificate of deposit may also suffice, as determined by the City Manager or his designee in his reasonable discretion. The form of the Performance Bond or letter of credit shall be as required by the City Manager or his designee. In the event that a Certificate of Deposit is

approved, it shall be a Two Thousand Two Hundred Fifty (\$2,250.00) Dollar one-year Certificate of Deposit in favor of the City, which shall be automatically renewed, the original of which shall be held by the City's Chief Financial Officer. Concessionaire shall be so required to maintain said Performance Bond or alternate security, as accepted by the City Manager or his designee, in full force and effect throughout the Term of this Agreement. Concessionaire shall have an affirmative duty to notify the City, in writing, in the event said Performance Bond or alternate security lapses or otherwise expires. All interest that accrues in connection with any financial instrument or sum of money referenced above shall be the property of Concessionaire, except in an event of default, in which case the City shall be entitled to all interest that accrues after the date of default.

SECTION 15. ASSIGNMENT.

Concessionaire shall not assign, sublease, grant any sub-concession or license, permit the use of by any other person other than Concessionaire, or otherwise transfer all or any portion of this Agreement and/or of the Concession Area (all of the forgoing are herein after referred to collectively as "transfers"), without the prior written consent of the City Manager, which consent shall not be unreasonably withheld.

Concessionaire shall notify the City Manager of any proposed transfer prior to consummation of same. In the event that any such transfer is approved, the transferee shall agree to be bound by all the covenants of this Agreement required of the transferor hereunder. Any transfer made without complying with this section shall be null, void, and of no effect and shall constitute an act of default under this Agreement. Notwithstanding any such consent, or any permitted transfer under any provision of this section, unless expressly released by the City Manager, Concessionaire shall remain jointly and severally liable (along with each approved transferee, who shall automatically become liable for all obligations of the transferor hereunder with respect to that portion of the Agreement so transferred), and the City shall be permitted to enforce the provisions of this Agreement directly against Concessionaire or any transferee of Concessionaire without proceeding in any way against any other person.

SECTION 16. SPECIAL EVENTS / SPONSORSHIPS.

16.1 The parties agree and acknowledge that Concessionaire's proposed use(s), as defined in Section 3 hereof, do not contemplate nor allow the production, promotion or sponsorship by the Concessionaire of special events in or around the Concession Area.

16.2 City Special Events.

Notwithstanding Subsection 16.1 herein, and in the event that the City, at its sole discretion, deems that it would be in the best interest of the City, the City reserves the right to displace the Concessionaire for City produced and/or sponsored special events and/or City produced and/or sponsored productions, upon five (5) days prior written notice to Concessionaire. Additionally, the aforesaid events may also require additional time for load-in and load-out of the event. In such cases, the City may request that Concessionaire cease and desist operations during the term of, and in the area of, the special event and/or production, and Concessionaire shall cease and desist during such time. To the extent that Concessionaire is displaced,

and/or required to cease and desist operations, City shall provide, calculated on a per diem basis for the period of time the Concession Area is non-operational, a credit against Concessionaire's PG amount, as delineated in Section 4.2 herein. If the Concessionaire is not required to close, or the City Manager or his designee determines that Concessionaire may remain open in such a manner as prescribed by the City, that will not interfere with the special event and/or production, Concessionaire shall use its best efforts, in either case, in cooperating with the City. If Concessionaire is allowed to remain open during special events and/or productions, Concessionaire may be allowed to have in operation its normal daily complement of equipment and staff. "Normal" shall be defined as equipment and staff that the Concessionaire customarily has available to service its patrons within the Concession Area on a normal business day (during its hours of operation).

16.3

Sponsorships.

The City reserves unto itself all present and future rights to negotiate all forms of endorsement and/or sponsorship agreements based on the marketing value of any City trademark, property, brand, logo and/or reputation. Any and all benefits derived from an endorsement and/or sponsorship agreement based on the marketing value of a City trademark property, brand, logo and/or reputation, shall belong exclusively to the City. Concessionaire shall be specifically prohibited from entering into, or otherwise creating any, sponsorships and/or endorsements with third parties which are based solely or in any part on the marketing value of a City trademark, property, brand, logo and/or reputation.

SECTION 17. NO IMPROPER USE.

Concessionaire will not use, nor suffer or permit any person to use in any manner whatsoever, the Concession Area for any improper, immoral or offensive purpose, or for any purpose in violation of any Federal, State, County, or municipal ordinance, rule, order or regulation, or of any governmental rule or regulation now in effect or hereafter enacted or adopted. Concessionaire will protect, indemnify, and forever save and keep harmless the City, its officers, employees, contractors, agents or servants, from and against damage, penalty, fine, judgment, expense or charge suffered, imposed, assessed or incurred for any violation, or breach of any law, ordinance, rule, order or regulation occasioned by any act, neglect or omission of Concessionaire, or any of its officers, employees, contractors, agents or servants. In the event of any violation by Concessionaire, or if the City shall deem any conduct on the part of Concessionaire to be objectionable or improper, the City Manager or his designee shall have the right to suspend the concession operations should the Concessionaire fail to correct any such violation, conduct, or practice to the satisfaction of the City Manager or his designee within twenty-four (24) hours after receiving written or verbal notice of the nature and extent of such violation, conduct, or practice; such suspension to continue until the violation is cured. Concessionaire further agrees not to commence operations during the suspension until the violation has been corrected to the satisfaction of the City Manager or his designee.

SECTION 18. PRICE SCHEDULES.

- 18.1 Concessionaire agrees that prices charged for the sale of food and beverage service will be consistent with the price schedule(s) herein submitted by the Concessionaire and approved by the City and incorporated herein as exhibits to this Agreement. All subsequent price approvals and changes must be approved in writing by the City Manager or his designee, such approval not to be unreasonably withheld, delayed or conditioned. Prices shall be reasonably consistent with those charged for similar items in other similar public concessions in the City. The City shall have the final right of approval for all such prices and changes, such approval not to be unreasonably withheld, delayed or conditioned. Concessionaire agrees to refrain from the sale of any item identified as prohibited by the City and to sell only those items approved by the City. Concessionaire agrees to maintain an adequate supply necessary to accommodate park patrons.
- 18.2 Notwithstanding Subsection 18.1, Concessionaire acknowledges that the City has an existing "Concession Agreement for Operation of Vending Machines", dated October 19, 2005, which entitles the vendor to the placement of up to six (6) vending machines within South Pointe Park. Concessionaire shall at all times price products of similar type and/or volume in a manner equal or greater to the pricing of the vending machine item(s). At no time shall Concessionaire's item(s) be sold at a lower price than similar items sold in the vending machines.

SECTION 19. NOTICES.

All notices from the City to Concessionaire shall be deemed duly served upon receipt, if mailed by registered or certified mail with a return receipt to Concessionaire at the following addresses:

Kim E. Pham, Manager
Blissberry, LLC
332 Lincoln Road
Miami Beach, Florida 33139

With copies to:

Craig M. Dorne, P.A.
407 Lincoln Road, Penthouse SE
Miami Beach, Florida 33139

All notices from Concessionaire to the City shall be deemed duly served upon receipt, if mailed by registered or certified mail return receipt requested to the City of Miami Beach at the following addresses:

City Manager
City of Miami Beach
1700 Convention Center Drive
Miami Beach, FL 33139

With copy to:

Director of Real Estate, Housing & Community Development
City of Miami Beach
1700 Convention Center Drive
Miami Beach, FL 33139

Concessionaire and the City may change the above mailing addresses at any time upon giving the other party written notification. All notices under this Agreement must be in writing.

SECTION 20. LAWS.

20.1 Compliance.

Concessionaire shall comply with all applicable City, County, State, and Federal ordinances, statutes, rules and regulations (including but not limited to all applicable environmental City, County, State, and Federal ordinances, statutes, rules and regulations, as same may be amended from time to time.

20.2 Equal Employment Opportunity.

Neither Concessionaire nor any affiliate of Concessionaire performing services hereunder, or pursuant hereto, will discriminate against any employee or applicant for employment because of race, sex, sexual orientation, color, creed, national origin, familial status, religion or handicap. Concessionaire will take affirmative steps to utilize minorities and females in the work force and in correlative business enterprises.

20.3 No Discrimination.

Concessionaire agrees that there shall be no discrimination as to race, sex, sexual orientation, color, creed, national origin, familial status, religion or handicap, in its employment practice or in the operations referred to by this Agreement; and further, there shall be no discrimination regarding any use, service, maintenance, or operation within the Concession Area. All facilities and services offered shall be made available to the public.

SECTION 21. MISCELLANEOUS.

21.1 No Partnership.

Nothing contained in this Agreement shall constitute or be construed to be or create a partnership or joint venture between the City and Concessionaire.

21.2 Modifications.

This Agreement cannot be changed or modified except by agreement in writing executed by all parties hereto. Concessionaire acknowledges that no modification to this Agreement may be agreed to by the City unless approved by the Mayor and City Commission except where such authority has been expressly provided herein to the City Manager.

- 21.3 Complete Agreement.
This Agreement, together with all exhibits incorporated hereto, constitutes all the understandings and agreements of whatsoever nature or kind existing between the parties with respect to Concessionaire's operations, as contemplated herein.
- 21.4 Headings.
The section, subsection and paragraph headings contained herein are for convenience of reference only and are not intended to define, limit, or describe the scope or intent of any provision of this Agreement.
- 21.5 Binding Effect.
This Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective successors and permitted assigns.
- 21.6 Clauses.
The illegality or invalidity of any term or any clause of this Agreement shall not affect the validity of the remainder of the Agreement, and the Agreement shall remain in full force and effect as if such illegal or invalid term or clause were not contained herein unless the elimination of such provision detrimentally reduces the consideration that either party is to receive under this Agreement or materially affects the continuing operation of this Agreement.
- 21.7 Severability.
If any provision of this Agreement or any portion of such provision or the application thereof to any person or circumstance shall be held to be invalid or unenforceable, or shall become a violation of any local, State, or Federal laws, then the same as so applied shall no longer be a part of this Agreement but the remainder of the Agreement, such provisions and the application thereof to other persons or circumstances, shall not be affected thereby and this Agreement shall be so modified.
- 21.8 Right of Entry.
The City, at the direction of the City Manager, shall at all times during hours of operation, have the right to enter into and upon any and all parts of the Concession Area for the purpose of examining the same for any reason relating to the obligations of parties to this Agreement.
- 21.9 Not a Lease.
It is expressly understood and agreed that no part, parcel, building, structure, equipment or space is leased to Concessionaire; that this Agreement is a concession agreement and not a lease, and that Concessionaire's right to operate, manage, and maintain the concession shall continue only so long as Concessionaire complies with the undertakings, provisions, agreements, stipulations and conditions of this Agreement.

Accordingly, Concessionaire hereby agrees and acknowledges that in the event of termination of this Agreement, whether due to a default by

Concessionaire or otherwise, Concessionaire shall surrender and yield unto the City the Concession Area, in accordance with Subsection 13.7 hereof, and the City shall in no way be required to evict and/or otherwise remove Concessionaire from the Concession Area as if this were a tenancy under Chapter 83, Florida Statutes, nor shall Concessionaire be afforded any other rights afforded to nonresidential tenants pursuant to said Chapter (the parties having herein expressly acknowledged that this Agreement is intended to be a concession agreement and is in no way intended to be a lease).

21.10 Signage.

Concessionaire shall provide, at its sole expense and responsibility, any required signs at its concession. All advertising, signage and postings shall be approved by the City, and shall be in accordance with all applicable Municipal, County, State and Federal laws and regulations. Any signage posted by Concessionaire shall be subject to the prior approval of the City as to size, shape and placement of same, such approval not to be unreasonably withheld, delayed or conditioned.

21.11 Conflict of Interest.

Concessionaire shall perform its services under this Agreement and conduct the concession operation(s) contemplated herein, in a manner so as to show no preference for other concession operations/facilities owned, operated, managed, or otherwise controlled by Concessionaire.

21.12 No Waiver.

21.12.1 It is mutually covenanted and agreed by and between the parties hereto that the failure of the City to insist upon the strict performance of any of the conditions, covenants, terms or provisions of this Agreement, or to exercise any option herein conferred, will not be considered or construed as a waiver or relinquishment for the future of any such conditions, covenants, terms, provisions or options but the same shall continue and remain in full force and effect.

21.12.2 A waiver of any term expressed herein shall not be implied by any neglect of the City to declare a forfeiture on account of the violation of such term if such violation by continued or repeated subsequently and any express waiver shall not affect any term other than the one specified in such waiver and that one only for the time and in the manner specifically stated.

21.12.3 The receipt of any sum paid by Concessionaire to the City after breach of any condition, covenant, term or provision herein contained shall not be deemed a waiver of such breach, but shall be taken, considered and construed as payment for use and occupation (and not as rent), unless such breach be expressly waived in writing by the City.

21.13 No Third Party Beneficiary.

Nothing in this Agreement shall confer upon any person or entity, other than the parties hereto and their respective successors and permitted assigns, any rights or remedies by reason of this Agreement.

SECTION 22. LIMITATION OF LIABILITY.

The City desires to enter into this Agreement placing the management and operation of the Concession Area in the hands of a private management entity only if so doing the City can place a limit on its liability for any cause of action for breach of this Agreement, so that its liability for any such breach never exceeds the sum of Ten Thousand (\$10,000.00) Dollars. Concessionaire hereby expresses its willingness to enter into this Agreement with a Ten Thousand (\$10,000.00) Dollar limitation on recovery for any action for breach of contract. Accordingly, and in consideration of the separate consideration of Ten Thousand (\$10,000.00) Dollars, the receipt of which is hereby acknowledged, the City shall not be liable to Concessionaire for damages to Concessionaire in an amount in excess of Ten Thousand (\$10,000.00) Dollars, for any action for breach of contract arising out of the performance or non-performance of any obligations imposed upon the City by this Agreement. Nothing contained in this paragraph or elsewhere in this Agreement is in any way intended to be a waiver of limitation placed upon the City's liability as set forth in Florida Statutes, Section 768.28.

SECTION 23. VENUE.

This Agreement shall be deemed to have been made and shall be construed and interpreted in accordance with the laws of the State of Florida. This Agreement shall be enforceable in Miami-Dade County, Florida, and if legal action is necessary by either party with respect to the enforcement of any and all the terms or conditions herein, exclusive venue for the enforcement of same shall lie in Miami-Dade County, Florida. **THE CITY AND CONCESSIONAIRE HEREBY KNOWINGLY AND INTENTIONALLY WAIVE THE RIGHT TO TRIAL BY JURY IN ANY ACTION OR PROCEEDING THAT THE CITY AND CONCESSIONAIRE MAY HEREIN AFTER INSTITUTE AGAINST EACH OTHER WITH RESPECT TO ANY MATTER ARISING OUT OF OR RELATED TO THIS AGREEMENT OR THE CONCESSION AREA.**

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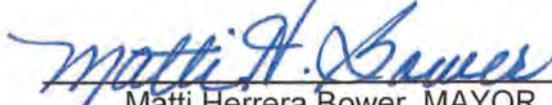
IN WITNESS WHEREOF, the parties hereto have caused their names to be signed and their seals to be affixed, all as of the day and year first above written, indicating their agreement.

Attest:

CITY OF MIAMI BEACH, FLORIDA



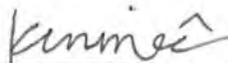
Robert Parcher, CITY CLERK



Matti Herrera Bower, MAYOR

Attest:

Signature/Secretary



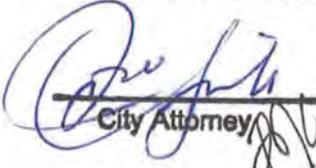
Kim E. Pham, Manager

(Print Name)

CORPORATE SEAL
(affix seal here)

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**APPROVED AS TO
FORM & LANGUAGE
& FOR EXECUTION**



City Attorney

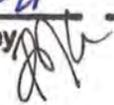
 11/22/16
Date

EXHIBIT 3.1.1

Menu & Prices

(page 1 of 2)



365 Days a Year: 9am-Sunset

Beach service till Sunset daily



bliss beverages

<i>bliss H2O: Pure fresh bottled bliss, you may want 2. 1 to take home.</i>	\$2
<i>Lychee Green Tea: A SOBE Favorite, Sweet or Un-Sweetened, your bliss</i>	\$2
<i>Fresh Squeezed Soda Lemonade: made w/ fresh squeezed local lemons, it will bubble up your day</i>	\$4
<i>Fresh Squeezed Lemonade: Made fresh daily with local lemons</i>	\$4
<i>Vietnamese Iced Coffee 16oz: Gourmet coffee w/ condensed milk, shaken and served over ice</i>	\$4
<i>Fresh Squeezed Juice 16 oz: 100% Local and freshly squeezed to perfection. You can taste the freshness</i>	\$4
<i>Fresh Squeezed Smoothies 16 oz:</i>	\$6
<i>blissberry snow bubble A fresh blended fruit smoothie layered over a tapioca ball treat</i>	\$6



Gourmet blissberry Yogurt

Mini: 4 oz w/ Toppings	\$5.00
Medium: 8 oz w/ Toppings	\$6.00
Mega: 16 oz w/ Toppings	\$8.50

Gourmet Cupcakes / Snacks

Mini	\$1.50
The Big Kid	\$3.00
Bliss Snacks	3 / \$5.00

Bringing Bliss to you!



EXHIBIT 3.1.1

Menu & Prices

(page 2 of 2)



Yogurt Bar & Beach Grill



Good Morning Miami

Morning Pastries \$6

Hot off The Press

Panini \$9
Quesadilla: Made with blended cheese and pressed to perfection \$9

Soups and salads

Skinny Dip: *Fresh cut Veggies w/ Dip* \$9
blissberry Signature Salad \$10
Fruit Salad: A medley of fresh fruits \$10
Caesar Salad w/ Grilled or Blackened Chicken \$12
Soup of the Day: Prepared w/ only the freshest ingredients you will always be satisfied \$4 cup
\$8 bowl

Tots e'z Tinsy

No Meat please Quesadilla, filled with fresh grated cheese and \$6
Grilled Kosher Hot Doggie Dog \$6
The Grilled Cheese: A perfect grilled cheese sandwich made with your bread of choice \$6
Try it with toppings! add (\$1) each \$7

South Point

World Famous Miami Beach, Fl 33139

Tel 305 558-5150

TEXT : Bliss2Go

*Cash or The Bliss Loyalty Card accepted only! 10% DISCOUNT w/ Loyalty Card
Bringing bliss to you!*



EXHIBIT 3.1.2

Concessionaire's Equipment List

Bread Rack
Freezer
Prep Table with fridge
Toaster
Juicers (2)
Blenders (2)
Cash Register
Television

EXHIBIT 10.1.1
Concessionaire's Improvements

Concessionaire does not anticipate the need to make any improvements.

EXHIBIT 21.10
Concessionaire's Signage

(TO BE SUBMITTED BY CONCESSIONAIRE)

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MIAMI BEACH

City of Miami Beach, 1700 Convention Center Drive, Miami Beach, Florida 33139, www.miamibeachfl.gov

COMMITTEE MEMORANDUM

TO: Finance and Citywide Projects Committee Members

FROM: Jimmy L. Morales, City Manager 

DATE: March 2, 2015

SUBJECT: **A DISCUSSION REGARDING THE CONCESSION AGREEMENT FOR THE MANAGEMENT AND OPERATION OF CONCESSION STAND BUILDINGS, AND BEACHFRONT CONCESSION AREAS, CURRENTLY OPERATED BY TIM WILCOX, INC. ("CONCESSIONAIRE"), LOCATED ADJACENT TO THE PUBLIC PARKING LOTS AT 21ST AND 46TH STREETS.**

BACKGROUND

On October 14, 2009, the City Commission authorized the issuance of a Request for Proposals (RFP) to solicit proposals for the management and operation of concession stand buildings, and beachfront concession areas, located adjacent to the public parking lots at 21st and 46th Streets. RFP No. 05-09-10 was issued on October 20, 2009, and proposals were sent or provided to over eighty-five (85) firms and concessionaires.

On May 12, 2010, the City Commission adopted Resolution No. 2010-27391, accepting the recommendation of the City Manager pertaining to the ranking of firms; authorized the Administration to enter into negotiations with the top-ranked firm of Tim Wilcox, Inc.; and further authorized the Mayor and City Clerk to execute an agreement upon completion of successful negotiations by the Administration.

ANALYSIS

The City and Concessionaire are parties to a Concession Agreement, dated November 22, 2010, for the management and operation of concession stand buildings, and beachfront concession areas, located adjacent to the public parking lots at 21st and 46th Streets.

The basic terms and conditions of the Concession Agreement are as follows:

Concession Area: Concession stand buildings, and beachfront concession areas, located adjacent to the public parking lots at 21st and 46th Streets

Initial Term: Two (2) years commencing on November 1, 2010 and ending on October 31, 2012

Renewal Options: Three (3) renewal options for one (1) year each

Concession Fee: A percentage of gross sales exceeding \$250,000 as follows:

Gross Receipts	PG
\$250,000	26%
\$300,000	27%
\$350,000	28%
\$400,000	29%
\$450,000	30%

Minimum Guarantee: Forty eight thousand dollars (\$48,000) annually, paid at the beginning of each contract year

For the first four (4) years of the Concession Agreement, Concessionaire's gross sales, at each concession locations, are itemized in the following chart:

Contract		21st Street		46th Street		Gross Sales
Year	Period	Concession	Chairs	Concession	Chairs	
1*	11/10 - 10/11	73,124	59,463	18,933	16,836	168,356
2	11/11 - 10/12	50,893	79,307	29,883	42,140	202,224
3	11/12 - 10/13	61,198	96,629	19,535	38,047	215,408
4	11/13 - 10/14	100,534	133,911	18,042	29,465	281,952
		285,750	369,310	86,393	126,489	867,941
		655,060		212,881		

*Reflects Nine (9) Months of Sales Due to Delayed Opening

For the first four (4) years of the Concession Agreement, Concessionaire's gross sales, and the corresponding fees paid to the City, are illustrated in the following chart:

Contract		Gross Sales	% Increase	Minimum Guarantee	(% of Gross Over 250K) 26%	Total Rent
Year	Period					
1*	11/10 - 10/11	168,356	-	48,000	0	48,000
2	11/11 - 10/12	202,224	20%	48,000	0	48,000
3	11/12 - 10/13	215,408	7%	48,000	0	48,000
4	11/13 - 10/14	281,952	31%	48,000	8,308	56,308
		867,941				200,308

*Reflects Nine (9) Months of Sales Due to Delayed Opening

Concessionaire is currently in its final renewal term, ending on October 31, 2015, and has submitted a letter to the City (attached hereto as "Exhibit B"), requesting to extend the Concession Agreement for a period of five (5) years.

In the event the FCWP Committee agrees to extend the Concession Agreement, the Administration recommends increasing the Concession Fee in accordance with the following table:

Gross Receipts	Percentage of Gross Receipts
\$0 - \$250,000	26%
\$250,001 - \$300,000	27%
\$300,001 - \$350,000	28%
\$350,001 - \$400,000	29%
\$400,001 and over	30%

Each incremental increase in Gross Receipts shall result in the corresponding percentage rate contained above. For example, if Concessionaire's Gross Receipts are \$325,000, the Concession Fee paid for the first \$250,000 shall be 26% (\$65,000), the Concession Fee paid for the next \$50,000 shall be 27% (\$13,500) and the Concession Fee paid for the last \$25,000 shall be 28% (\$7,000), resulting in a total Concession Fee of \$85,500.

Additionally, based on recent conversations with the Concessionaire, the Administration recommends increasing the Minimum Guarantee to sixty five thousand dollars (\$65,000) annually, payable in equal quarterly installments of sixteen thousand two hundred and fifty dollars (\$16,250) each.

CONCLUSION

The Administration seeks a recommendation from the Finance and Citywide Projects Committee whether to approve the request from Concessionaire to extend the Concession Agreement for a period of five (5) years.

JLM/KGB/MA\$ /MMM

Exhibits:

- A Concession Agreement
- B Letter From Concessionaire

Exhibit A

February 17, 2015

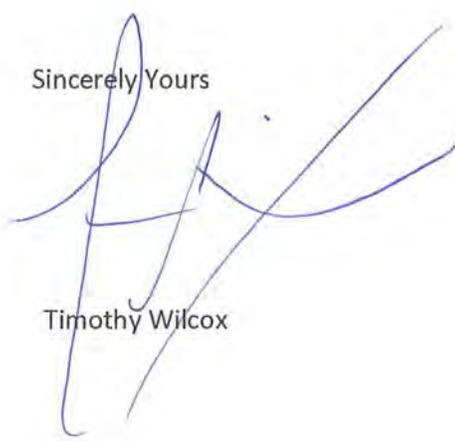
Dear Mr. Morales,

I would like to request that my beach concession agreement be renewed for an additional five years. My contract expires in October 31, 2015. I feel that we are just now capturing the progress of the Collins Park neighborhood. When we started it was a real construction zone with very little parking. In the last 18 months as parking and hotel rooms have come on line our business also improved, as well as the rent we pay to the City. We had 30 percent growth last year and expect the same for period this year.

I will be speaking at the finance committee on Monday where I will lay out a detailed plan for growing the business over the next five years. My company has worked hard to give the beach goers a first class experience when they come to use the beach at 22nd street and 45 street. Still 45 street is very challenging due to the beach erosion and lack of parking. At this time I feel we are the best company for this job. We have gotten to know these beaches so well over the last five years and have great ideas to continue growing the beach experience. We have reinvested in equipment and our constantly improving our customer service experience.

If you would like to meet to discuss anything about this agreement or my projections for the future growth of these concessions please feel free to contact me. I can be reached anytime at 305-970-7147 .

Sincerely Yours

A handwritten signature in blue ink, appearing to read 'Timothy Wilcox', is written over the typed name. The signature is stylized and fluid.

Timothy Wilcox

Exhibit B

5/12/10

2010-27391

Tim Wilcox, Inc.

**Concession
Agreement**

**for
21st & 46th Streets**

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**CONCESSION AGREEMENT BETWEEN
CITY OF MIAMI BEACH, FLORIDA AND
TIM WILCOX, INC.
FOR MANAGEMENT AND OPERATION OF CONCESSIONS
AT 21st AND 46th STREETS
PURSUANT TO REQUEST FOR PROPOSALS NO. 39-05/06**

THIS AGREEMENT made on *November 22*, 2010, between the **CITY OF MIAMI BEACH**, a municipal corporation of the State of Florida (hereinafter called "City"), having its principal address at 1700 Convention Center Drive, Miami Beach, Florida, 33139, and **TIM WILCOX, INC.**, a Florida corporation, with offices at 4299 Collins Avenue, Miami, Florida, 33140 (hereinafter called "Concessionaire").

WITNESSETH

WHEREAS, on October 14, 2009, the City Commission authorized the issuance of a Request for Proposals (RFP) to solicit proposals for the management and operation of concession stands and beachfront concessions, located east of Collins Avenue at 21st Street and 46th Street, respectively; and

WHEREAS, RFP No. 05-09-10 was issued on October 20, 2010, and proposals were sent or provided to over eighty-five (85) firms and concessionaires; and

WHEREAS, on May 12, 2010, the City Commission adopted Resolution No. 2010-27391, accepting the recommendation of the City Manager pertaining to the ranking of firms; authorized the Administration to enter into negotiations with the top-ranked firm of Tim Wilcox, Inc.; and further authorized the Mayor and City Clerk to execute an agreement upon completion of successful negotiations by the Administration; and

WHEREAS, accordingly, the City and Concessionaire have negotiated the following Agreement for the management and operation of concessions at 21st Street and 46th Street, respectively.

NOW THEREFORE, in consideration of the premises and the mutual covenants and conditions herein contained and other good and valuable consideration, the receipt and adequacy of which are hereby conclusively acknowledged, it is agreed by the parties hereto as follows:

The City hereby grants to the Concessionaire, and the Concessionaire hereby accepts from the City, the exclusive right to operate the following described concession within the Concession Areas, as defined below, in conformance with the purposes and for the period stated herein, and subject to all the terms and conditions herein contained and fairly implied by the terms hereinafter set forth.

SECTION 1. TERM.

1.1 This Agreement shall be for an initial term of two (2) years, commencing on November 1, 2010 (the "Commencement Date"), and ending on October 31, 2012. For purposes of this Agreement, a "contract year" shall be defined as that certain one (1) year period commencing on the November 1st, and ending on the October 31st.

1.2 Provided that the Concessionaire is not in default under this Agreement, and, further, at the City's sole discretion, commencing upon written notice from Concessionaire to the City, which notice shall be given in the second contract year of the initial term, and then no later than ninety (90) days prior to expiration of said term, (or prior to the expiration of any renewal term, as the case may be) the City may extend the term of this Agreement, upon the same terms and conditions, for three (3) individual one (1) year terms.

1.3 Any such renewal may be conditioned upon a requirement that Concessionaire purchase new equipment (subject to the prior written approval of the City) for the renewal term. Concessionaire shall deliver to the City Manager, at least ninety (90) days prior to the expiration of the initial term or a renewal term, as the case may be: (i) a schedule of any equipment which was replaced during the term; and (ii) an itemized list of proposed replacement equipment.

SECTION 2. CONCESSION AREA(S).

The City hereby grants to Concessionaire the right, during the Term of this Agreement, to operate a concession as described herein in the following area(s) (hereinafter referred to individually as a "Concession Area" or collectively as the "Concession Areas"):

2.1 21st Street Concession Area.

- a. **Concession Building:**
This Concession Area is limited to the concession stand building, as further delineated in Exhibit 2.1 (a).
- b. **Beachfront Concession Area:**
This Concession Area is located on the beach in the area generally bounded on the south by a line beginning at the intersection of the easterly extension of the northernmost line of the 21st Street right-of-way (ROW) and the Erosion Control Line (ECL) thence extending easterly to the shore and perpendicular to the ECL; bounded on the north by a line beginning at the intersection of the extension of the southernmost line of the 22nd Street ROW thence extending easterly to the shore and perpendicular to the ECL; bounded on the west by a line running along the trash receptacles, as placed by Miami Dade County or fifty (50) feet east from the easternmost edge of the Dune, whichever is furthest east; and bounded on the east either by a line sixty (60) feet west of the Mean High Water Line (MHWL) or by a line parallel to the shoreline and five (5) feet west of the westernmost

lifeguard stand, but never within the lifeguard's line of site of the shoreline, in this Concession Area, whichever is further east; all as further delineated in Exhibit 2.1 (b).

2.1.1 Lifeguard Facility Zone:
Concessionaire shall not use or deploy any equipment and/or facilities on or within those portions of the beach where lifeguard facilities/stands are currently located, or may be located in the future, including the area extending from the easternmost foot of the Dune to the shoreline and bounded by a line twenty five (25) feet north of the lifeguard stand(s) and bounded by a line twenty five (25) feet to the south of such stand(s).

2.1.2 Southern Handicap Zone:
With regard to the area bounded to the north by a line twenty five (25) feet north of the southern boundary of the Beachfront Concession Area (in Subsection 2.1 (b)), to the south by the southern boundary of this Concession Area, and bounded to the east and west by the easternmost and westernmost boundaries of this Concession Area, respectively, Concessionaire shall not deploy any equipment, unless specifically requested by a handicapped patron.

2.1.3 Northern Handicap Zone:
With regard to the area bounded to the south by a line seventy three (73) feet south of the northern boundary of the Beachfront Concession Area (in Subsection 2.1 (b)), to the north by the northern boundary of this Concession Area, and bounded to the east and west by the easternmost and westernmost boundaries of this Concession Area, respectively, Concessionaire shall not deploy any equipment, unless specifically requested by a handicapped patron.

2.2 46th Street Concession Area.

a. Concession Building:
This Concession Area is limited to the concession stand building located east of the easternmost line of the public right-of-way, as further delineated in Exhibit 2.2 (a).

b. Beachfront Concession Area:
This Concession Area is located on the beach in the area generally bounded on the south by a line beginning at the intersection of the easterly extension of the northernmost line of Lot 6, as recorded in Miami Dade County plat book 8, page 61, and the ECL thence extending easterly to the shoreline and perpendicular to the ECL; bounded on the north by a line beginning at the intersection of the easterly extension of the northernmost line of Lot 12, as recorded in Miami Dade County plat book 8, page 61, and the ECL thence extending easterly to the shoreline and perpendicular to the ECL;

bounded on the west by a line running along the trash receptacles, as placed by Miami Dade County or fifty (50) feet east from the easternmost edge of the Dune, whichever is furthest east; and bounded on the east either by a line sixty (60) feet west of the Mean High Water Line (MHWL) or by a line parallel to the shoreline and five (5) feet west of the westernmost lifeguard stand, but never within the lifeguard's line of site of the shoreline, in this Concession Area, whichever is further east; all as further delineated in Exhibit 2.2 (b).

2.2.1 Lifeguard Facility Zone:

Concessionaire shall not use or deploy any equipment and/or facilities on or within those portions of the beach where lifeguard facilities/stands are currently located, or may be located in the future, including the area extending from the easternmost foot of the Dune to the shoreline and bounded by a line twenty five (25) feet north of the lifeguard stand(s) and bounded by a line twenty five (25) feet to the south of such stand(s).

2.2.2 Southern Handicap Zone:

With regard to the area bounded to the north by a line twenty five (25) feet north of the southern boundary of the Beachfront Concession Area (in Subsection 2.2 (b)), to the south by the southern boundary of this Concession Area, and bounded to the east and west by the easternmost and westernmost boundaries of this Concession Area, respectively, Concessionaire shall not deploy any equipment, unless specifically requested by a handicapped patron.

2.2.3 Northern Handicap Zone:

With regard to the area bounded to the south by a line seventy three (733) feet south of the northern boundary of the Beachfront Concession Area (in Subsection 2.2 (b)), to the north by the northern boundary of this Concession Area, and bounded to the east and west by the easternmost and westernmost boundaries of this Concession Area, respectively, Concessionaire shall not deploy any equipment, unless specifically requested by a handicapped patron.

2.3 Intentionally Omitted.

2.4 Notwithstanding the Concession Area(s) granted to Concessionaire, Concessionaire hereby understands, agrees, and acknowledges that said aforestated Concession Area(s), along with any and all other public beachfront area(s) and/or public facilities not specifically identified herein, are public and, as such, must remain available for the use and enjoyment of the general public, whether or not the public chooses to use any of Concessionaire's equipment, purchase its products, or engage in any of the services it provides. In the event that a member of the public is within a particular Concession Area, as set forth herein, Concessionaire agrees to allow for his/her continued peaceful enjoyment of said Area. Notwithstanding the preceding, Concessionaire may designate areas within Concession Area

buildings for food and beverage service and/or storage which shall not be open to and/or accessible to the general public (e.g. such as kitchen areas, pantries, storage closets, etc.).

Concessionaire shall at all times use reasonable efforts to strive to maintain an equitable ("equitable" to be determined by the City, in its reasonable judgment and discretion) amount of beach frontage within the beachfront Concession Areas free and clear of Concessionaire facilities and beach equipment, so that such portion of the beach may remain free and clear for the public's use and enjoyment.

2.5 City and Concessionaire acknowledge that the buffer zones around the lifeguard stands/facilities referenced above shall not apply to other areas of the beach (i.e. non-Concession Areas) in which the upland owner is a private entity, unless the City's Rules and Regulations for Beachfront Concessions (as same may be amended from time to time), explicitly so provide. Notwithstanding the preceding sentence, the provisions of this subsection shall in no way be deemed or otherwise construed as a waiver on the part of the City of its Rules and Regulations for Beachfront Concessions.

2.6 Buffer Zones:
City and Concessionaire acknowledge that there are certain areas within the 21st Street & 46th Street Concession Areas, respectively, that either lie outside of the respective Concession Areas, or in which Concessionaire's use is limited and/or restricted, including Lifeguard Facility Zones (defined in Sections 2.1.1 and 2.2.1), Handicap Zones (defined in Sections 2.1.2, 2.1.3, 2.2.2 and 2.2.3), and other zones which were designed to facilitate public access to the beach, ocean and shoreline, and create buffer zones between Concession Areas and lifeguard facilities.

SECTION 3. USE(S).

The Concessionaire is hereby authorized to conduct the following kind(s) of businesses and provide the following kind(s) of services within the Concession Area(s), as provided below, all at its sole cost and expense:

3.1 Beachfront Concession Area(s) / Rental of Beach Equipment.
This shall generally include the rental of chairs, pads, umbrellas and sun canopies. The City hereby approves the rental of the aforesaid types(s) of beach equipment and the prices for same, all as more specifically set forth in Exhibit 3.1. Any amendments to Exhibit 3.1, whether as to type(s) of beach equipment to be rented or as to changes in prices for same, must be approved in writing by the City Manager or his/her designee prior to such changes being implemented within the Concession Area(s); and, in that event, a new updated Exhibit 3.1 will be incorporated into this Agreement.

- 3.1.1 The design, type, material, and color of any and all beach equipment, as defined above, shall also be approved in writing by the City's Planning Department prior to the Commencement Date of this Agreement. A photo or photo(s) of such City-approved beach equipment is incorporated herein as Exhibit 3.1.1. Thereafter, Concessionaire shall not change, alter, or modify the design, type, material and color of any such City-approved beach equipment without further obtaining the prior written consent of the City Manager or his/her designee and, if so approved, an updated Exhibit 3.1.1 will be made a part of and incorporated into this Agreement.
- 3.1.2 With regard to an individual Beachfront Concession Area, all respective beach equipment within that Area shall be placed substantially in accordance with the attached City-approved site plan(s), as set forth, by designated Area, in Exhibit(s) 3.1.2, attached hereto and incorporated herein. Concessionaire shall not deviate from or alter the approved site plan(s) without the prior written consent of the City Manager or his/her designee.
- 3.1.3 The set up of beach equipment to be placed within a Beachfront Concession Area, (substantially in accordance with the site plan(s) approved pursuant to Exhibit(s) 3.1.2), shall be permitted daily before 10:00AM, or as soon thereafter in the event of inclement weather (i.e. as soon as weather permits) (the "Set Up Period"); during which time Concessionaire shall be permitted to set up to the maximum number of beach equipment allowable for that particular area, as enumerated in the approved site plans. In addition to conformance with the approved site plan(s), daily placement of beach equipment for the Set Up Period shall be in accordance with and shall not exceed the maximum numbers, per Area.
- 3.1.4 The parties hereby acknowledge that Concessionaire's patrons may themselves relocate chairs and other beach equipment within a Concession Area and/or to an immediately adjacent "Buffer Zone". Such relocation shall be permitted; provided that, in the aggregate, Concessionaire does not materially alter, or allow to be materially altered, the configuration of a particular Concession Area, as set forth in the approved site plan(s) pursuant to Exhibit(s) 3.1.2, and/or an adjacent "Buffer Zone". In the event of this occurrence, Concessionaire shall immediately correct any material alteration within a Concession Area to bring same back into substantial conformance with the approved site plan(s).

Notwithstanding anything in this Subsection 3.1.4, the City's Beach Patrol shall at all times have the absolute discretion to require Concessionaire, and/or Concessionaire's patrons, to relocate chairs and other beach equipment in the event that such chairs and/or beach equipment in any way impede and/or obstruct sightlines, or have any other effect whatsoever which would directly or indirectly impede the

performance of Beach Patrol activities. Concessionaire will cooperate with Beach Patrol to ensure such compliance.

3.1.5 The City and Concessionaire hereby agree and acknowledge that the public's use of the beach is a prime consideration and must be balanced accordingly with the services to be provided to the public (and the respective financial remunerations to City and Concessionaire), pursuant to this Agreement. Accordingly, notwithstanding the site plan(s) and maximum numbers (as provided for in Exhibit(s) 3.1.2), Concessionaire further agrees that, notwithstanding its right to set up its maximum numbers during the Set Up Period, Concessionaire shall endeavor to remove from the particular area any number of vacant beach equipment not being rented that equates to the difference between such percentage of vacant equipment and twenty-five percent (25%) of such equipment as described above.

3.1.6 The condition and quality of Concessionaire's concession equipment shall at all times be maintained in a manner that is consistent with the condition and quality of beach equipment found in first class concessions located on public beaches in world class beach resorts comparable to the City of Miami Beach. It is the City's intent, and Concessionaire hereby agrees and acknowledges same, to develop and promote world class public beach concession facilities and operations that would be comparable to those found at other public beach concession facilities in world class resorts comparable to Miami Beach. Accordingly, Concessionaire shall not only, at a minimum, maintain all beach equipment placed within the Concession Areas in usable condition, but shall adhere, as indicated in this subsection, to the highest ongoing maintenance standards for same.

Following the Commencement Date of this Agreement, the City may, at its option, request that Concessionaire provide it with a full inventory of all beachfront concession equipment contemplated for use herein, including types and numbers (per item); dates of lease and/or purchase; and initial condition, established as of the date of inventory. Thereafter, City and Concessionaire shall jointly prepare a plan and schedule for the ongoing replacement and/or updating of beachfront concession equipment throughout the Term of this Agreement.

3.1.7 City and Concessionaire hereby acknowledge that the buffer zones around the lifeguard stands/facilities and the Handicap Zones, referenced herein, shall not apply to other areas of the beach (i.e. non-Concession Areas) in which the upland owner is a private entity, unless the City's Rules and Regulations for Beachfront Concessions (as same may be amended from time to time,) explicitly so provide. Notwithstanding the preceding, the provisions of this subsection shall

in no way be deemed or construed as a waiver on the part of the City of its Rules and Regulations for Beachfront Concessions.

3.2 Food and Beverage Service.

3.2.1 Concessionaire shall prepare, or cause to be prepared, for sale within and from the Concession Buildings located at 21st Street and 46th Street, respectively, and as delineated in Exhibits 2.1 (a) and 2.2 (a) herein, cooked, prepared, and/or pre-packaged foods and non-alcoholic beverages, as set forth in Exhibit 3.2.1. The City hereby approves the types of food and beverages, and prices for same, as set forth in Exhibit 3.2.1. Any amendments to Exhibit 3.2.1, whether as to type of food and beverages to be sold, or as to changes in prices for same, must be approved in writing by the City Manager or his/her designee prior to such changes being implemented within the Concession Area(s); and a new updated Exhibit 3.2.1 will be incorporated into this Agreement.

3.2.2 Intentionally Omitted.

3.2.3 All food and beverages sold within the Concession Areas will be prepared using only the equipment and/or methodology approved by the City and shall, further, be properly prepared and served in compliance with all applicable health and sanitary standards, laws and regulations.

3.2.4 The quality of food, beverages, and food and beverage service offered will be first-rate and comparable to that available at public beach concessions at world class beach resorts on par with the City of Miami Beach and, at a minimum, comparable to the quality of food, beverages, and service provided by concessionaires behind privately owned hotels within the City of Miami Beach.

3.2.5 In addition to Concessionaire's general maintenance obligations for the Concession Areas, as set forth in Section 10 hereof, the Concession buildings, any beachfront dispensing/storage facilities, and the immediately surrounding twenty five (25) foot adjacent areas, shall at all times be maintained in a clean and sanitary manner. At least one (1) supervisory employee must possess a Food Service Management Certification issued by a County Public Health Department in Florida. In addition, each Concession building (and, if deemed required, each dispensing facility) must be licensed by the Florida Department of Business Regulation, Division of Hotels and Restaurants; and/or the Department of Agriculture; and/or as may further be required by State law or by corresponding agencies.

3.2.6 Food and beverage services shall be offered daily to patrons at all times during the Concession Area(s) hours of operation, as set forth in Section 9 herein; provided that if Concessionaire can show, to the

City Manager, or his/her designee's, reasonable satisfaction, that if either an increase or decrease in demand for such service exists in one or all of the Concession Areas then, in that event, following Concessionaire's obtaining the City Manager, or his/her designee's, prior written consent, Concessionaire shall be allowed to increase or decrease its hours of operation accordingly.

3.3

Sale of Beach Related Sundries.

This shall generally include the sale of those sundry items identified in Exhibit 3.3, substantially in accordance with the price ranges set forth therein. Any amendments to Exhibit 3.3, whether as to changes and/or additions of items to be offered for sale, or in the respective price ranges for same, must be approved in writing by the City Manager or his/her designee, prior to such changes and/or additions being implemented within the Concession Area(s); and, in event of such approved, a new updated Exhibit 3.3 will be incorporated into this Agreement.

3.4

Intentionally Omitted.

3.5

Storage of Concession Facilities/Equipment.

3.5.1

The design, materials, color, signage, etc. of any structure or facility to dispense services from the Concession Areas, and/or for storage of beachfront concession equipment, other than the existing Concession Buildings identified in Sections 2.1 and 2.2, must obtain City Design Review approval prior to Commencement of operations. Such approved facilities shall be incorporated herein as Exhibit 3.5.1. The location of same must be approved by the City Manager or his/her designee, and shall be designated within Concessionaire's proposed site plan(s), (as referenced in Exhibit 3.1.2). Concessionaire shall not deviate from or change the type, design and/or location of its proposed beachfront concession dispensing/storage facilities without the prior written consent of the City Manager or his/her designee.

3.5.2

Prior to the Commencement Date of this Agreement, Concessionaire shall provide the City Manager or his/her designee with a written plan for storage and removal of Concessionaire's Concession equipment and dispensing facilities, for the Manager or his/her designee's approval. This shall include the use of any dispensing and/or storage facilities contemplated in Subsection 3.5.1 above. The aforesaid shall comply with the City's Rules and Regulations for Beachfront Concession Operations, as well as any subsequent amendment(s) thereto.

3.6

Hurricane Evacuation Plan.

Concessionaire agrees that all its beachfront concession storage and dispensing facilities, beach equipment, and any and all other equipment or other items used in the concession operations, will be removed from the Concession Areas immediately within eight (8) hours of the issuance of a

Hurricane Warning by the Miami-Dade County Office of Emergency Management, and stored at an approved, private, off-site location. Prior to the Commencement Date of this Agreement, Concessionaire shall provide the City Manager or his/her designee with a hurricane preparedness/evacuation plan, which shall include the location and proof of ownership and/or control by Concessionaire (either through a deed, lease or other document satisfactory to the City Manager and/or his/her designee) of a proposed hurricane storage facility; both of which shall be referenced in Exhibit 3.6 to this Agreement.

3.7

Sea Turtles.

Concessionaire agrees and understands that the State of Florida has advised that, in order to place facilities and/or equipment on the beach; surveys for marine turtle nesting activity must be ongoing, and have been conducted daily for sixty five (65) days prior to the initial date of operation, or beginning May 1st, of each year. The Concession Area(s) are currently surveyed by the Beach Maintenance Division of the Miami-Dade County Parks and Recreation Department.

- a. It is the responsibility of the Concessionaire to abide by any order issued by the State of Florida and/or cooperate with Miami-Dade County to ensure that nesting surveys are conducted in accordance with the conditions set forth by the State.
- b. In the event an unmarked marine turtle nest is exposed, or a dead, injured, or sick marine turtle is discovered, the Florida Marine Patrol (1-800-DIAL-FMP) shall be notified immediately such that appropriate conservation measures may be taken.
- c. No temporary lighting associated with the concession will be permitted at any time during the marine turtle nesting season and no permanent lighting is authorized.
- d. The placement and removal of facilities and equipment on the beach seaward of 230 feet from the high water line shall be conducted during daylight hours and shall not occur in any location prior to completion of the necessary marine turtle protection measures.
- e. The beach area seaward of the 230-foot setback from the high water line should be cleared of all furniture and equipment, except lifeguard equipment, at nights during the turtle-nesting season.
- f. Disturbing the existing beach, and dune topography and vegetation is prohibited.

3.8

City Business Tax Receipts.

Concessionaire shall obtain, at its sole cost and expense, any City required business tax receipts (formerly referred to as occupational licenses), as necessary, for the proposed uses contemplated in Section 3 of the

Agreement. To the extent required by City law, a business tax receipt shall be obtained for each proposed use within a particular Concession Area (e.g. For example, for the 21st Street Concession Area, Concessionaire would be required to obtain three (3) business tax receipts for: (i) Rental of Beach Equipment; (ii) Food and Beverage Service; (iii) Sale of Beach-related Sundries).

SECTION 4. CONCESSION FEES.

4.1 **Minimum Guarantee (MG):**
In consideration of the City's granting of the rights provided in this Agreement, the Concessionaire shall pay to the City a Minimum Guaranteed Annual Concession Fee (MG) of **Forty Eight Thousand (\$48,000.00) Dollars**. The MG shall be payable in twelve (12) equal monthly installments of **\$4,000** each, with the first such installment due upon execution of the Agreement and each of the remaining monthly installments due on the first day of every month thereafter during the Term of the Agreement.

4.2 **Percentage of Gross (PG) vs. MG:**
For each contract year, the Concessionaire shall pay the City, on an annual basis, and within thirty (30) calendar days from the end of each contract year during the Term herein, Percentage Rent (PG) of Concessionaire's total gross receipts as follows:

Gross Receipts	PG
\$250,000	26%
\$300,000	27%
\$350,000	28%
\$400,000	29%
\$450,000	30%

In the event that the annual PG is less than the amount provided in Subsection 4.3 below, then the Concessionaire shall also pay to the City, on an annual basis, the difference between the PG amount and the amount provided in Subsection 4.3 below, no later than thirty (30) days after the expiration of the initial term, or of any renewal term of this Agreement (as the case may be).

The term "gross receipts" is understood to mean all income collected or accrued, derived by the Concessionaire under the privileges granted by this Agreement, excluding amounts of any Federal, State, or City sales tax, or other tax, governmental imposition, assessment, charge or expense of any kind, collected by the Concessionaire from customers and required by law to be remitted to the taxing or other governmental authority.

4.3 **Interest for Late Payment.**
Any payment which Concessionaire is required to make to City which is not paid on or before the respective date provided for in this Agreement shall be

subject to interest at the rate of twelve (12%) percent per annum, or the highest allowable percentage rate under Florida law, whichever is greater; from the due date of payment until such time as payment is actually received by the City.

4.4

Sales and Use Tax.

It is also understood that the required Florida State Sales and Use Tax shall be added to Concessionaire's payments and forwarded to the City as part of said payments. It is the City's intent that it is to receive all payments due from Concessionaire as net of such Florida State Sales and Use Tax.

SECTION 5. MAINTENANCE AND EXAMINATION OF RECORDS.

Concessionaire shall maintain current, accurate, and complete financial records, on an accrual basis, of accounting related to its operations pursuant to this Agreement. Systems and procedures used to maintain these records shall include a system of internal controls and all accounting records shall be maintained in accordance with generally accepted accounting principles and shall be open to inspection and audit, by the City Manager or his designee, upon reasonable prior request and during normal business hours. Such records and accounts shall include a breakdown of gross receipts, expenses, and profit and loss statements. Concessionaire shall maintain accurate receipt-printing cash registers or a like alternative in all Concession Areas which will record and show the payment for every sale made or service provided in such Areas; and such other records shall be maintained as would be required by an independent CPA in order to audit a statement of annual gross receipts and profit and loss statement pursuant to generally accepted accounting principles.

A monthly report of gross receipts must be submitted to the City's Finance Department's Revenue Supervisor, and must be received no later than thirty (30) days after the close of each month.

SECTION 6. INSPECTION AND AUDIT.

Concessionaire shall maintain its financial records pertaining to its operations for a period of three (3) years after the conclusion of any contract year and such records shall be open and available to the City Manager or his/her designee, as deemed necessary by them. Concessionaire shall maintain all such records at its principal office, currently located at 4299 Collins Avenue, Miami, Florida, 33140, or, if moved to another location, all such records shall be relocated, at Concessionaire's expense, to a location in Miami Beach, within ten (10) days' written notice from the City.

The City Manager or his/her designee shall be entitled to audit Concessionaire's records pertaining to its operations as often as the City deems reasonably necessary throughout the Term of this Agreement, and three (3) times within the three (3) year period following termination of the Agreement, (regardless of whether such termination results from the natural expiration of the term or for any other reason). The City shall be responsible for paying all costs associated with such audits, unless the audit(s) reveals a deficiency of five (5%) percent or more in Concessionaire's statement of gross receipts for any year or years audited, in which case Concessionaire shall pay to the City, within thirty (30) days of the

audit being deemed final (as specified below), the cost of the audit and a sum equal to the amount of the deficiency revealed by the audit, plus interest. The audit shall not be deemed final until Concessionaire has received the audit and has had a reasonable opportunity to review the audit and discuss the audit with the City. These audits are in addition to periodic audits by the City of Resort Tax collections and payments, which are performed separately. Nothing contained within this Section shall preclude the City's audit rights for Resort Tax collection purposes.

Concessionaire shall submit at the end of each contract year, an annual statement of gross receipts, in a form consistent with generally accepted accounting principles. Additionally, such statement shall be accompanied by a report from an independent CPA firm which shall perform certain agreed upon procedures, as described in the attached Exhibit 6.

It is Concessionaire's intent to stay informed of comments and suggestions by the City regarding Concessionaire's performance under the Agreement. Within thirty (30) days after the end of each contract year, Concessionaire and the City Manager or his/her designee may meet to review Concessionaire's performance under the Agreement for the previous contract year. At the meeting, Concessionaire and City may discuss quality, operational, maintenance and any other issues regarding Concessionaire's performance under the Agreement.

SECTION 7. TAXES, ASSESSMENTS, AND UTILITIES.

7.1 Concessionaire agrees to, and shall pay before delinquency, all taxes (including but not limited to resort taxes) and assessments of any kind assessed or levied upon Concessionaire by reason of this Agreement or by reason of the business or other activities of Concessionaire upon or in connection with the Concession Area(s). Concessionaire will have the right, at its own expense, to contest the amount or validity, in whole or in part, of any tax and/or assessment by appropriate proceedings diligently conducted in good faith. Concessionaire may refrain from paying a tax or assessment to the extent it is contesting the assessment or imposition of same in a manner that is in accordance with law; provided, however, if, as a result of such contest, additional delinquency charges become due, Concessionaire shall be responsible for such delinquency charges, in addition to payment of the contested tax and/or assessment if so ordered.

Concessionaire shall also pay for any fees imposed by law for licenses or permits for any business or activities of Concessionaire upon the Concession Area(s).

Concessionaire shall be solely responsible for, and shall promptly pay when due, all charges for gas, electricity, water, sewer, cable, telephone, trash collection, and any other utility service provided to the Concession Area(s), including, without limitation, all hook-up fees and impact fees. Notwithstanding the preceding sentence, the City shall charge Concessionaire a flat fee for: 1) electricity, in the amount of **Two Hundred Forty (\$240.00) Dollars** (\$120.00 for each Concession Building) per month; and 2) water usage, in the amount of **Eighty One and 60/100 (\$81.60)**

Dollars (\$40.80 for each Concession Building) per month. The City reserves the right, at its sole discretion, to adjust the flat monthly fees charged to Concessionaire for electric and water use, at any time during the term of this Agreement, upon thirty (30) days prior written notice to Concessionaire. In addition to other rights and remedies hereinafter reserved to the City, upon the failure of Concessionaire to pay for such utility services when due, City may elect to pay same whereby Concessionaire agrees to promptly reimburse the City upon demand. In no event, however, shall the City be liable, whether to Concessionaire or to third parties, for an interruption or failure in the supply of any utilities or services to the Concession Area(s).

7.2 Procedure If Ad Valorem Taxes Assessed.

Notwithstanding Subsection 7.1 above, the parties agree that the operations contemplated herein are for public purposes and, therefore, no ad valorem taxes should be assessed by the Miami-Dade County Tax Appraiser. If, however, said taxes are assessed, Concessionaire shall be solely responsible for prompt and timely payment of same.

SECTION 8. EMPLOYEES AND INDEPENDENT CONTRACTORS.

8.1 In connection with the performance of its responsibilities hereunder, Concessionaire shall hire its own employees and/or independent contractors, who will be employees and/or independent contractors of Concessionaire and not of the City. Concessionaire shall select the number, function, qualifications, compensation, including benefits (if any), and may, at its discretion and at any time, adjust or revise the terms and conditions relating to such employees and/or independent contractors.

8.2 Concessionaire and its employees and/or independent contractors shall wear identification badges and uniforms, approved by the City, during all hours of operation when such employee or independent contractor is acting within the scope of such employment or such independent contractor relationship. All employees and/or independent contractors shall observe all the graces of personal grooming. The Concessionaire shall hire people to work in its concession operation who are neat, clean, well groomed, and who comport themselves in a professional and courteous manner. The Concessionaire and any persons hired by it, shall never have been convicted of a felony. The Concessionaire shall have an experienced manager or managers overseeing the concession operations at all times.

SECTION 9. HOURS OF OPERATION.

All Concession Areas and concession operations thereon shall be open every day of the year, weather or events of force majeure permitting, and shall be open no earlier than one (1) hour after sunrise (daily), and close no later than one (1) hour before sunset (daily). Sunrise and sunset shall be established on a daily basis by the National Weather Service. Any change in the hours of operation shall be at the City Manager's sole option and discretion, and any request by Concessionaire for an increase or decrease in same shall be subject to the prior written approval of the City Manager or his/her designee.

SECTION 10. IMPROVEMENTS, MAINTENANCE, REPAIR and OPERATION.

The Concessionaire accepts the use of all the Concession Area(s) (including, without limitation, the concession buildings) provided in this Agreement in their "AS IS" "WHERE IS" condition. Concessionaire assumes sole responsibility and expense for maintenance of the Concession Area(s) and all facilities and equipment thereon, and the Dune area landward and adjacent thereto. This shall include daily removal of litter, garbage and debris at the sole responsibility and expense of Concessionaire. Daily maintenance shall be accomplished 365 days per year throughout the Term hereof. Concessionaire agrees, also at its sole cost and expense, to pay for all garbage disposal generated by its operations.

10.1 Improvements.

10.1.1 Concessionaire accepts the concession buildings, as defined in Sections 2.1 (a) and 2.2 (a), in their present "AS IS" "WHERE IS" condition and shall, at its sole cost and expense, construct or cause to be constructed, all interior and exterior improvements and maintenance to the concession buildings, as reasonably necessary for it to carry on its permitted use(s), as set forth in Section 3; provided, however, that any plans for such improvements shall be submitted to the City Manager or his/her designee for their prior written approval. All permanent (fixed) improvements to the concession buildings shall remain the property of the City upon termination and/or expiration of this Agreement. Upon termination and/or expiration of this Agreement, all personal property and non-permanent trade fixtures may be removed by the Concessionaire from the concession buildings without damage to the concession buildings. Concessionaire will permit no liens to attach to the concession buildings arising from, connected with, or related to the design and construction of any improvements. Moreover, any permitted construction shall be accomplished through the use of licensed, reputable contractors who are acceptable to the City. Any and all permits and or licenses required for the installation of improvements shall be the sole cost and responsibility of Concessionaire.

10.1.2 Notwithstanding Subsection 10.1.1 above, upon termination and/or expiration of this Agreement, and at City's sole option and discretion, any and all alterations or additions made by Concessionaire to or in the concession buildings shall, upon written request from the City Manager or his/her designee, be promptly removed by Concessionaire at its cost and expense, and Concessionaire further hereby agrees, in such event, to restore the concession buildings to their original condition prior to the Commencement Date of this Agreement.

10.1.3 The above requirements for submission of plans and the use of specific contractors shall not apply to improvements (which term, for purposes of this Subsection 10.1.3 only, shall also include

improvements necessary for Concessionaire's ongoing maintenance and repair of the concession buildings) which do not exceed Five Hundred (\$500.00) Dollars; provided that the work is not structural, and provided further that it is permitted by applicable law.

10.2

Garbage Receptacles.

With respect to litter, garbage and debris removal, the Concessionaire shall provide, at its sole cost and expense, receptacles within the confines of the Concession Area(s) and shall provide a sufficient number of these receptacles for its own use and for the use of the public. Disposal of the contents of said receptacles and removal of litter, garbage and debris within the Concession Area(s), shall be done on a daily basis, and shall be the sole responsibility of the Concessionaire. Any costs for removal of the contents of said trash receptacles by the City, because of the Concessionaire's failure to do the same, will be assessed to, and become the responsibility of, the Concessionaire. The dumping or disposal of any refuse, discards, trash or garbage, generated by, or as a result of the concession operations, into any of the Miami-Dade County trash receptacles, by the Concessionaire (including its staff and employees), shall be strictly prohibited. Determination of the "number" of receptacles shall at all times be within the City Manager or his/her designee's sole discretion, and Concessionaire shall agree to be bound by same.

10.3

Maintenance/Repair.

The Concessionaire must maintain, at its own cost and expense, all facilities (including, without limitation, the concession buildings), equipment and furnishings required to operate the concession. The Concessionaire shall maintain said facilities, equipment, and furnishings during the Term of this Agreement at its sole cost and expense. In the event any of the aforesaid items are lost, stolen, or damaged, they shall be replaced or repaired at the sole cost and expense of the Concessionaire within fifteen (15) days of written notice from the City.

10.3.1

Concessionaire shall be solely responsible for the day to day operation, maintenance and repair of the concession buildings. Concessionaire shall, at its sole cost and expense, maintain the concession buildings, and all fixtures and appurtenances thereto, and shall make all repairs thereto, as and when needed, to preserve them in good working order and condition. Concessionaire shall be responsible for all interior walls, and the interior and exterior of all windows and doors, as well as immediate replacement of any and all plate glass or other glass in the concession buildings which may become broken, using glass of the same or better quality.

The City shall be responsible for the maintenance of the roof, the structural exterior of the buildings, and the exterior structural electrical and plumbing (not interior electrical and/or plumbing surrounding any sink within the concession buildings).

- 10.3.2 All damage or injury of any kind to the concession building(s), and/or to their respective fixtures, glass, appurtenances, and equipment, except damage caused by the wrongful acts or negligence of the City, shall be the obligation of Concessionaire, and shall be repaired, restored or replaced promptly by Concessionaire, at its sole cost and expense, to the satisfaction of the City.
- 10.3.3 All of the aforesaid repairs, restorations and replacements shall be in quality and class equal to or better than the original work or installations and shall be done in good and workmanlike manner.
- 10.3.4 If Concessionaire fails to make such repairs, restorations and/or replacements, the same may be made by the City, at the expense of Concessionaire, and all sums spent and expenses incurred by the City shall be collectable by the City and shall be paid by Concessionaire within ten (10) days after rendition of a bill or statement thereof.
- 10.3.5 It shall be Concessionaire's sole obligation to insure that any renovations, repairs and/or improvements made by Concessionaire to the concession buildings comply with all applicable building codes and life safety codes of governmental authorities having jurisdiction.
- 10.3.6 **IN ALL OTHER RESPECTS, CONCESSIONAIRE ACCEPTS THE CONCESSION BUILDINGS IN THEIR PRESENT "AS IS" "WHERE IS" CONDITION.**

10.4 Orderly Operation.
The Concessionaire shall have a neat and orderly operation at all times and shall be solely responsible for the necessary housekeeping services to properly maintain the Concession Area(s) and all facilities incident thereto. There shall be no living quarters nor shall anyone be permitted to live within the facilities and/or Concession Area(s). The Concessionaire shall make available all facilities within the Concession Area(s) under its control for examination during hours of operation by the City Manager or his/her authorized representative.

10.5 No Dangerous Materials.
The Concessionaire agrees not to use or permit in the Concession Area(s) or facilities the storage and/or use of gasoline, fuel oils, diesel, illuminating oils, oil lamps, combustible powered electricity producing generators, turpentine, benzene, naphtha, propane, natural gas, or other similar substances, combustible materials, or explosives of any kind, or any substance or thing prohibited in the standard policies of fire insurance companies in the State of Florida. Any such substances or materials found within the Concession Area(s) shall be immediately removed. This subsection shall not apply to any substances permitted by the City's Rules and Regulations for Beachfront Concession Operations; provided such substances are used or stored in connection with concession operations, and are not (at any time) otherwise

prohibited by County, State or Federal law.

Concessionaire shall indemnify and hold City harmless from any loss, damage, cost, or expense of the City, including, without limitation, reasonable attorney's fees, incurred as a result of, arising from, or connected with the placement by Concessionaire of any "hazardous substance" or "petroleum products" on, under, in or upon the Concession Areas as those terms are defined by applicable Federal and State Statute, or any environmental rules and environmental regulations promulgated thereunder; provided, however, Concessionaire shall have no liability in the event of the willful misconduct or gross negligence of the City, its agents, servants or employees. The provisions of this Subsection 10.5 shall survive the termination or earlier expiration of this Agreement.

10.6 Security.

The Concessionaire shall be responsible for and provide reasonable security measures which may be required to protect the Concession Area(s) and any of the equipment, materials and facilities thereon. Under no circumstances shall the City be responsible for any stolen or damaged equipment, materials and facilities, nor shall City be responsible for any stolen or damaged personal property of Concessionaire's patrons, guests, invitees, and/or other third parties.

10.7 Vehicles on the Beach.

Concessionaire's vehicles shall include (i) any "on-road vehicle" and/or trailers licensed in accordance with applicable County, State and Federal law, to operate on public streets and roadways and shall also include any (ii) non "on-road" vehicles such as golf carts and all terrain vehicles ("ATV"s) (both (i) and (ii) shall be referred collectively herein as "vehicles"). Concessionaire's vehicles shall only be allowed on the beachfront for purposes of supplying the concession operations, and to remove equipment at the close of operations each day, and must be removed from the beachfront immediately thereafter. Anyone operating a vehicle for or on behalf of Concessionaire must have a current valid Florida Driver's License. Said supplying and removal operations shall only be permitted during regular hours of operation, and shall be completed safely and expeditiously. No vehicular traffic will be permitted on the beach after sunset or prior to sunrise. Access to the beach shall only be permitted via specifically designated dune crossovers authorized for such use and nearest to the concession operation.

Vehicles operated on the beachfront shall not exceed 5 M.P.H. and shall only operate in the immediate vicinity of the concession or to-and-from the nearest predetermined and assigned access ramp. After transporting equipment to a Concession Area, the vehicles shall be removed from the beachfront area and parked in a legally authorized location. Driving on the beachfront area shall be kept to a minimum. No vehicular traffic will be permitted on the beach, at any time or for any purpose, other than as stated herein. Driving from one Concession Area, concession facility and/or concession location to another to service, supervise, or for any other reason,

is prohibited. Concessionaire must exit to the street as provided above to access other locations. All vehicles operated on the beach must have a tire-to-ground pressure of ten pounds per square inch (10 p.s.i) or less.

Eighteen-inch (18") high cones, orange in color, shall be placed in front of, and at the rear of the vehicle when parked. Vehicle operator must inspect the vehicles perimeter and surrounding area, prior to turning the vehicles ignition switch, to assure a clear path of egress and only proceed with extreme caution. Vehicles must always remain on the "hard-packed" sand area. Driving or parking on any "soft-sand" area is prohibited.

All vehicles must have signage, on each side, with the name of the concession operator in 4" high letters on a contrasting background.

A total of two (2) vehicles, (which may include such combination of the type of vehicles specified in (i) and (ii) above as Concessionaire may deem necessary but which total number of vehicles shall in no event exceed two (2) are herein permitted, and shall be properly marked and identified as in accordance with the applicable guidelines for vehicles provided above. Provided, however, that in order to contain vehicular traffic on the beach to a minimum, the City Manager or his/her designee, must approve any additional "on-road" and/or non "on-road" vehicles to be used by Concessionaire prior to such use.

10.8

Inspection.

The Concessionaire agrees that the Concession Area(s) and all buildings, facilities, equipment, and operations thereon, may be inspected at any time during hours of operation by the City Manager or his/her designee, or by any other Municipal, County, State officer, or other agency having responsibility and/or jurisdiction for inspections of such operations. The Concessionaire hereby waives all claims against the City for compensation for loss or damage sustained by reason of any interference with the concession operation by any public agency or official in enforcing their duties or any laws or ordinances. Any such interference shall not relieve the Concessionaire from any obligation hereunder.

SECTION 11. INSURANCE.

Concessionaire shall maintain, at its sole cost and expense, the following types of insurance coverage at all times throughout the Term of this Agreement:

- a. Comprehensive General Liability, in the minimum amount of One Million (\$1,000,000.00) Dollars per occurrence for bodily injury and property damage. This policy must also contain coverage for premises operations, products and contractual liability.
- b. Workers Compensation Insurance shall be required in accordance with the laws of the State of Florida.

- c. Automobile Insurance shall be provided covering all owned, leased, and hired vehicles and non-ownership liability for not less than the following limits:

Bodily Injury	\$1,000,000 per person
Bodily Injury	\$1,000,000 per accident
Property Damage	\$1,000,000 per accident

The policies of insurance referred to above shall not be subject to cancellation or changing coverage except upon at least thirty (30) days prior written notice to the City, and then only subject to the prior written approval of the City Manager or his/her designee. Prior to the Commencement Date of this Agreement, Concessionaire shall provide City with a Certificate of Insurance for each such policy. ALL POLICIES SHALL NAME THE CITY OF MIAMI BEACH, FLORIDA AS AN ADDITIONAL NAMED INSURED. All such policies shall be obtained from companies authorized to do business in the State of Florida with an A.M. Best's Insurance Guide (latest edition) rating acceptable to the City's Risk Manager, and any replacement or substitute company shall also be subject to the approval of the City's Risk Manager. Should Concessionaire fail to obtain, maintain or renew the policies of insurance referred to above, in the required amounts, the City may, at its sole discretion, obtain such insurance, and any sums expended by City in obtaining said insurance, shall be repaid by Concessionaire to City, plus ten (10%) percent of the amount of premiums paid to compensate City for its administrative costs. If Concessionaire fails to repay City's expenditures within fifteen (15) days of demand, the total sum owed shall accrue interest at the rate of twelve (12%) percent until paid, and such failure shall be deemed an event of default hereunder.

SECTION 12. INDEMNITY.

- 12.1 In consideration of a separate and specific consideration of Ten (\$10.00) Dollars and other good and valuable consideration the receipt and sufficiency of which are hereby acknowledged, Concessionaire shall indemnify, hold harmless and defend the City, its agents, servants and employees from and against any claim, demand or cause of action of whatsoever kind or nature arising out of error, omission, or negligent act of Concessionaire, its subconcessionaire(s), agents, servants or employees in the performance of services under this Agreement.
- 12.2 In addition, in consideration of a separate and specific consideration of Ten (\$10.00) Dollars and other good and valuable consideration the receipt and sufficiency of which are hereby acknowledged, Concessionaire shall indemnify, hold harmless and defend the City, its agents, servants and employees from and against any claim, demand or cause of action of whatever kind or nature arising out of any misconduct of Concessionaire not included in the paragraph in the subsection above and for which the City, its agents, servants or employees are alleged to be liable.
- 12.3 Subsections 12.1 and 12.2 shall survive the termination or expiration of this Agreement. Subsections 12.1 and 12.2 shall not apply, however, to any such

liability, that arises as a result of the willful misconduct or gross negligence of the City, its agents, servants or employees.

12.4

Subrogation.

The terms of insurance policies referred to in Section 11 shall preclude subrogation claims against Concessionaire, the City and their respective officers, employees and agents.

12.5

Force Majeure.

Neither party shall be obligated to perform hereunder and neither party shall be deemed to be in default if performance is prevented by:

- a. fire which renders at least thirty (30%) percent of the Concessionaire's cumulative facilities and equipment unusable and which is not caused by negligence of Concessionaire;
- b. earthquake; hurricane; flood; act of God; direct act of terrorism; or civil commotion occurring on the Concession Area(s); or
- c. any law, ordinance, rule, regulation or order of any public or military authority stemming from the existence of economic or energy controls, hostilities, or war.

The parties hereto acknowledge that Concessionaire's obligations and benefits hereunder may be negatively affected by an event of Force Majeure. If an event of Force Majeure occurs during a contract year, and provided further that Concessionaire's minimum guarantee payment(s) to the City for that contract year is greater than the applicable percentage payment, then the City Manager or his/her designee, in his/her sole discretion, may extend the Term of this Agreement for a reasonable period of time; provided, however, such extension shall take effect only if Concessionaire agrees to such extension.

12.6

Labor Dispute.

In the event of a labor dispute which results in a strike, picket or boycott affecting the Concession Area(s) or operation described in this Agreement, Concessionaire shall not thereby be deemed to be in default or to have breached any part of this Agreement, unless such dispute shall have been caused by illegal labor practices or violations by Concessionaire of applicable collective bargaining agreements and there has been a final determination of such fact which is not cured by Concessionaire within thirty (30) days.

12.7

Waiver of Loss from Hazards.

The Concessionaire hereby expressly waives all claims against the City for loss or damage sustained by the Concessionaire resulting from fire, water, natural disasters/acts of God (e.g. hurricane, tornado, etc.), civil commotion, riot, or any other Force Majeure contemplated in Subsection 12.5 and Labor Dispute in Subsection 12.6 above, and the Concessionaire hereby expressly

waives all rights, claims, and demands against the City and forever releases and discharges the City of Miami Beach, Florida, from all demands, claims, actions and causes of action arising from any of the aforesaid causes.

SECTION 13. DEFAULT AND TERMINATION.

Subsections 13.1 through 13.3 shall constitute events of default under this Agreement. An event of default by Concessionaire shall entitle City to exercise any and all remedies described as City's remedies under this Agreement, including but not limited to those set forth in Subsection 13.4 and Section 14. An event of default by City shall entitle Concessionaire to exercise any and all remedies described as Concessionaire's remedies under this Agreement, including but not limited to those set forth in Subsection 13.5.

13.1 Bankruptcy.

If either the City or Concessionaire shall be adjudged bankrupt or insolvent, or if any receiver or trustee of all or any part of the business property of either party shall be appointed, or if any receiver of all or any part of the business property shall be appointed and shall not be discharged within sixty (60) days after appointment, or if either party shall make an assignment of its property for the benefit of creditors, or shall file a voluntary petition in bankruptcy, or insolvency, or shall apply for reorganization or arrangement with its creditors under the bankruptcy or insolvency laws now in force or hereinafter enacted, Federal, State, or otherwise, or if such petitions shall be filed against either party and shall not be dismissed within sixty (60) days after such filing, then the other party may immediately, or at any time thereafter, and without further demand or notice, terminate this Agreement without being prejudiced as to any remedies which may be available to it for breach of contract.

13.2 Default in Payment.

In the event Concessionaire fails to submit any payment within five (5) days of its due date, there shall be a late charge of Fifty (\$50.00) Dollars per day for such late payment, in addition to interest at the highest rate allowable by law (currently 12% per annum). If any payment and accumulated penalties are not received within fifteen (15) days after the payment due date, and such failure continues three (3) days after written notice thereof, then the City may, without further demand or notice, terminate this Concession Agreement without being prejudiced as to any remedies which may be available to it for breach of contract; and may begin procedures to retain the Security Deposit required in Section 14 herein.

13.3 Non-Monetary Default.

In the event that Concessionaire or the City fails to perform or observe any of the covenants, terms or provisions under this Agreement, and such failure continues thirty (30) days after written notice thereof from the other party hereto, such non-defaulting party may immediately or at any time thereafter, and without further demand or notice, terminate this Agreement without being prejudiced as to any remedies which may be available to it for breach of contract. In the event that a default is not reasonably susceptible to being

cured within such period, the defaulting party shall not be considered in default if it shall, within such period, commence with due diligence and dispatch to cure such default and thereafter completes with dispatch and due diligence the curing of such default, but in no event shall such extended cure period exceed ninety (90) days from the date of written notice thereof. In the event Concessionaire cures any default pursuant to this subsection, it shall promptly provide City with written notice of same.

13.4 City's Remedies for Concessionaire's Default.

If any of the events of default, as set forth in this Section, shall occur, the City may, after notice (if required) and the expiration of cure periods, as provided above, at its sole option and discretion, institute such proceedings as in its opinion are necessary to cure such defaults and to compensate City for damages resulting from such defaults, including but not limited to the right to give to Concessionaire a notice of termination of this Agreement. If such notice is given, the term of this Agreement shall terminate upon the date specified in such notice from City to Concessionaire. On the date so specified, Concessionaire shall then quit and surrender the Concession Area(s) to City pursuant to the provisions of Subsection 13.7. Upon the termination of this Agreement, all rights and interest of Concessionaire in and to the Concession Area(s) and to this Agreement, and every part thereof, shall cease and terminate and City may, in addition to any other rights and remedies it may have, retain all sums paid to it by Concessionaire under this Agreement, including but not limited to, beginning procedures to retain the Security Deposit in Section 14 herein. In addition to the rights set forth above, City shall have the rights to pursue any and all of the following:

- a. the right to injunction or other similar relief available to it under Florida law against Concessionaire; and or
- b. the right to maintain any and all actions at law or suits in equity or other proper proceedings to obtain damages resulting from Concessionaire's default.

13.5 If an event of default, as set forth in this Section, by the City shall occur, the Concessionaire may, after notice (if required) and the expiration of the cure periods, as provided above, at its sole option and discretion, terminate this Agreement upon written notice to the City and/or sue for damages. Said termination shall become effective upon receipt of a written notice of termination by the City, but in no event shall Concessionaire specify a termination date that is less than sixty (60) days from the date of the written termination notice. On the date specified in the notice, Concessionaire shall quit and surrender the Concession Area(s) to City pursuant to the provisions of Subsection 13.7.

13.6 Termination for Convenience/Partial Termination.

13.6.1 Concessionaire acknowledges that the City may develop a schedule of capital improvements and/or beach renourishment projects in or

around the 21st Street and/or 46th Street Concession Areas which may entail a closure of all or a portion of the Concession Area(s), to be determined at the City Manager's sole discretion. In the event that the City closes down a Concession Area(s) for the purpose of undertaking a capital improvement and/or renourishment project(s) thereon, then the parties agree that that portion of the Agreement referencing the closed Concession Area(s) shall be partially terminated for convenience, without cause and without penalty to either party. Such a termination shall become effective upon sixty (60) days prior written notice to Concessionaire.

13.6.2 In the event of termination or partial termination by City of the Agreement pursuant to this subsection, Concessionaire hereby acknowledges and agrees that it shall not have any claim, demand, or cause of action of whatsoever kind or nature, against the City, its agents, servants and employees (including, but not limited to, claims for interference in business or damages for interruption of services or interference in its concession operations). Additionally, in the events of a partial termination, the parties agree and acknowledge that the Agreement shall remain in full force and effect as to the remainder of the open Concession Area(s).

13.7 Surrender of Concession Areas.

At the expiration of this Agreement, or earlier termination in accordance with the terms of this Agreement, Concessionaire shall surrender the Concession Area(s) in the same condition as the Concession Area(s) were prior to the commencement of this Agreement, reasonable wear and tear excepted (including any beach erosion not directly caused by Concessionaire and/or its operation). Concessionaire shall remove all its facilities, equipment, personal property, etc. upon forty-eight (48) hours written notice from the City Manager or his/her designee unless a longer time period is agreed to by the City. Concessionaire's obligation to observe or perform this covenant shall survive the expiration or other termination of this Agreement. Continued occupancy of the Concession Area(s) after termination of the Agreement shall constitute trespass by the Concessionaire, and may be prosecuted as such. In addition, the Concessionaire shall pay to the City One Thousand (\$1,000.00) Dollars per day as liquidated damages for such trespass and holding over.

SECTION 14. SECURITY DEPOSIT.

Concessionaire shall, on or before the Commencement Date of this Agreement, furnish to the City Manager or his/her designee a cash security deposit, in the amount of Twelve Thousand (\$12,000.00) Dollars, for the payment of which Concessionaire shall bind for the faithful performance and terms and conditions of the Agreement. All interest that accrues in connection with any financial instrument or sum of money referenced above shall be the property of Concessionaire, except in an event of default, in which case the City shall be entitled to all interest that accrues after the date of default.

SECTION 15. ASSIGNMENT.

Except as otherwise provided in this subsection, Concessionaire shall not assign; sublease; grant any concession or license; permit the use of by any other person other than Concessionaire; or otherwise transfer all or any portion of this Agreement and/or of the Concession Area(s) (all of the forgoing are herein after referred to collectively as "transfers"), without the prior written consent of the City, which consent shall not be unreasonably withheld.

If there is a change in control of Concessionaire, then any such change in control shall constitute a "transfer" for purposes of this Agreement and shall be approved by the City Commission prior to consummation of such change in control. "Change in control", for purposes hereof, shall mean a change of the ownership, directly or indirectly, of greater than thirty-three and four tenths (33.4%) percent of the voting or ownership interest or right to profits in such Concessionaire, by means of one or more transfers, sales, mergers, consolidations, dissolutions or otherwise. Any change of the ownership, directly or indirectly, of thirty-three and four tenths (33.4%) percent or less of the voting or ownership interest or right to profits in such Concessionaire (a "Minor Change"), by means of one or more transfers, sales, mergers, consolidations, dissolutions or otherwise, shall be subject to the approval of the City Manager or his/her designee.

Concessionaire shall notify the City of any proposed transfer, and shall notify the City Manager or his/her designee of any proposed Minor Change, prior to consummation of same and the City or the City Manager or his/her designee, as applicable, shall respond within thirty (30) days. In the event that any such transfer or Minor Change is approved, the transferee shall agree to be bound by all the covenants of this Agreement required of the transferor hereunder. Any transfer or Minor Change made without complying with this Section shall be null, void, and of no effect and shall constitute an act of default under this Agreement. Notwithstanding any such consent, or any permitted transfer or Minor Change under any provision of this Section, unless expressly released by the City, Concessionaire shall remain jointly and severally liable (along with each approved transferee, who shall automatically become liable for all obligations of the transferor hereunder with respect to that portion of the Agreement so transferred), and the City shall be permitted to enforce the provisions of this Agreement directly against Concessionaire or any transferee of the Concessionaire without proceeding in any way against any other person.

SECTION 16. SPECIAL EVENTS / SPONSORSHIPS.

- 16.1 Concessionaire's proposed uses, as defined in Section 3 herein, do not contemplate the production, promotion or sponsorship by the Concessionaire of special events in any of the Concession Areas. In the event Concessionaire does produce, promote or sponsor a special event in the City, it shall abide by the City's Special Events Permit Requirements and Guidelines, as same may be amended from time to time. For any use, other than those provided for in this Agreement, a special events permit may be required and shall be obtained through the City's Office of Arts, Culture and Entertainment. The City Manager's authorization must be obtained for any such special event.

The City shall evaluate requests for special events permits on a case by case basis, in accordance with the City's Special Event Permit Requirements and Guidelines, as same may be amended from time to time. In the event that a special event and/or film permit is requested by an entity, other than the Concessionaire, and the proposed special event and/or film is scheduled to occur within the Concession Area(s) and would cause the operations within that particular Area(s) to cease, wholly or partly, and provided Concessionaire is not in default under the Agreement at the time of the request, the Concessionaire agrees to cooperate with the City and the special event permit applicant to allow use of the Concession Area(s) during the period of the special event, including set-up and break-down time. City agrees that, to the extent the special event permittee provides food and beverage service at the special event and does not utilize the Concessionaire for said service, the special event permittee will be required to remit twenty percent (20%) of the gross revenues generated at the event to the City. The City agrees to remit thirty percent (30%) of said remittance to the Concessionaire as a use fee in consideration of the special event permittee's use of the Concession Area(s).

16.2

City Special Events.

Notwithstanding Subsection 16.1 above, and in the event that the City, at its sole discretion, deems that it would be in the best interest of the City, the City reserves the right to displace the Concessionaire for City produced and/or sponsored special events and/or City produced and/or sponsored productions, including without limitation 1) Art Basel and 2) The Polo World Cup. Additionally, any such events may also require additional time for load-in and load-out of the event. In such cases, the City may request that the Concessionaire cease and desist operations during the term of, and in the area of, the special event and/or production, and the Concessionaire shall cease and desist during said term. If the Concessionaire is not required to close, or the City Manager or his/her designee determines that Concessionaire may remain open in such a manner as prescribed by the City, that will not interfere with the special event and/or production, Concessionaire shall use its best efforts, in either case, in cooperating with the City. If the Concessionaire is allowed to remain open during special events and/or productions, the Concessionaire may be allowed to have in operation its normal daily complement of equipment and staff. "Normal" shall be defined as equipment and staff, approved by the City, that the Concessionaire has available for the public on a normal day, 365 days per year. Such equipment or staff shall not be increased or altered during special events and/or productions without the prior written permission of the City Manager or his/her designee. To the extent that the normal daily complement of equipment and staff is displaced by the special event and/or production, the Concessionaire may reallocate such displaced equipment and staff on a pro-rata basis within the Concession Area(s) not being utilized by the special event.

16.3

Notwithstanding anything to the contrary, if a special event occurs in all or any portion of any Concession Area(s), Concessionaire shall not be liable for

any charge, fee or other expense, governmental or otherwise, in connection with such special event. To the extent the preceding sentence conflicts with the City's Rules and Regulations for Beachfront Concession Operations or conflicts with any other City rule, law, regulation, charter or code provision, this Agreement governs.

16.4

Sponsorships.

The City reserves unto itself all present and future rights to negotiate all forms of endorsement and/or sponsorship agreements based on the marketing value of any City trademark, property, brand, logo and/or reputation. Any and all benefits derived from an endorsement and/or sponsorship agreement based on the marketing value of a City trademark property, brand, logo and/or reputation, shall belong exclusively to the City. Concessionaire shall be specifically prohibited from entering into, or otherwise creating any, sponsorships and/or endorsements with third parties which are based solely or in any part on the marketing value of a City trademark, property, brand, logo and/or reputation.

SECTION 17. NO IMPROPER USE.

The Concessionaire will not use, nor suffer or permit any person to use in any manner whatsoever, the Concession Area(s) or facilities for any improper, immoral or offensive purpose, or for any purpose in violation of any Federal, State, County, or Municipal ordinance, rule, order or regulation, or of any governmental rule or regulation now in effect or hereafter enacted or adopted. The Concessionaire will protect, indemnify, and forever save and keep harmless the City, its agents, employees and contractors from and against damage, penalty, fine, judgment, expense or charge suffered, imposed, assessed or incurred for any violation, or breach of any law, ordinance, rule, order or regulation occasioned by any act, neglect or omission of the Concessionaire, Subconcessionaire, or any employee or agent regarding the Concession. In the event of any violation by the Concessionaire or if the City or its authorized representative shall deem any conduct on the part of the Concessionaire to be objectionable or improper, the City shall have the right to suspend the operation of the concession should the Concessionaire fail to correct any such violation, conduct, or practice to the satisfaction of the City within twenty-four (24) hours after receiving written notice of the nature and extent of such violation, conduct, or practice, such suspension to continue until the violation is cured. The Concessionaire further agrees not to commence operation during the suspension until the violation has been corrected to the satisfaction of the City.

SECTION 18. PRICE SCHEDULES.

Concessionaire agrees that prices charged for beach equipment rentals, sale of food and beverage service, and/or sale of beach related sundries, will be consistent with the price schedule(s) herein submitted by the Concessionaire and approved by the City and incorporated herein as exhibits to this Agreement. All subsequent price approvals and changes must be approved in writing by the City Manager or his/her designee. Prices shall be reasonably consistent with those charged for similar items and services in the general vicinity. The City shall have the final right of approval for all such prices and changes, but said right shall not be arbitrarily or unreasonably exercised. The Concessionaire agrees to

refrain from the sale or rental of any item identified as prohibited by the City and to sell or rent only those items approved by the City. The Concessionaire agrees to maintain an adequate supply necessary to accommodate beach patrons.

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SECTION 19. NOTICES.

All notices from the City to the Concessionaire shall be deemed duly served upon receipt, if mailed by registered or certified mail with a return receipt to the Concessionaire at the following address:

Tim Wilcox, Inc.
4299 Collins Ave
Miami Beach, FL 33140
Attn: Tim Wilcox

All notices from the Concessionaire to the City shall be deemed duly served upon receipt, if mailed by registered or certified mail return receipt requested to the City of Miami Beach at the following addresses:

City Manager
City of Miami Beach
1700 Convention Center Drive
Miami Beach, FL 33139

With copy to:

Asset Manager
City of Miami Beach
1700 Convention Center Drive
Miami Beach, FL 33139

The Concessionaire and the City may change the above mailing address at any time upon giving the other party written notification. All notices under this Concession Agreement must be in writing.

SECTION 20. LAWS.

- 20.1 Compliance.
Concessionaire shall comply with all applicable City, County, State, and Federal ordinances, statutes, rules and regulations, including but not limited to all applicable environmental City, County, State, and Federal ordinances, statutes, rules and regulations.
- 20.2 Intentionally Omitted.

- 20.3 Equal Employment Opportunity.
Neither Concessionaire nor any affiliate of Concessionaire performing services hereunder, or pursuant hereto, will discriminate against any employee or applicant for employment because of race, color, national origin, religion, sex, gender identity, sexual orientation, disability marital or familial status or age.
- 20.4 No Discrimination.
The Concessionaire agrees that there shall be no discrimination as to race, color, national origin, religion, sex, gender identity, sexual orientation, disability marital or familial status or age in its employment practice or in the operations referred to by this Concession Agreement; and further, there shall be no discrimination regarding any use, service, maintenance, or operation within the Concession Area(s). All services offered on the beach shall be made available to the public, subject to the right of the Concessionaire and the City to establish and enforce rules and regulations to provide for the safety, orderly operation and security of the facilities.
- 20.4.1 Pursuant to the Cit of Miami Beach Human Rights Ordinance, as identified in Chapter 62, of the Miami Beach City Code Concessionaire, by executing this Agreement, certifies that it does not discriminate in its membership or policies based on race, color, national origin, religion, sex, gender identity, sexual orientation, disability marital or familial status or age.

SECTION 21. MISCELLANEOUS.

- 21.1 No Partnership.
Nothing contained in this Agreement shall constitute or be construed to be or create a partnership or joint venture between the City and Concessionaire.
- 21.2 Modifications.
This Agreement cannot be changed or modified except by agreement in writing executed by all parties hereto. Concessionaire acknowledges that no modification to this Agreement may be agreed to by the City unless approved by the Mayor and City Commission except where such authority has been expressly provided herein to the City Manager or his/her designee.
- 21.3 Complete Agreement.
This Agreement, together with all exhibits incorporated hereto, constitutes all the understandings and agreements of whatsoever nature or kind existing between the parties with respect to Concessionaire's operations, as contemplated herein.
- 21.4 Headings.
The section, subsection and paragraph headings contained herein are for convenience of reference only and are not intended to define, limit, or describe the scope or intent of any provision of this Agreement.

- 21.5 Binding Effect.
This Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective successors and permitted assigns.
- 21.6 Clauses.
The illegality or invalidity of any term or any clause of this Agreement shall not affect the validity of the remainder of the Agreement, and the Agreement shall remain in full force and effect as if such illegal or invalid term or clause were not contained herein unless the elimination of such provision detrimentally reduces the consideration that either party is to receive under this Agreement or materially affects the continuing operation of this Agreement.
- 21.7 Severability.
If any provision of this Agreement or any portion of such provision or the application thereof to any person or circumstance shall be held to be invalid or unenforceable, or shall become a violation of any local, State, or Federal laws, then the same as so applied shall no longer be a part of this Agreement but the remainder of the Agreement, such provisions and the application thereof to other persons or circumstances, shall not be affected thereby and this Agreement as so modified shall.
- 21.8 Right of Entry.
The City, at the direction of the City Manager, shall at all times during hours of operation, have the right to enter into and upon any and all parts of the Concession Area(s) for the purposes of examining the same for any reason relating to the obligations of parties to this Agreement.
- 21.9 Not a Lease.
It is expressly understood and agreed that no part, parcel, building, facility, equipment or space is leased to the Concessionaire, that it is a concessionaire and not a lessee; that the Concessionaire's right to operate the concession shall continue only so long as this Agreement remains in effect.
- 21.10 Signage.
Concessionaire shall provide, at its sole cost and expense, any required signs at its concessions. All advertising, signage and postings shall be approved by the City, and shall be in accordance with all applicable Municipal, County, State and Federal laws and regulations. Any signage posted by Concessionaire on its facilities and equipment shall be subject to the prior approval of the City as to size, shape and placement of same.
- 21.11 Use of Beach.
The beach is for the use and enjoyment of the public, for recreation and other public purposes and the public's right to such use shall not be infringed upon by any activity of the Concessionaire. Upon execution of this Agreement, Concessionaire acknowledges that all of the beaches are public

and as such concession operations must not restrict, or appear to restrict, access to the general public, or in any way limit the public nature or ambiance of the beachfront. The Concessionaire will conduct its operations so as to maintain a reasonably quiet and tranquil environment for the adjacent area, and make no public disturbances.

21.12 Conflict of Interest.

Concessionaire shall perform its services under this Agreement and conduct the concession operations contemplated herein, in a manner so as to show no preference for other concession operations/facilities (e.g. particularly concession operations behind private property along the City's beachfront) which may now, or in the future (during the Term hereof), be owned, operated, managed, or otherwise controlled by Concessionaire, with regard to its responsibilities pursuant to this Concession Agreement.

21.13 Intentionally Omitted.

21.14 Procedure for Approvals and/or Consents.

In each instance in which the approval or consent of the City Manager or his/her designee is allowed or required in this Agreement, it is acknowledged that such authority has been expressly provided herein to the City Manager or his/her designee by the Mayor and City Commission of the City. In each instance in which the approval or consent of the City Manager or his/her designee is allowed or required in this Agreement, Concessionaire shall send to the City Manager a written request for approval or consent (the "Approval Request"). The City Manager or his/her designee shall use reasonable efforts to provide written notice to Concessionaire approving of, consenting to or disapproving of the request within sixty (60) days from receipt of the approved request. Notwithstanding, the proceeding, however, the City Manager or his/her designee's failure to consider such request within this time provided shall not be deemed a waiver of the City's rights, nor shall Concessionaire assume that the request is automatically approved and consented to. The subsection shall not apply to approvals required herein by the Mayor and City Commission.

21.15 No Waiver.

No waiver of any covenant or condition of this Agreement by either party shall be deemed to imply or constitute a waiver in the future of the same covenant or condition or of any other covenant or condition of this Agreement.

21.16 No Third Party Beneficiary.

Nothing in this Agreement shall confer upon any person or entity, including, but not limited to subconcessionaires, other than the parties hereto and their respective successors and permitted assigns, any rights or remedies by reason of this Agreement.

SECTION 22. LIMITATION OF LIABILITY.

The City desires to enter into this Agreement placing the operation and management of the Concession Area(s) in the hands of a private management entity only if so doing the City can place a limit on its liability for any cause of action for breach of this Agreement, so that its liability for any such breach never exceeds the sum of Fifty Thousand (\$50,000.00) Dollars. Concessionaire hereby expresses its willingness to enter into this Agreement with a Fifty Thousand (\$50,000.00) Dollar limitation on recovery for any action for breach of contract. Accordingly, and in consideration of the separate consideration of Fifty Thousand (\$50,000.00) Dollars, the receipt of which is hereby acknowledged, the City shall not be liable to Concessionaire for damages to Concessionaire in an amount in excess of Fifty Thousand (\$50,000.00) Dollars, for any action for breach of contract arising out of the performance or non-performance of any obligations imposed upon the City by this Agreement. Nothing contained in this paragraph or elsewhere in this Agreement is in any way intended to be a waiver of limitation placed upon the City's liability as set forth in Florida Statutes, Section 768.28.

SECTION 23. VENUE.

This Agreement shall be deemed to have been made and shall be construed and interpreted in accordance with the laws of the State of Florida. This Agreement shall be enforceable in Miami-Dade County, Florida, and if legal action is necessary by either party with respect to the enforcement of any and all the terms or conditions herein, exclusive venue for the enforcement of same shall lie in Miami-Dade County, Florida. **CITY AND CONCESSIONAIRE HEREBY KNOWINGLY AND INTENTIONALLY WAIVE THE RIGHT TO TRIAL BY JURY IN ANY ACTION OR PROCEEDING THAT CITY AND CONCESSIONAIRE MAY HEREIN AFTER INSTITUTE AGAINST EACH OTHER WITH RESPECT TO ANY MATTER ARISING OUT OF OR RELATED TO THIS AGREEMENT OR THE CONCESSION AREA(S).**

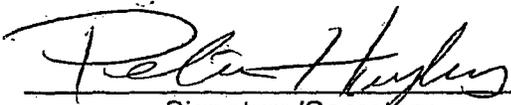
IN WITNESS WHEREOF, the parties hereto have caused their names to be signed and their seals to be affixed, all as of the day and year first above written, indicating their agreement.

Attest:



Robert Parcher, CITY CLERK

Attest:



Signature/Secretary



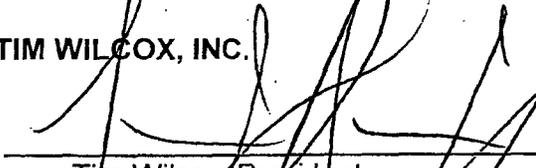
Print Name

CITY OF MIAMI BEACH, FLORIDA



Matti Herrera Bower MAYOR

TIM WILCOX, INC.



Tim Wilcox, President

APPROVED AS TO
FORM & LANGUAGE
& FOR EXECUTION

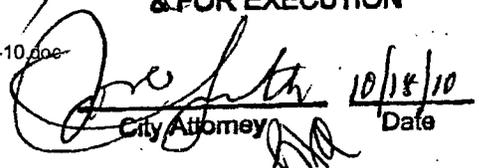

_____ 10/18/10
City Attorney Date

EXHIBIT 2.1 (a)

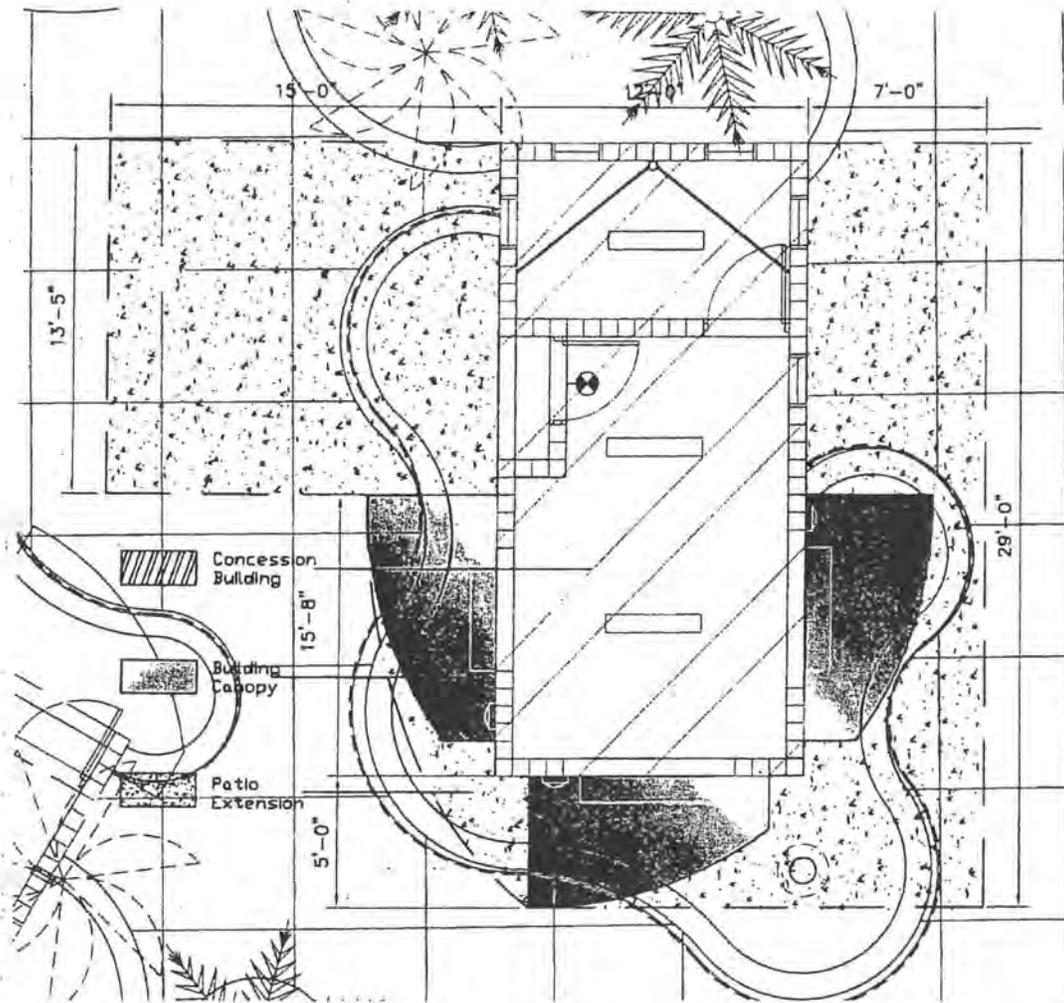


EXHIBIT 2.1 (b)

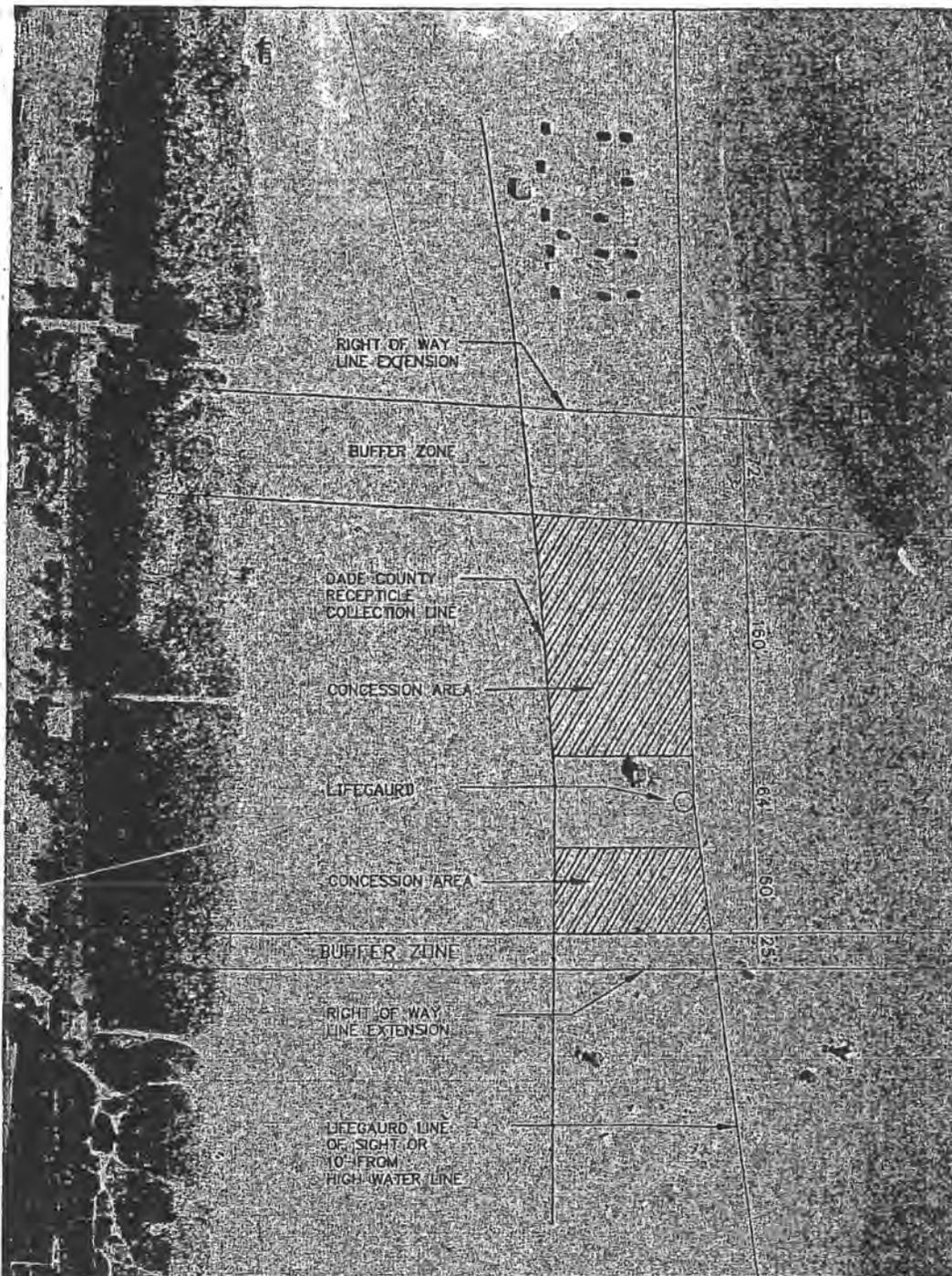


EXHIBIT 2.2 (a)

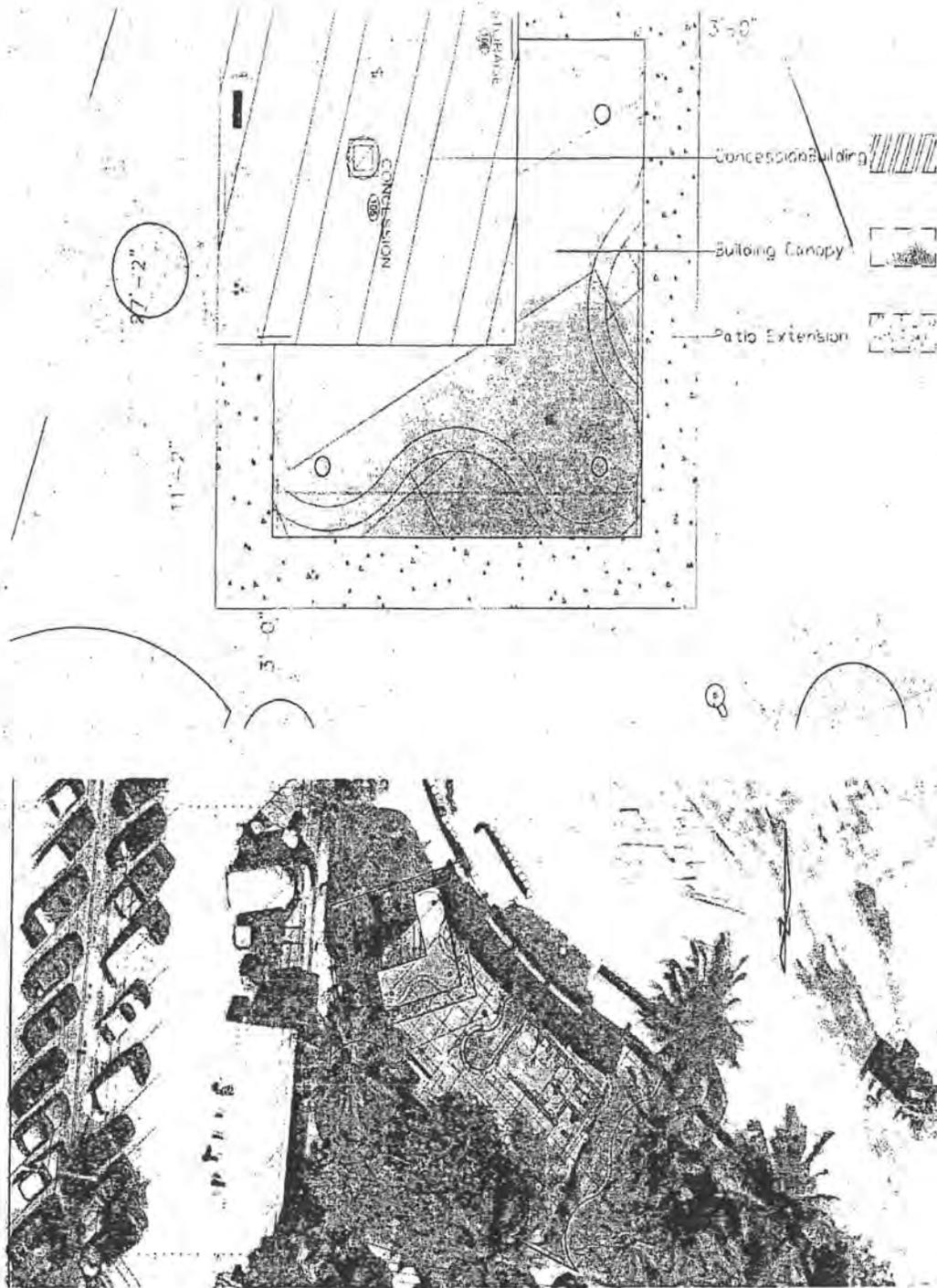


EXHIBIT 2.2 (b)

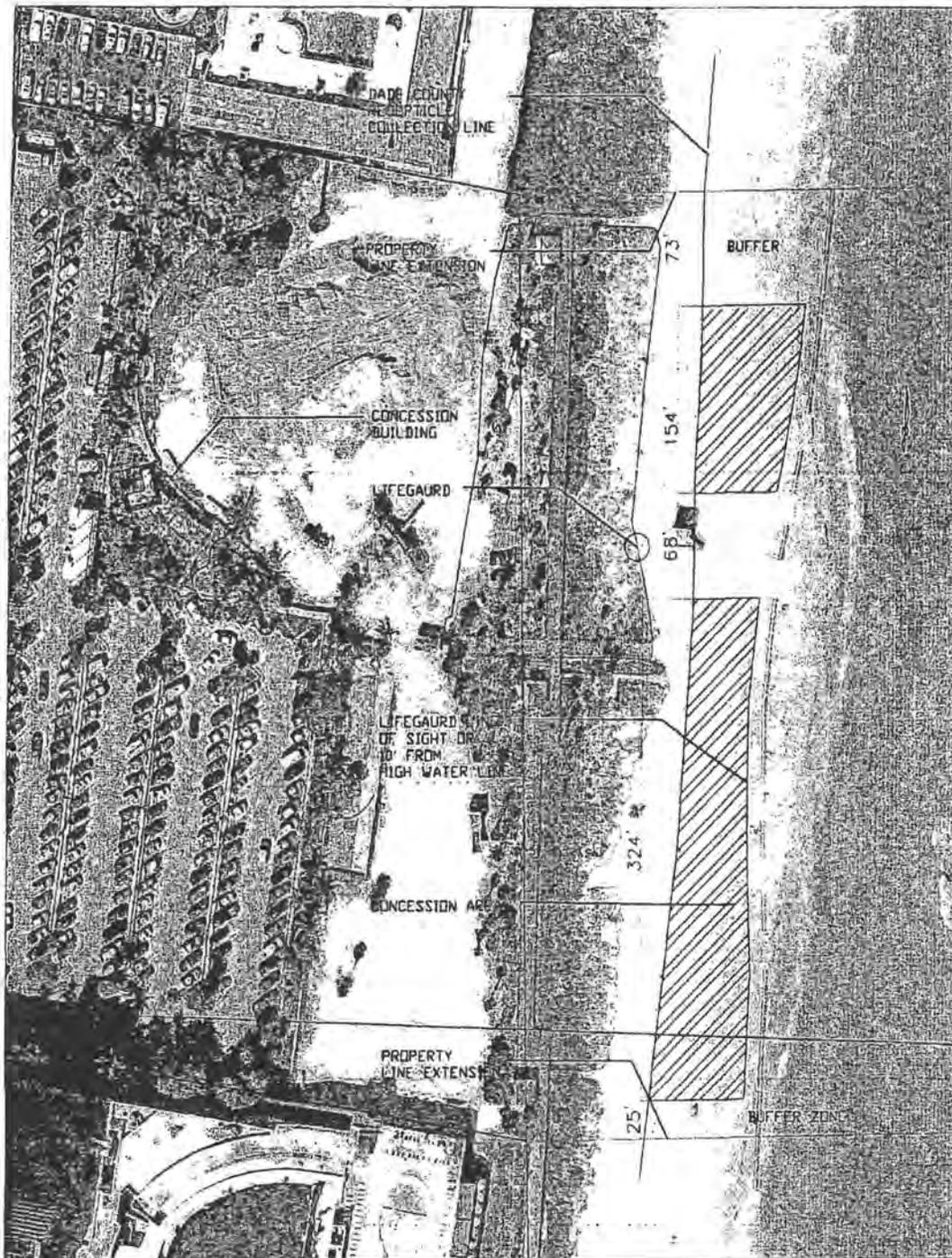


EXHIBIT 3.1
(Section 1 of 2)
Approved Beach Rental Equipment & Pricing
21st Street Concession

Beach Rentals

Chaise lounge	\$5.00
Chaise lounge w/ pad and towel	\$10.00
Umbrella	\$12.00
Sun canopy	\$10.00
Suntan lotion and oils	\$25.00
VIP-Section luxury set (to be developed)	\$10,\$15,\$15
*Cabana	\$50.00

EXHIBIT 3.1
(Section 2 of 2)
Approved Beach Rental Equipment & Pricing
46st Street Concession

Beach Rentals

Chaise lounge	\$5.00
Chaise lounge w/ pad and towel	\$10.00
Umbrella	\$12.00
Sun canopy	\$10.00
Suntan lotion and oils	\$25.00
VIP-Section luxury set (to be developed)	\$10,\$15,\$15
*Cabana	\$50.00

EXHIBIT 3.1.(a)

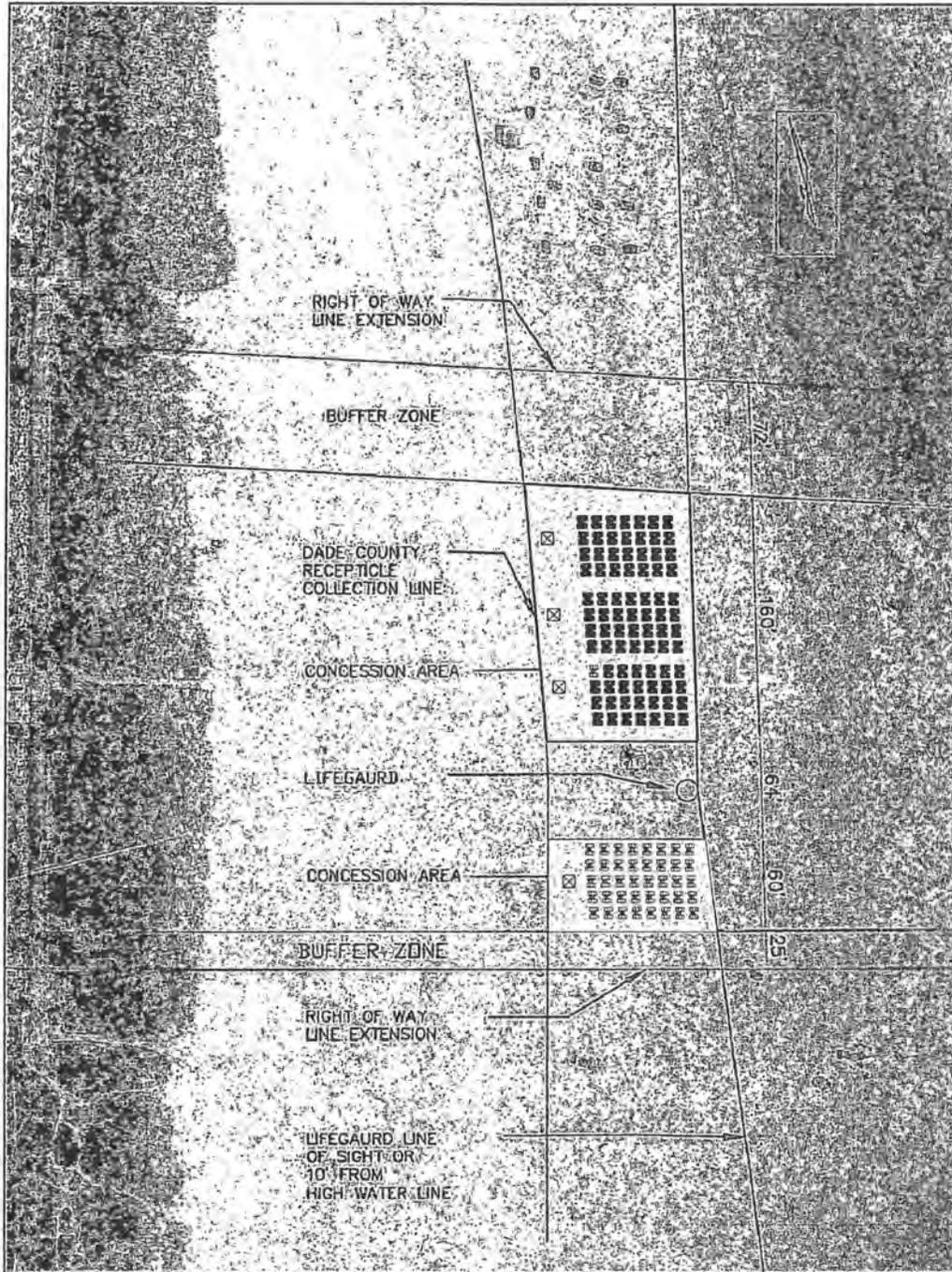


EXHIBIT 3.1.(b)

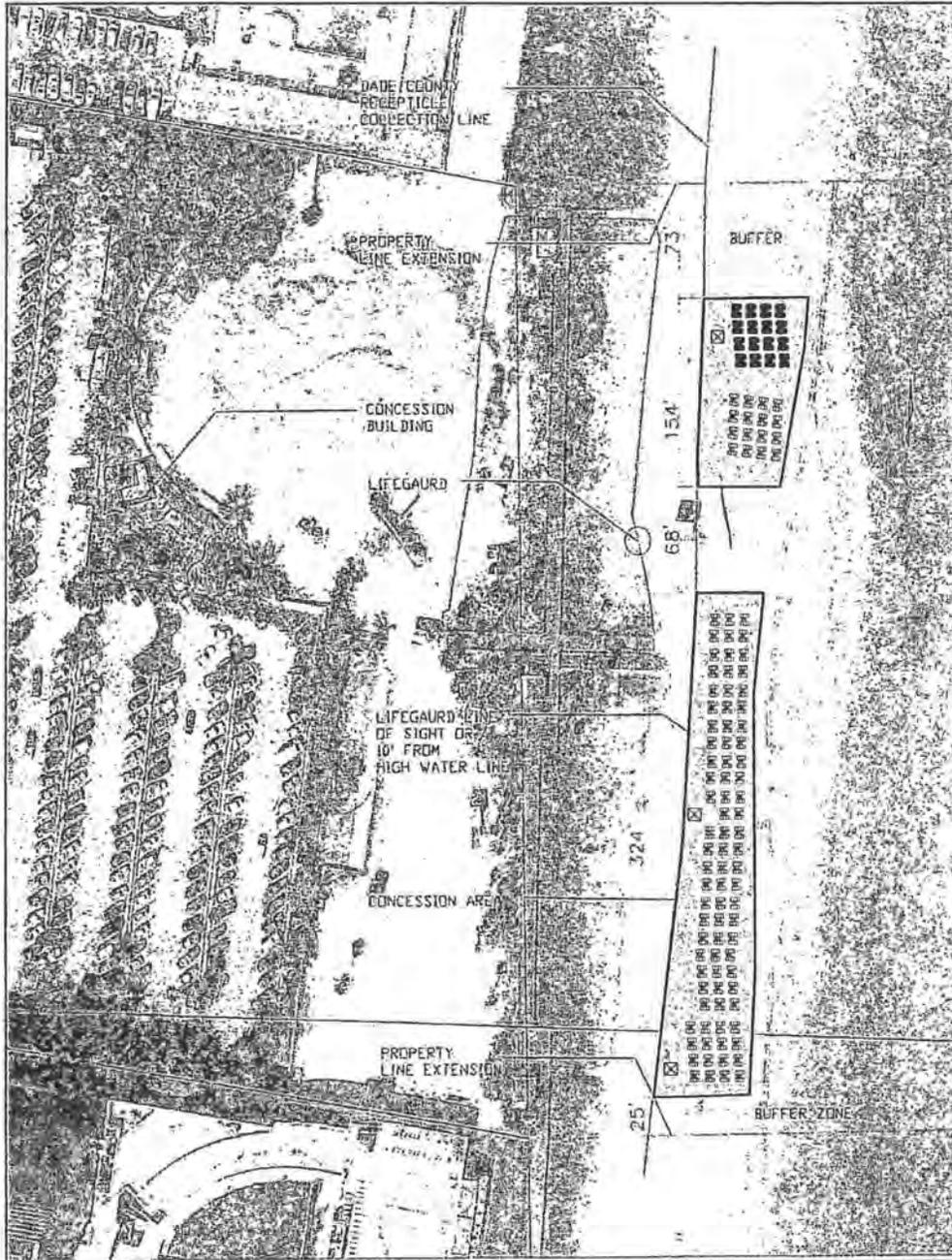


EXHIBIT 3.1

(Section 2 of 2)

Approved Beach Rental Equipment & Pricing 46st Street Concession

Beach Rentals

Chaise lounge	\$5.00
Chaise lounge w/ pad and towel	\$10.00
Umbrella	\$12.00
Sun canopy	\$10.00
Suntan lotion and oils	\$25.00
VIP-Section luxury set (to be developed)	\$10,\$15,\$15
*Cabana	\$50.00

Menu for 21st Concession Stand

Gourmet Wraps.....\$6.00

The Beach Caesar

Chicken Breast Strips, Romaine Lettuce,
Parmesan Cheese & Caesar Dressing wrapped in
a Zesty Herb Tortilla

The Fried Beach Chicken

Southern Fried Chicken, Mixed Greens, Jack &
Cheddar Cheese, Tomatoes, Bacon, & Onion
Wrapped in a White Tortilla

The Beach BBQ

Smoked & Pulled BBQ Chicken Drizzled with Our
"Sweet Georgia Brown" Sauce wrapped in a
White Tortilla

The Veggie Beach

Assorted Fresh Veggies, Mixed Greens,
Tomatoes, Jack & Cheddar Cheese Wrapped in a
Zesty Herb Tortilla

Salads.....\$6.00

Southern Fried Chicken Salad

Fried Chicken, Jack & Cheddar Cheese, Mixed
Greens, Veggies, Bacon and Onion

Smokehouse BBQ Salad

Fresh Greens Topped with chopped BBQ Pork,
Cheeses, Egg, Veggies, Bacon & Red Onions

Garden Salad

Fresh Greens, Cheeses, Veggies, Egg, and Crisp
Bacon

Beach BBQ

Baby Back Ribs.....\$10.00

½ Rack of Lean and Tender Ribs. "Meat Falls Off
The Bone!" Your Choice of Our Original "Award
Winning" BBQ Sauce or our "Sweet Georgia
Brown" Sauce

Backyard BBQ Chicken.....\$8.00

Tender Half Chicken that has been seared over
a smoldering wood fire and basted with our
Original "Sweet BBQ" Sauce

Smoked Pulled Pork.....\$8.00

Pulled Pork Slowly Smoked Until Tender topped
with Creamy Cole Slaw

Beef Hotdogs.....\$4.00

The Beach Dog

All Beef Hotdog served in a bun with your
choice of toppings

Fruit Smoothies.....\$5.00

Ocean Drive Breeze

Strawberries, Pineapples, Oranges & Mango

Paradise Passion

Strawberries, Bananas, & Pineapples

Sunset Magic

Oranges, Strawberries, & Bananas

South Beach Berry

Strawberries & Non-Fat Yogurt

Sunrise Passion

Pineapples, Orange, & Non-Fat Yogurt

EXHIBIT 3.3

21st & 46th STREET SUNDRY ITEMS & PRICES*

ASSORTED BEACH TOYS

20" Beach Ball		\$ 7.50
48" Jumbo Beach Ball		\$11.00
Bazooka Water Gun		\$19.25
Beach Girl 5-pc set		\$18.25
(includes bucket, castle mold, watering can, shovel and rake)		
Beach Bag & Inflatable		\$13.45
(a beach bag that converts to a floater)		
Beach Bucket with two sand shovels		\$10.25
Complete Sand & Water Beach Play Set		\$26.75
(includes toys, watering can, bucket, shovel, bag and more..)		
Leaf Rake (PVC free)		\$10.75
Life Vest (for kids)		\$32.25
River Tube		\$18.25
Sand Scoop (PVC free)		\$ 7.45
Sevylor 4 Piece Beach Set		\$19.25
(includes a mattress, a chair, a ring and an hammock-Inflatable)		
Scope & Snorkel		\$21.45
Swim Set with fins		\$18.25
Swim tube		\$25.75
Truck with 5 beach accessories		\$23.75
(includes a pail, 2 shovels and 2 sand molds)		
Water Wings		\$18.25

ASSORTED SUN CARE PRODUCTS

Sunblock 15+ SPF	8 oz	\$12.99
Sunblock 30+ SPF	8 oz	\$12.99
Sunblock 45+ SPF	8 oz	\$13.99
Golden Tanning Lotion 6 SPF	8 oz	\$11.99
Golden Tanning Dry Oil 6-SPF	8 oz	\$11.99
Lip Balm 45+ SPF	0.14 oz	\$ 2.25

ASSORTED HATS

\$5.50 to \$16.25

* all prices include 7% sales tax

EXHIBIT 3.5.1

Equipment Storage and Removal Plans

All umbrellas and chaise pads will be stored at each location in a storage box made of an approved plan from the planning department it will be 8 feet by 4 feet and 39 inches high. The Chaise lounges will be stored in stacks of ten high by 5 rows at each location. At the 21street location their will be two sections so there will be two areas when stacks that each will have five rows with ten chaise lounges. If business call for it and more lounges are need on a busy weekend or in the summer all additional lounge will be removed with my trailer and truck at the end of each business day.

EXHIBIT 3.6

Hurricane Evacuation Plan

At 46th Street and at 21st both of the beaches will have their equipment removed when the city give us the notice that there is a hurricane or tropical storm approaching. Upon receiving notice all lounges, storage sheds and Gazebo will be loaded on to a flatbed truck and be driven to my storage facility at 249 NE11th street in Miami. When the city give us permission all the equipment will be returned in the same manner as it was removed.

EXHIBIT 6

(page 1 of 3)

CITY OF MIAMI BEACH
TIM WILCOX, INC.
AGREED-UPON PROCEDURES

1. Inquire of management and obtain and review documentation on the nature of the company's business and the factors that affect sales. Inquire about and document any major changes made during the period.
 - a. Review procedures for recording sales for all sources of concession income.
 - b. Obtain the operating policies and procedures from the Concessionaire.
 - c. Interview key company representatives to determine procedures used.
 - d. Observe the utilization and effectiveness of the procedures through quarterly site visits to concession locations.
2. Test to determine that the Concessionaire maintained proper internal controls and documentation to support the reported gross receipts figure for each open and closed Concession Area.
 - a. Document the procedures, if any, for determining how Concession Areas are recorded as open and closed.
 - b. For ____ months, test manual *Open and Closed Concession Area* sheets to *Daily Revenue* sheets for ____ days to determine if for Concession Areas opened revenues are recorded and that for closed Concession Areas, proper supervisory approval is evidenced. Agree earned revenues to entries on master *Consolidated Sales* schedule.
 - c. Determine that all *Daily Revenue* sheets have been accounted for.
 - d. Verify the notations of "inclement weather" or "special events" for days in which the revenues are unusually low.
 - e. Document the findings.
3. Obtain a *Consolidated Revenue* schedule for the year ended _____, prepared in conformity with the Concession Agreement between the City of Miami Beach and **Tim Wilcox, Inc.** dated _____. Recalculate concession fees for the period based on sales per the schedule and the terms of the Concession Agreement.
4. Review the Concession Agreement and inquire about major changes, if any, in the definition of which sales are included and excluded from the *Consolidated Revenue* schedule.
5. Perform an analytical test of sales by obtaining a schedule summarizing sales by revenue type (i.e. food and beverage, beach equipment, sundries, etc.). Analyze this schedule and critically evaluate explanations for significant variations that are unusual in amount or nature.
6. Obtain or prepare a reconciliation of total sales recorded in the general ledger for the period to the *Consolidated Revenue* schedule provided to the City of Miami Beach. Also, obtain or prepare an analysis of sales summarized by revenue type. Perform the following procedures:

EXHIBIT 6

(page 2 of 3)

- a. Test the analysis by selecting a few categories, and compare the amounts shown with those recorded in the sales schedule. Document the items selected for testing. Agree the sales schedule balances to the general ledger.
 - b. Review the analysis, and identify any unusual trends or variations within the period or the prior period.
 - c. Obtain sound business reasons for large or unusual variations in the amounts included in the analysis.
7. Scan the accounting records for large and unusual transactions, review evidence and document any findings.
8. Perform a test of sales completeness by applying the following procedures:
- a. Using sales documentation or daily cash register recaps, select 1 (one) day per month throughout the year, including weekdays and weekends. Document the items selected for testing. The sales documentation or daily cash register recaps should include original sales documents (including cash sales and credit card sales), credit memos, etc.
 - b. Agree the summary information on the daily cash register recap or daily collection sheet to the supporting documents (which may be sales tickets, cash register tape, etc.). Determine that details are appropriately reflected on the summary and that all collection sheets have been accounted for.
 - c. Agree the amounts on the daily cash register recaps to proper recording in the sales schedule and general ledger, as appropriate.
 - d. Determine that proper accounting treatment has been applied to these sales transactions.
 - e. Agree deposits per the daily register recap to the daily collection sheets and ultimately to the bank statement.
 - f. Agree revenues from equipment rentals to Daily Sheets. Check for proper sign-off approval by attendant and supervisor.
 - g. Agree ___ daily deposits to daily revenue sheets and bank statements.
 - h. Foot and cross foot selected ___ months of *Consolidated Revenue* schedule and other linked spreadsheets to verify their accuracy.
 - i. Compare total sales for selected months to sales tax returns filed with the applicable taxing jurisdictions.
9. Verify that the Concessionaire's payments were remitted timely in adherence to the dates designated by the City.
10. Review the products and prices charged by the Concessionaire to determine if the City Manager or his/her designee has approved them.
- a. Obtain pricing from site visits to beach locations.
 - b. Compare prices to Concession Agreement terms. Recalculate any increase to determine if it falls within the limits of the Concession Agreement.
 - c. Determine if the City has authorized any price increases and verify if the Concessionaire has the authorization in its files.

EXHIBIT 6

(page 3 of 3)

11. Verify the status of operations at both 21st Street and 46th Street.
 - a. Conduct site visit to determine the level of operations.
 - b. Review provided documents to determine the period of activity.
 - c. Discuss and document any variances with **Tim Wilcox, Inc.** for explanation.
12. Verify that the Concessionaire has timely paid all resort taxes to the City's Finance Department and ensure the correct calculation of resort tax due.
13. Review the records maintained of all secret shoppers and determine:
 - a. The shoppers' results and corresponding actions taken by management.
 - b. That all Concession Areas (including the Concession Buildings) were periodically covered by secret shoppers.
 - c. The frequency and timing of the shoppers on a quarterly basis.
 - d. That all revenues were recorded in the *Consolidated Revenue* schedule.
14. Determine and document how management verifies which Concession Areas were open on a particular day.
 - a. Agree food and beverage sales to reports. Agree amounts sold to daily inventory sheets.
 - b. Using sales documentation or daily cash register recaps, select one day per month throughout the year, including weekdays and weekends. Document the items selected for testing. The sales documentation or daily cash register recaps should include original sales documents (including cash sales and credit card sales), credit memos, etc.
 - c. Agree the summary information on the daily cash register recap or daily collection sheet to the supporting documents (which may be sales tickets, cash register tape, etc.). Determine that details are appropriately reflected on the summary and that all collection sheets have been accounted for.
 - d. Agree the amounts on the daily cash register recaps to proper recording in the sales schedule and general ledger, as appropriate.
 - e. Verify the notations of "inclement weather" or "special events" for days in which the revenues are unusually low.
 - f. Select _____ days and ensure that both the attendant and a supervisor sign-off on the applicable daily inventory sheet attesting to the accuracy of the beginning and ending inventory counts as well as any other inventory changes for the day.
 - g. For the days selected above, ensure that the ending inventory agrees to the next days opening inventory. Document any discrepancies.
 - h. Review management's periodic reconciliations of the food and beverage revenues performed by analyzing the inventory reports and cash register tapes. Document any discrepancies and management's follow-up.

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MIAMIBEACH

OFFICE OF THE CITY MANAGER

COMMITTEE MEMORANDUM

TO: Finance and Citywide Projects Committee

FROM: Jimmy L. Morales, City Manager

DATE: March 2, 2015

SUBJECT: **CONSTRUCTION OF A PARKING GARAGE AT MUNICIPAL PARKING LOT NO. P55
(27TH STREET AND COLLINS AVENUE)**

BACKGROUND

Walker Parking Consultants, Inc. is in the process of conducting a parking study for Middle Beach. The Collins Avenue corridor between 23rd & 41st streets is an area that is undergoing significant redevelopment. Preliminary results show that parking occupancy at the 27th Street and Collins Avenue Municipal Parking Lot No. P55 was at 94% and higher, with some exceptions during a weekday Noon count and a Saturday count at 10:00 AM, showing occupancy at 90% and 87%, respectively. On-street parking in the area was even higher, with evening counts ranging between 94% and 111% occupancy, due to vehicles parked in non-metered spaces and vehicles waiting for parking.

ANALYSIS

Municipal Parking Lot No. P55 has 120 parking spaces. Given the high parking demand in the area, this lot would be a great location for construction of a multi-level parking garage with ground floor retail space. Interest has been expressed by more than one entity, including a national pharmaceutical company, to lease such space. It is recommended that this garage be built and owned by the City, which will produce revenue from leased retail space and parking fees. Being a City owned property; joint venture partners are neither necessary nor recommended.

CONCLUSION

The Administration is seeking guidance from the Finance and Citywide Projects Committee on this item.

JLM/KGB/SF

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MIAMI BEACH

City of Miami Beach, 1700 Convention Center Drive, Miami Beach, Florida 33139, www.miamibeachfl.gov

COMMISSION MEMORANDUM

TO: Finance and Citywide Projects Committee

FROM: Jimmy L. Morales, City Manager

DATE: March 2, 2015

SUBJECT: **DISCUSSION REGARDING THE ISSUANCE OF A SOLICITATION FOR THE PLACEMENT OF ATM MACHINES ON CITY OWNED PROPERTY (I.E. CITY OWNED PARKING GARAGES, ETC.)**

BACKGROUND

This discussion item was referred to the Finance and Citywide Projects Committee at the request of Commissioner Wolfson at the February 11, 2015 City Commission meeting.

The Administration believes that an Industry or Peer Review process should be conducted prior to the issuance of a solicitation. This recommendation is based on the fact that rapidly occurring advances have enabled commercial operators to accept debit cards, and which have facilitated the installation of debit card readers on most vending machines and in parking facilities. ATM operators are also trending towards generating a majority of their revenues from advertising and are therefore seeking highly visible locations. However, City Code prohibits the placement of ATMs on the public right of way, which considerably reduces the potential for advertising revenue. Finally, the City should more closely consider the most suitable locations for the ATM machines with particular attention paid to regulatory requirements and restrictions, as well as the best options and feasibility from an end-user perspective.

RECOMMENDATION

In light of the stated concerns about proceeding with an RFP for ATM services, the Administration believes that an Industry or Peer Review process should be conducted prior to the issuance of a solicitation.

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MIAMI BEACH

City of Miami Beach, 1700 Convention Center Drive, Miami Beach, Florida 33139, www.miamibeachfl.gov

COMMITTEE MEMORANDUM

TO: Finance and City-wide Projects Committee Members

FROM: Jimmy L. Morales, City Manager 

DATE: April 8, 2015

SUBJECT: **REFERRAL TO FINANCE AND CITY-WIDE PROJECTS COMMITTEE
– A DISCUSSION ON THE ISSUANCE OF RFP 2015-013-WG FOR
SECURITY OFFICER SERVICES.**

INTRODUCTION

At its February 11, 2015, meeting, the City Commission referred a discussion on RFP 2015-013-WG, for Security Officer Services, to the Finance and City-wide Projects Committee.

CONCLUSION

A draft of RFP 2015-013-WG for Security Officer Services is attached for discussion purposes.


JLM / MT / AD

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REQUEST FOR PROPOSALS (RFP)

SECURITY OFFICER SERVICES

2015-013-WG

RFP ISSUANCE DATE: FEBRUARY 11, 2015

PROPOSALS DUE: MARCH 11, 2015 @ 3:00 PM

ISSUED BY: WILLIAM GARVISO, CPPB



MIAMIBEACH

WILLIAM GARVISO, PROCUREMENT COORDINATOR

PROCUREMENT DEPARTMENT

1700 Convention Center Drive, 3rd Floor, Miami Beach, FL 33139

305.673.7000 X6650 | www.miamibeachfl.gov



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SECTION 0200 INSTRUCTIONS TO RESPONDENTS & GENERAL CONDITIONS

1. GENERAL. This Request for Proposals (RFP) is issued by the City of Miami Beach, Florida (the "City"), as the means for prospective Proposers to submit their qualifications, proposed scopes of work and cost proposals (the "proposal") to the City for the City's consideration as an option in achieving the required scope of services and requirements as noted herein. All documents released in connection with this solicitation, including all appendices and addenda, whether included herein or released under separate cover, comprise the solicitation, and are complementary to one another and together establish the complete terms, conditions and obligations of the Proposers and, subsequently, the successful Proposer(s) (the "contractor[s]") if this RFP results in an award.

The City utilizes **PublicPurchase** (www.publicpurchase.com) for automatic notification of competitive solicitation opportunities and document fulfillment, including the issuance of any addendum to this RFP. Any prospective Proposer who has received this RFP by any means other than through **PublicPurchase** must register immediately with **PublicPurchase** to assure it receives any addendum issued to this RFP. **Failure to receive an addendum may result in disqualification of proposal submitted.**

2. PURPOSE. The City of Miami Beach is soliciting responses from proposers for Security Officer Services in an effort to improve public safety, address quality of life issues and decrease crime by assisting law enforcement through deterrence and reporting of suspected criminal activity.

3. SOLICITATION TIMETABLE. The tentative schedule for this solicitation is as follows:

RFP Issued	February 11, 2015
Pre-Proposal Meeting	February 18, 2015 at 10 a.m.
Deadline for Receipt of Questions	March 2, 2015
Responses Due	March 11, 2015 @ 3:00PM
Evaluation Committee Review	TBD
Proposer Presentations	TBD
Tentative Commission Approval Authorizing Negotiations	TBD
Contract Negotiations	Following Commission Approval

4. PROCUREMENT CONTACT. Any questions or clarifications concerning this solicitation shall be submitted to the Procurement Contact noted below:

Procurement Contact:	Telephone:	Email:
William Garviso	305.673.7000 x6650	williamgarviso@miamibeachfl.gov

Additionally, the City Clerk is to be copied on all communications via email at: RafaelGranado@miamibeachfl.gov ; or facsimile: 786-394-4188.

The Bid title/number shall be referenced on all correspondence. All questions or requests for clarification must be received no later than ten (10) calendar days prior to the date proposals are due as scheduled in Section 0200-3. All responses to questions/clarifications will be sent to all prospective Proposers in the form of an addendum.

5. PRE-PROPOSAL MEETING OR SITE VISIT(S). Only if deemed necessary by the City, a pre-proposal meeting or

site visit(s) may be scheduled.

A Pre-Proposal conference will be held as scheduled in Solicitation Timeline above at the following address:

**City of Miami Beach
 City Hall - 4th Floor
 City Manager’s Large Conference Room
 1700 Convention Center Drive
 Miami Beach, Florida 33139**

Attendance (in person or via telephone) is encouraged and recommended as a source of information, but is not mandatory. Proposers interested in participating in the Pre-Proposal Submission Meeting via telephone must follow these steps:

- (1) Dial the TELEPHONE NUMBER: 1- 888-270-9936 (Toll-free North America)
- (2) Enter the MEETING NUMBER: 1142644

Proposers who are interested in participating via telephone should send an e-mail to the contact person listed in this RFP expressing their intent to participate via telephone.

6. PRE-PROPOSAL INTERPRETATIONS. Oral information or responses to questions received by prospective Proposers are not binding on the City and will be without legal effect, including any information received at pre-submittal meeting or site visit(s). Only questions answered by written addenda will be binding and may supersede terms noted in this solicitation. Addendum will be released through *PublicPurchase*.

7. CONE OF SILENCE. Pursuant to Section 2-486 of the City Code, all procurement solicitations once advertised and until an award recommendation has been forwarded to the City Commission by the City Manager are under the “Cone of Silence.” The Cone of Silence ordinance is available at <http://library.municode.com/index.aspx?clientID=13097&stateID=9&statename=Florida>. Any communication or inquiry in reference to this solicitation with any City employee or City official is strictly prohibited with the exception of communications with the Procurement Director, or his/her administrative staff responsible for administering the procurement process for this solicitation providing said communication is limited to matters of process or procedure regarding the solicitation. Communications regarding this solicitation are to be submitted in writing to the Procurement Contact named herein with a copy to the City Clerk at RafaelGranado@miamibeachfl.gov.

8. SPECIAL NOTICES. You are hereby advised that this solicitation is subject to the following ordinances/resolutions, which may be found on the City Of Miami Beach website: <http://web.miamibeachfl.gov/procurement/scroll.aspx?id=23510>

- CONE OF SILENCE..... CITY CODE SECTION 2-486
- PROTEST PROCEDURES..... CITY CODE SECTION 2-371
- DEBARMENT PROCEEDINGS..... CITY CODE SECTIONS 2-397 THROUGH 2-485.3
- LOBBYIST REGISTRATION AND DISCLOSURE OF FEES..... CITY CODE SECTIONS 2-481 THROUGH 2-406
- CAMPAIGN CONTRIBUTIONS BY VENDORS..... CITY CODE SECTION 2-487
- CAMPAIGN CONTRIBUTIONS BY LOBBYISTS ON PROCUREMENT ISSUES..... CITY CODE SECTION 2-488
- REQUIREMENT FOR CITY CONTRACTORS TO PROVIDE EQUAL BENEFITS FOR DOMESTIC PARTNERS..... CITY CODE SECTION 2-373
- LIVING WAGE REQUIREMENT..... CITY CODE SECTIONS 2-407 THROUGH 2-410
- PREFERENCE FOR FLORIDA SMALL BUSINESSES OWNED AND CONTROLLED BY VETERANS AND TO STATE-CERTIFIED SERVICE-DISABLED VETERAN BUSINESS ENTERPRISES..... CITY CODE SECTION 2-374
- FALSE CLAIMS ORDINANCE..... CITY CODE SECTION 70-300

9. POSTPONEMENT OF DUE DATE FOR RECEIPT OF PROPOSALS. The City reserves the right to postpone the deadline for submittal of proposals and will make a reasonable effort to give at least three (3) calendar days written notice of any such postponement to all prospective Proposers through *PublicPurchase*.

10. PROTESTS. Protests concerning the specifications, requirements, and/or terms; or protests after the proposal due date in accordance with City Code Section 2-371, which establishes procedures for protested proposals and proposed awards. Protests not submitted in a timely manner pursuant to the requirements of City Code Section 2-371 shall be barred.

11. VETERAN BUSINESS ENTERPRISES PREFERENCE. Pursuant to City of Miami Beach Ordinance No. 2011-3748, the City shall give a five (5) point preference to a responsive and responsible Proposer which is a small business concern owned and controlled by a veteran(s) or which is a service-disabled veteran business enterprise.

12. DETERMINATION OF AWARD. The final ranking results of Step 1 & 2 outlined in Section V, Evaluation of Proposals, will be considered by the City Manager who may recommend to the City Commission the Proposer(s) he/she deems to be in the best interest of the City or may recommend rejection of all proposals. The City Manager's recommendation need not be consistent with the scoring results identified herein and takes into consideration Miami Beach City Code Section 2-369, including the following considerations:

- (1) The ability, capacity and skill of the Proposer to perform the contract.
- (2) Whether the Proposer can perform the contract within the time specified, without delay or interference.
- (3) The character, integrity, reputation, judgment, experience and efficiency of the Proposer.
- (4) The quality of performance of previous contracts.
- (5) The previous and existing compliance by the Proposer with laws and ordinances relating to the contract.

The City Commission shall consider the City Manager's recommendation and may approve such recommendation. The City Commission may also, at its option, reject the City Manager's recommendation and select another Proposal or Proposals which it deems to be in the best interest of the City, or it may also reject all Proposals. Upon approval of selection by the City Commission, negotiations between the City and the selected Proposer(s) will take place to arrive at a mutually acceptable Agreement.

The City may award up to three vendors (primary, secondary, tertiary), as available, by line item, by group or in its entirety. The City will endeavor to utilize vendors in order of award. However, the City may utilize other vendors in the event that: 1) a contract vendor is not or is unable to be in compliance with any contract or delivery requirement; 2) it is in the best interest of the City to do so regardless of reason.

13. ACCEPTANCE OR REJECTION OF PROPOSALS. The City reserves the right to reject any or all proposals prior to award. Reasonable efforts will be made to either award the Contract or reject all proposals within one-hundred twenty (120) calendar days after proposals opening date. A Proposer may not withdraw its proposals unilaterally before the expiration of one hundred and twenty (120) calendar days from the date of proposals opening.

14. PROPOSER'S RESPONSIBILITY. Before submitting a Proposal, each Proposer shall be solely responsible for making any and all investigations, evaluations, and examinations, as it deems necessary, to ascertain all conditions and requirements affecting the full performance of the contract. Ignorance of such conditions and requirements, and/or failure to make such evaluations, investigations, and examinations, will not relieve the Proposer from any obligation to comply with every detail and with all provisions and requirements of the contract, and will not be

accepted as a basis for any subsequent claim whatsoever for any monetary consideration on the part of the Proposer.

15. COSTS INCURRED BY PROPOSERS. All expenses involved with the preparation and submission of Proposals, or any work performed in connection therewith, shall be the sole responsibility (and shall be at the sole cost and expense) of the Proposer, and shall not be reimbursed by the City.

16. RELATIONSHIP TO THE CITY. It is the intent of the City, and Proposers hereby acknowledge and agree, that the successful Proposer is considered to be an independent contractor, and that neither the Proposer, nor the Proposer's employees, agents, and/or contractors, shall, under any circumstances, be considered employees or agents of the City.

17. TAXES. The City of Miami Beach is exempt from all Federal Excise and State taxes.

18. MISTAKES. Proposers are expected to examine the terms, conditions, specifications, delivery schedules, proposed pricing, and all instructions pertaining to the goods and services relative to this RFP. Failure to do so will be at the Proposer's risk and may result in the Proposal being non-responsive.

19. PAYMENT. Payment will be made by the City after the goods or services have been received, inspected, and found to comply with contract, specifications, free of damage or defect, and are properly invoiced. Invoices must be consistent with Purchase Order format.

20. PATENTS & ROYALTIES. Proposer shall indemnify and save harmless the City of Miami Beach, Florida, and its officers, employees, contractors, and/or agents, from liability of any nature or kind, including cost and expenses for, or on account of, any copyrighted, patented, or unpatented invention, process, or article manufactured or used in the performance of the contract, including its use by the City of Miami Beach, Florida. If the Proposer uses any design, device or materials covered by letters, patent, or copyright, it is mutually understood and agreed, without exception, that the proposal prices shall include all royalties or cost arising from the use of such design, device, or materials in any way involved in the work.

21. MANNER OF PERFORMANCE. Proposer agrees to perform its duties and obligations in a professional manner and in accordance with all applicable Local, State, County, and Federal laws, rules, regulations and codes. Lack of knowledge or ignorance by the Proposer with/of applicable laws will in no way be a cause for relief from responsibility. Proposer agrees that the services provided shall be provided by employees that are educated, trained, experienced, certified, and licensed in all areas encompassed within their designated duties. Proposer agrees to furnish to the City any and all documentation, certification, authorization, license, permit, or registration currently required by applicable laws, rules, and regulations. Proposer further certifies that it and its employees will keep all licenses, permits, registrations, authorizations, or certifications required by applicable laws or regulations in full force and effect during the term of this contract. Failure of Proposer to comply with this paragraph shall constitute a material breach of this contract.

Where contractor is required to enter or go on to City of Miami Beach property to deliver materials or perform work or services as a result of any contract resulting from this solicitation, the contractor will assume the full duty, obligation and expense of obtaining all necessary licenses, permits, and insurance, and assure all work complies with all applicable laws. The contractor shall be liable for any damages or loss to the City occasioned by negligence of the Proposer, or its officers, employees, contractors, and/or agents, for failure to comply with applicable laws.

22. SPECIAL CONDITIONS. Any and all Special Conditions that may vary from these General Terms and Conditions shall have precedence.

23. ANTI-DISCRIMINATION. The Proposer certifies that he/she is in compliance with the non-discrimination clause contained in Section 202, Executive Order 11246, as amended by Executive Order 11375, relative to equal employment opportunity for all persons without regard to race, color, religion, sex or national origin.

24. DEMONSTRATION OF COMPETENCY.

- A. Pre-award inspection of the Proposer's facility may be made prior to the award of contract.
- B. Proposals will only be considered from firms which are regularly engaged in the business of providing the goods and/or services as described in this solicitation.
- C. Proposers must be able to demonstrate a good record of performance for a reasonable period of time, and have sufficient financial capacity, equipment, and organization to ensure that they can satisfactorily perform the services if awarded a contract under the terms and conditions of this solicitation.
- D. The terms "equipment and organization", as used herein shall, be construed to mean a fully equipped and well established company in line with the best business practices in the industry, and as determined by the City of Miami Beach.
- E. The City may consider any evidence available regarding the financial, technical, and other qualifications and abilities of a Proposer, including past performance (experience), in making an award that is in the best interest of the City.
- F. The City may require Proposers to show proof that they have been designated as authorized representatives of a manufacturer or supplier, which is the actual source of supply. In these instances, the City may also require material information from the source of supply regarding the quality, packaging, and characteristics of the products to be supplied to the City.

25. ASSIGNMENT. The successful Proposer shall not assign, transfer, convey, sublet or otherwise dispose of the contract, including any or all of its right, title or interest therein, or his/her or its power to execute such contract, to any person, company or corporation, without the prior written consent of the City.

26. LAWS, PERMITS AND REGULATIONS. The Proposer shall obtain and pay for all licenses, permits, and inspection fees required to complete the work and shall comply with all applicable laws.

27. OPTIONAL CONTRACT USAGE. When the successful Proposer (s) is in agreement, other units of government or non-profit agencies may participate in purchases pursuant to the award of this contract at the option of the unit of government or non-profit agency.

28. VOLUME OF WORK TO BE RECEIVED BY CONTRACTOR. It is the intent of the City to purchase the goods and services specifically listed in this solicitation from the contractor. However, the City reserves the right to purchase any goods or services awarded from state or other governmental contract, or on an as-needed basis through the City's spot market purchase provisions.

29. DISPUTES. In the event of a conflict between the documents, the order of priority of the documents shall be as follows:

- A. Any contract or agreement resulting from the award of this solicitation; then
- B. Addendum issued for this solicitation, with the latest Addendum taking precedence; then
- C. The solicitation; then
- D. The Proposer's proposal in response to the solicitation.

30. INDEMNIFICATION. The contractor shall indemnify and hold harmless the City and its officers, employees, agents and instrumentalities from any and all liability, losses or damages, including attorney's fees and costs of defense, which the City or its officers, employees, agents or instrumentalities may incur as a result of claims,

demands, suits, causes of actions or proceedings of any kind or nature arising out of, relating to or resulting from the performance of the agreement by the contractor or its employees, agents, servants, partners, principals or subcontractors. The contractor shall pay all claims and losses in connection therewith, and shall investigate and defend all claims, suits or actions of any kind or nature in the name of the City, where applicable, including appellate proceedings, and shall pay all costs, judgments, and attorney's fees which may be incurred thereon. The contractor expressly understands and agrees that any insurance protection required by this Agreement or otherwise provided by the contractor shall in no way limit the responsibility to indemnify, keep and save harmless and defend the City or its officers, employees, agents and instrumentalities as herein provided. The above indemnification provisions shall survive the expiration or termination of this Agreement.

31. CONTRACT EXTENSION. The City reserves the right to require the Contractor to extend contract past the stated termination date for a period of up to 120 calendar days in the event that a subsequent contract has not yet been awarded. Additional extensions past the 120 calendar days may occur as needed by the City and as mutually agreed upon by the City and the contractor.

32. FLORIDA PUBLIC RECORDS LAW. Proposers are hereby notified that all Proposals including, without limitation, any and all information and documentation submitted therewith, are exempt from public records requirements under Section 119.07(1), Florida Statutes, and s. 24(a), Art. 1 of the State Constitution until such time as the City provides notice of an intended decision or until thirty (30) calendar days after opening of the proposals, whichever is earlier. Additionally, Contractor agrees to be in full compliance with Florida Statute 119.0701 including, but not limited to, agreement to (a) Keep and maintain public records that ordinarily and necessarily would be required by the public agency in order to perform the services; (b) provide the public with access to public records on the same terms and conditions that the public agency would provide the records and at a cost that does not exceed the cost provided in this chapter or as otherwise provided by law; (c) Ensure that public records that are exempt or confidential and exempt from public records disclosure requirements are not disclosed except as authorized by law; (d) Meet all requirements for retaining public records and transfer, at no cost, to the public agency all public records in possession of the contractor upon termination of the contract and destroy any duplicate public records that are exempt or confidential and exempt from public records disclosure requirements. All records stored electronically must be provided to the public agency in a format that is compatible with the information technology systems of the public agency.

33. MODIFICATION/WITHDRAWALS OF PROPOSALS. A Proposer may submit a modified Proposal to replace all or any portion of a previously submitted Proposal up until the Proposal due date and time. Modifications received after the Proposal due date and time will not be considered. Proposals shall be irrevocable until contract award unless withdrawn in writing prior to the Proposal due date, or after expiration of **120** calendar days from the opening of Proposals without a contract award. Letters of withdrawal received after the Proposal due date and before said expiration date, and letters of withdrawal received after contract award will not be considered.

34. EXCEPTIONS TO RFP. Proposers must clearly indicate any exceptions they wish to take to any of the terms in this RFP, and outline what, if any, alternative is being offered. All exceptions and alternatives shall be included and clearly delineated, in writing, in the Proposal. The City, at its sole and absolute discretion, may accept or reject any or all exceptions and alternatives. In cases in which exceptions and alternatives are rejected, the City shall require the Proposer to comply with the particular term and/or condition of the RFP to which Proposer took exception to (as said term and/or condition was originally set forth on the RFP).

35. ACCEPTANCE OF GIFTS, FAVORS, SERVICES. Proposers shall not offer any gratuities, favors, or anything of monetary value to any official, employee, or agent of the City, for the purpose of influencing consideration of this Proposal. Pursuant to Sec. 2-449 of the City Code, no officer or employee of the City shall accept any gift, favor or service that might reasonably tend to improperly influence him/her in the discharge of his official duties.

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SECTION 0300**PROPOSAL SUBMITTAL INSTRUCTIONS AND FORMAT**

1. SEALED RESPONSES. One original Proposal (preferably in 3-ring binder) must be submitted in an opaque, sealed envelope or container on or before the due date established for the receipt of proposals. Additionally, ten (10) bound copies and one (1) electronic format (CD or USB format) are to be submitted. The following information should be clearly marked on the face of the envelope or container in which the proposal is submitted: solicitation number, solicitation title, Proposer name, Proposer return address. Proposals received electronically, either through email or facsimile, are not acceptable and will be rejected. Proposals are to be delivered to City of Miami Beach Procurement Department, 1700 Convention Center Drive, 3rd Floor, Miami Beach, Florida 33139.

2. LATE BIDS. Bid Proposals are to be received on or before the due date established herein for the receipt of Bids. **Any Bid received after the deadline established for receipt of proposals will be considered late and not be accepted or will be returned to Proposer unopened.** The City does not accept responsibility for any delays, natural or otherwise.

3. PROPOSAL FORMAT. In order to maintain comparability, facilitate the review process and assist the Evaluation Committee in review of proposals, it is strongly recommended that proposals be organized and tabbed in accordance with the sections and manner specified below. Hard copy submittals should be tabbed as enumerated below and contains a table of contents with page references. Electronic copies should also be tabbed and contain a table of contents with page references. Proposals that do not include the required information will be deemed non-responsive and will not be considered.

TAB 1 Cover Letter & Minimum Qualifications Requirements

1.1 Cover Letter and Table of Contents. The cover letter must indicate Proposer and Proposer Primary Contact for the purposes of this solicitation.

1.2 Proposal Certification, Questionnaire & Requirements Affidavit (Appendix A). Attach Appendix A fully completed and executed.

1.3 Minimum Qualifications Requirements. Submit verifiable information documenting compliance with the minimum qualifications requirements established in Appendix C, Minimum Requirements and Specifications.

TAB 2 Experience & Qualifications

2.1 Qualifications of Proposing Firm. Submit detailed information regarding the firm's history and relevant experience and proven track record of providing the scope of services similar as identified in this solicitation, including experience in providing similar scope of services to public sector agencies. For each project that the Proposer submits as evidence of similar experience, the following is required: project description, agency name, agency contact, contact telephone & email, and year(s) and term of engagement.

2.2 Qualifications of Proposer Team. Provide an organizational chart of all personnel and consultants to be used for this project if awarded, the role that each team member will play in providing the services detailed herein and each team members' qualifications. A resume of each individual, including education, experience, and any other pertinent information, shall be included for each Proposal team member to be assigned to this contract.

2.3 Financial Capacity. Each Proposer shall arrange for Dun & Bradstreet to submit a Supplier Qualification Report (SQR) directly to the Procurement Contact named herein. No proposal will be considered without receipt, by the City, of the SQR directly from Dun & Bradstreet. The cost of the preparation of the SQR shall be the responsibility of the Proposer. The Proposer shall request the SQR report from D&B at:

<https://supplierportal.dnb.com/webapp/wcs/stores/servlet/SupplierPortal?storeId=11696>

Proposers are responsible for the accuracy of the information contained in its SQR. It is highly recommended that each Proposer review the information contained in its SQR for accuracy prior to submittal to the City and

as early as possible in the solicitation process. For assistance with any portion of the SQR submittal process, contact Dun & Bradstreet at 800-424-2495.

TAB 3 **Scope of Services Proposed**

Submit detailed information addressing how Proposer will achieve each portion of the scope of services and technical requirements outlined in Appendix C, Minimum Requirements and Specifications.

Responses shall be in sufficient detail and include supporting documentation, as applicable, which will allow the Evaluation Committee to complete a full review and score the proposed scope of services.

TAB 4 **Approach and Methodology**

Submit detailed information on how Proposer plans to accomplish the required scope of services, including detailed information, as applicable, which addresses, but need not be limited to: use of innovative technology, training received by security officers above basic licensing requirements, proactive approach to dealing with quality of life issues affecting Miami Beach, crime prevention and retaining sufficient personnel to meet the City's needs.

TAB 5 **Cost Proposal**

Submit a completed Cost Proposal Form (Appendix E).

Note: After proposal submittal, the City reserves the right to require additional information from Proposers (or Proposer team members or sub-consultants) to determine: qualifications (including, but not limited to, litigation history, regulatory action, or additional references); and financial capability (including, but not limited to, annual reviewed/audited financial statements with the auditors notes for each of their last two complete fiscal years).

SECTION 0400
PROPOSAL EVALUATION

1. Evaluation Committee. An Evaluation Committee, appointed by the City Manager, shall meet to evaluate each Proposal in accordance with the requirements set forth in the solicitation. If further information is desired, Proposers may be requested to make additional written submissions of a clarifying nature or oral presentations to the Evaluation Committee. The evaluation of proposals will proceed in a two-step process as noted below. It is important to note that the Evaluation Committee will score the qualitative portions of the proposals only. The Evaluation Committee does not make an award recommendation to the City Manager. The results of Step 1 & Step 2 Evaluations will be forwarded to the City Manager who will utilize the results to make a recommendation to the City Commission.

2. Step 1 Evaluation. The first step will consist of the qualitative criteria listed below to be considered by the Evaluation Committee. The second step will consist of quantitative criteria established below to be added to the Evaluation Committee results by the Department of Procurement Management. An Evaluation Committee, appointed by the City Manager, shall meet to evaluate each Proposal in accordance with the qualifications criteria established below for Step 1, Qualitative Criteria. In doing so, the Evaluation Committee may:

- review and score all proposals received, with or without conducting interview sessions; or
- review all proposals received and short-list one or more Proposers to be further considered during subsequent interview session(s) (using the same criteria).

Step 1 - Qualitative Criteria	Maximum Points
Proposer Experience and Qualifications, including Financial Capability	30
Scope of Services Proposed	20
Approach and Methodology	20
TOTAL AVAILABLE STEP 1 POINTS	70

3. Step 2 Evaluation. Following the results of Step 1 Evaluation of qualitative criteria, the Proposers may receive additional quantitative criteria points to be added by the Department of Procurement Management to those points earned in Step 1, as follows.

Step 2 - Quantitative Criteria	Maximum Points
Cost Proposal	30
Veterans Preference	5
TOTAL AVAILABLE STEP 2 POINTS	35

4. Cost Proposal Evaluation. The cost proposal points shall be developed in accordance with the following formula:

Sample Objective Formula for Cost				
Vendor	Vendor Cost Proposal	Example Maximum Allowable Points (Points noted are for illustrative purposes only. Actual points are noted above.)	Formula for Calculating Points (lowest cost / cost of proposal being evaluated X maximum allowable points = awarded points) Round to	Total Points Awarded
Vendor A	\$100.00	20	$\$100 / \$100 \times 20 = 20$	20
Vendor B	\$150.00	20	$\$100 / \$150 \times 20 = 13$	13
Vendor C	\$200.00	20	$\$100 / \$200 \times 20 = 10$	10

5. Determination of Final Ranking. At the conclusion of the Evaluation Committee Step 1 scoring, Step 2 Points will be added to each evaluation committee member's scores by the Department of Procurement Management. Step 1 and 2 scores will be converted to rankings in accordance with the example below:

		Proposer A	Proposer B	Proposer C
Committee Member 1	Step 1 Points	82	76	80
	Step 2 Points	22	15	12
	Total	104	91	92
	Rank	1	3	2
Committee Member 2	Step 1 Points	79	85	72
	Step 2 Points	22	15	12
	Total	101	100	84
	Rank	1	2	3
Committee Member 2	Step 1 Points	80	74	66
	Step 2 Points	22	15	12
	Total	102	89	78
	Rank	1	2	3
Low Aggregate Score		3	7	8
Final Ranking*		1	2	3

* Final Ranking is presented to the City Manager for further due diligence and recommendation to the City Commission. Final Ranking does not constitute an award recommendation until such time as the City Manager has made his recommendation to the City Commission, which may be different than final ranking results.

APPENDIX A



MIAMI BEACH

Proposal Certification, Questionnaire & Requirements Affidavit

2015-013-WG
SECURITY OFFICER SERVICES

PROCUREMENT DEPARTMENT
1700 Convention Center Drive
Miami Beach, Florida 33139

Solicitation No: 2015-013-WG	Solicitation Title: SECURITY OFFICER SERVICES	
Procurement Contact: William Garviso	Tel: 305.673.7000 x 6650	Email: williamgarviso@miamibeachfl.gov

PROPOSAL CERTIFICATION, QUESTIONNAIRE & REQUIREMENTS AFFIDAVIT

Purpose: The purpose of this Proposal Certification, Questionnaire and Requirements Affidavit Form is to inform prospective Proposers of certain solicitation and contractual requirements, and to collect necessary information from Proposers in order that certain portions of responsiveness, responsibility and other determining factors and compliance with requirements may be evaluated. **This Proposal Certification, Questionnaire and Requirements Affidavit Form is a REQUIRED FORM that must be submitted fully completed and executed.**

General Proposer Information.

FIRM NAME:		
No of Years in Business:	No of Years in Business Locally:	No. of Employees:
OTHER NAME(S) PROPOSER HAS OPERATED UNDER IN THE LAST 10 YEARS:		
FIRM PRIMARY ADDRESS (HEADQUARTERS):		
CITY:		
STATE:	ZIP CODE:	
TELEPHONE NO.:		
TOLL FREE NO.:		
FAX NO.:		
FIRM LOCAL ADDRESS:		
CITY:		
STATE:	ZIP CODE:	
PRIMARY ACCOUNT REPRESENTATIVE FOR THIS ENGAGEMENT:		
ACCOUNT REP TELEPHONE NO.:		
ACCOUNT REP TOLL FREE NO.:		
ACCOUNT REP EMAIL:		
FEDERAL TAX IDENTIFICATION NO.:		

The City reserves the right to seek additional information from Proposer or other source(s), including but not limited to: any firm or principal information, applicable licensure, resumes of relevant individuals, client information, financial information, or any information the City deems necessary to evaluate the capacity of the Proposer to perform in accordance with contract requirements.

1. **Veteran Owned Business.** Is Proposer claiming a veteran owned business status?
 YES NO

SUBMITTAL REQUIREMENT: Proposers claiming veteran owned business status shall submit a documentation proving that firm is certified as a veteran-owned business or a service-disabled veteran owned business by the State of Florida or United States federal government, as required pursuant to ordinance 2011-3748.

2. **Conflict Of Interest.** All Proposers must disclose, in their Proposal, the name(s) of any officer, director, agent, or immediate family member (spouse, parent, sibling, and child) who is also an employee of the City of Miami Beach. Further, all Proposers must disclose the name of any City employee who owns, either directly or indirectly, an interest of ten (10%) percent or more in the Proposer entity or any of its affiliates.

SUBMITTAL REQUIREMENT: Proposers must disclose the name(s) of any officer, director, agent, or immediate family member (spouse, parent, sibling, and child) who is also an employee of the City of Miami Beach. Proposers must also disclose the name of any City employee who owns, either directly or indirectly, an interest of ten (10%) percent or more in the Proposer entity or any of its affiliates

3. **References & Past Performance.** Proposer shall submit at least three (3) references for whom the Proposer has completed work similar in size and nature as the work referenced in solicitation.

SUBMITTAL REQUIREMENT: For each reference submitted, the following information is required: 1) Firm Name, 2) Contact Individual Name & Title, 3) Address, 4) Telephone, 5) Contact's Email and 6) Narrative on Scope of Services Provided.

4. **Litigation History.** Proposer shall submit a statement of any litigation or regulatory action that has been filed against your firm(s) in the last five years. If an action has been filed, state and describe the litigation or regulatory action filed, and identify the court or agency before which the action was instituted, the applicable case or file number, and the status or disposition for such reported action. If no litigation or regulatory action has been filed against your firm(s), provide a statement to that effect. If "No" litigation or regulatory action has been filed against your firm(s), please provide a statement to that effect. **Truthful and complete answers to this question may not necessarily disqualify a firm from consideration but will be a factor in the selection process. Untruthful, misleading or false answers to this question shall result in the disqualification of the firm for this project.**

SUBMITTAL REQUIREMENT: Proposer shall submit history of litigation or regulatory action filed against proposer, or any proposer team member firm, in the past 5 years. If Proposer has no litigation history or regulatory action in the past 5 years, submit a statement accordingly.

5. **Suspension, Debarment or Contract Cancellation.** Has Proposer ever been debarred, suspended or other legal violation, or had a contract cancelled due to non-performance by any public sector agency?
 YES NO

SUBMITTAL REQUIREMENT: If answer to above is "YES," Proposer shall submit a statement detailing the reasons that led to action(s).

6. **Vendor Campaign Contributions.** Proposers are expected to be or become familiar with, the City's Campaign Finance Reform laws, as codified in Sections 2-487 through 2-490 of the City Code, including a prohibition against any vendor giving a campaign contribution directly or indirectly to a candidate, or to the campaign committee of a candidate, for the offices of mayor or commissioner. Proposers shall be solely responsible for ensuring that all applicable provisions of the City's Campaign Finance Reform laws are complied with, and shall be subject to any and all sanctions, as prescribed therein, including disqualification of their Proposals, in the event of such non-compliance. A fine of up to \$500.00 shall be imposed on every person who violates this section. Each act of giving or depositing a contribution in violation of this section shall constitute a separate violation.

"Vendor" shall include natural persons and/or entities who hold a controlling financial interest in a vendor entity. The term "controlling financial interest" shall mean the ownership, directly or indirectly, of ten percent or more of the outstanding capital stock in any corporation or a direct or indirect interest of ten percent or more in a firm.

SUBMITTAL REQUIREMENT: Submit the names of all individuals or entities (to which the definition of vendor as defined above may apply), including your sub-consultants), who has contributed to the campaign either directly or indirectly, of a candidate who has been elected to the office of Mayor or City Commissioner for the City of Miami Beach.

7. **Code of Business Ethics.** Pursuant to City Resolution No.2000-23879, each person or entity that seeks to do business with the City shall adopt a Code of Business Ethics ("Code") and submit that Code to the Procurement Division with its proposal/response or within five (5) days upon receipt of request. The Code shall, at a minimum, require the Proposer, to comply with all applicable governmental rules and regulations including, among others, the conflict of interest, lobbying and ethics provision of the City of Miami Beach and Miami Dade County.

SUBMITTAL REQUIREMENT: Proposer shall submit firm's Code of Business Ethics. In lieu of submitting Code of Business Ethics, Proposer may submit a statement indicating that it will adopt, as required in the ordinance, the City of Miami Beach Code of Ethics, available at www.miamibeachfl.gov/procurement/.

8. **Living Wage.** Pursuant to Section 2-408 of the Miami Beach City Code, as same may be amended from time to time, Proposers shall be required to pay all employees who provide services pursuant to this Agreement, the hourly living wage rates listed below:

The City Commission approved Ordinance 2014-3897 on September 30, 2014 increasing the living wage rate to \$13.31/hourly without health benefits or \$11.62/hourly with health benefits with an effective date of January 1, 2015.

The living wage rate and health care benefits rate may, by Resolution of the City Commission be indexed annually for inflation using the Consumer Price Index for all Urban Consumers (CPI-U) Miami/Ft. Lauderdale, issued by the U.S. Department of Labor's Bureau of Labor Statistics. Notwithstanding the preceding, no annual index shall exceed three percent (3%). The City may also, by resolution, elect not to index the living wage rate in any particular year, if it determines it would not be fiscally sound to implement same (in a particular year).

Proposers' failure to comply with this provision shall be deemed a material breach under this proposal, under which the City may, at its sole option, immediately deem said Proposer as non-responsive, and may further subject Proposer to additional penalties and fines, as provided in the City's Living Wage Ordinance, as amended. Further information on the Living Wage requirement is available at www.miamibeachfl.gov/procurement/.

SUBMITTAL REQUIREMENT: No additional submittal is required. By virtue of executing this affidavit document, Proposer agrees to the living wage requirement.

9. **Equal Benefits for Employees with Spouses and Employees with Domestic Partners.** When awarding competitively solicited contracts valued at over \$100,000 whose contractors maintain 51 or more full time employees on their payrolls during 20 or more calendar work weeks, the Equal Benefits for Domestic Partners Ordinance 2005-3494 requires certain contractors doing business with the City of Miami Beach, who are awarded a contract pursuant to competitive proposals, to provide "Equal Benefits" to their employees with domestic partners, as they provide to employees with spouses. The Ordinance applies to all employees of a Contractor who work within the City limits of the City of Miami Beach, Florida; and the Contractor's employees located in the United States, but outside of the City of Miami Beach limits, who are directly performing work on the contract within the City of Miami Beach.

- A. Does your company provide or offer access to any benefits to employees with spouses or to spouses of employees?

YES NO

- B. Does your company provide or offer access to any benefits to employees with (same or opposite sex) domestic partners* or to domestic partners of employees?

YES NO

- C. Please check all benefits that apply to your answers above and list in the "other" section any additional benefits not already specified. Note: some benefits are provided to employees because they have a spouse or domestic partner, such as bereavement leave; other benefits are provided directly to the spouse or domestic partner, such as medical insurance.

BENEFIT	Firm Provides for Employees with Spouses	Firm Provides for Employees with Domestic Partners	Firm does not Provide Benefit
Health			
Sick Leave			
Family Medical Leave			
Bereavement Leave			

If Proposer cannot offer a benefit to domestic partners because of reasons outside your control, (e.g., there are no insurance providers in your area willing to offer domestic partner coverage) you may be eligible for Reasonable Measures compliance. To comply on this basis, you must agree to pay a cash equivalent and submit a completed Reasonable Measures Application (attached) with all necessary documentation. Your Reasonable Measures Application will be reviewed for consideration by the City Manager, or his designee. Approval is not guaranteed and the City Manager's decision is final. Further information on the Equal Benefits requirement is available at www.miamibeachfl.gov/procurement/.

10. **Public Entity Crimes.** Section 287.133(2)(a), Florida Statutes, as currently enacted or as amended from time to time, states that a person or affiliate who has been placed on the convicted vendor list following a conviction for a public entity crime may not submit a proposal, proposal, or reply on a contract to provide any goods or services to a public entity; may not submit a proposal, proposal, or reply on a contract with a public entity for the construction or repair of a public building or public work; may not submit proposals, proposals, or replies on leases of real property to a public entity; may not be awarded or perform work as a contractor, supplier, subcontractor, or consultant under a contract with any public entity; and may not transact business with any public entity in excess of the threshold amount provided in s. 287.017 for CATEGORY TWO for a period of 36 months following the date of being placed on the convicted vendor list.

SUBMITTAL REQUIREMENT: No additional submittal is required. By virtue of executing this affidavit document, Proposer agrees with the requirements of Section 287.133, Florida Statutes, and certifies it has not been placed on convicted vendor list.

11. **Acknowledgement of Addendum.** After issuance of solicitation, the City may release one or more addendum to the solicitation which may provide additional information to Proposers or alter solicitation requirements. The City will strive to reach every Proposer having received solicitation through the City's e-procurement system, PublicPurchase.com. However, Proposers are solely responsible for assuring they have received any and all addendum issued pursuant to solicitation. This Acknowledgement of Addendum section certifies that the Proposer has received all addendum released by the City pursuant to this solicitation. Failure to obtain and acknowledge receipt of all addendum may result in proposal disqualification.

Initial to Confirm Receipt		Initial to Confirm Receipt		Initial to Confirm Receipt	
	Addendum 1		Addendum 6		Addendum 11
	Addendum 2		Addendum 7		Addendum 12
	Addendum 3		Addendum 8		Addendum 13
	Addendum 4		Addendum 9		Addendum 14
	Addendum 5		Addendum 10		Addendum 15

If additional confirmation of addendum is required, submit under separate cover.

DISCLOSURE AND DISCLAIMER SECTION

The solicitation referenced herein is being furnished to the recipient by the City of Miami Beach (the "City") for the recipient's convenience. Any action taken by the City in response to Proposals made pursuant to this solicitation, or in making any award, or in failing or refusing to make any award pursuant to such Proposals, or in cancelling awards, or in withdrawing or cancelling this solicitation, either before or after issuance of an award, shall be without any liability or obligation on the part of the City.

In its sole discretion, the City may withdraw the solicitation either before or after receiving proposals, may accept or reject proposals, and may accept proposals which deviate from the solicitation, as it deems appropriate and in its best interest. In its sole discretion, the City may determine the qualifications and acceptability of any party or parties submitting Proposals in response to this solicitation.

Following submission of a Bid or Proposal, the applicant agrees to deliver such further details, information and assurances, including financial and disclosure data, relating to the Proposal and the applicant including, without limitation, the applicant's affiliates, officers, directors, shareholders, partners and employees, as requested by the City in its discretion.

The information contained herein is provided solely for the convenience of prospective Proposers. It is the responsibility of the recipient to assure itself that information contained herein is accurate and complete. The City does not provide any assurances as to the accuracy of any information in this solicitation.

Any reliance on these contents, or on any permitted communications with City officials, shall be at the recipient's own risk. Proposers should rely exclusively on their own investigations, interpretations, and analyses. The solicitation is being provided by the City without any warranty or representation, express or implied, as to its content, its accuracy, or its completeness. No warranty or representation is made by the City or its agents that any Proposal conforming to these requirements will be selected for consideration, negotiation, or approval.

The City shall have no obligation or liability with respect to this solicitation, the selection and the award process, or whether any award will be made. Any recipient of this solicitation who responds hereto fully acknowledges all the provisions of this Disclosure and Disclaimer, is totally relying on this Disclosure and Disclaimer, and agrees to be bound by the terms hereof. Any Proposals submitted to the City pursuant to this solicitation are submitted at the sole risk and responsibility of the party submitting such Proposal.

This solicitation is made subject to correction of errors, omissions, or withdrawal from the market without notice. Information is for guidance only, and does not constitute all or any part of an agreement.

The City and all Proposers will be bound only as, if and when a Proposal (or Proposals), as same may be modified, and the applicable definitive agreements pertaining thereto, are approved and executed by the parties, and then only pursuant to the terms of the definitive agreements executed among the parties. Any response to this solicitation may be accepted or rejected by the City for any reason, or for no reason, without any resultant liability to the City.

The City is governed by the Government-in-the-Sunshine Law, and all Proposals and supporting documents shall be subject to disclosure as required by such law. All Proposals shall be submitted in sealed proposal form and shall remain confidential to the extent permitted by Florida Statutes, until the date and time selected for opening the responses. At that time, all documents received by the City shall become public records.

Proposers are expected to make all disclosures and declarations as requested in this solicitation. By submission of a Proposal, the Proposer acknowledges and agrees that the City has the right to make any inquiry or investigation it deems appropriate to substantiate or supplement information contained in the Proposal, and authorizes the release to the City of any and all information sought in such inquiry or investigation. Each Proposer certifies that the information contained in the Proposal is true, accurate and complete, to the best of its knowledge, information, and belief.

Notwithstanding the foregoing or anything contained in the solicitation, all Proposers agree that in the event of a final unappealable judgment by a court of competent jurisdiction which imposes on the City any liability arising out of this solicitation, or any response thereto, or any action or inaction by the City with respect thereto, such liability shall be limited to \$10,000.00 as agreed-upon and liquidated damages. The previous sentence, however, shall not be construed to circumvent any of the other provisions of this Disclosure and Disclaimer which imposes no liability on the City.

In the event of any differences in language between this Disclosure and Disclaimer and the balance of the solicitation, it is understood that the provisions of this Disclosure and Disclaimer shall always govern. The solicitation and any disputes arising from the solicitation shall be governed by and construed in accordance with the laws of the State of Florida.

PROPOSER CERTIFICATION

I hereby certify that: I, as an authorized agent of the Proposer, am submitting the following information as my firm's proposal; Proposer agrees to complete and unconditional acceptance of the terms and conditions of this document, inclusive of this solicitation, all attachments, exhibits and appendices and the contents of any Addenda released hereto, and the Disclosure and Disclaimer Statement; Proposer agrees to be bound to any and all specifications, terms and conditions contained in the solicitation, and any released Addenda and understand that the following are requirements of this solicitation and failure to comply will result in disqualification of proposal submitted; Proposer has not divulged, discussed, or compared the proposal with other Proposers and has not colluded with any other Proposer or party to any other proposal; Proposer acknowledges that all information contained herein is part of the public domain as defined by the State of Florida Sunshine and Public Records Laws; all responses, data and information contained in this proposal, inclusive of the Proposal Certification, Questionnaire and Requirements Affidavit are true and accurate.

Name of Proposer's Authorized Representative:	Title of Proposer's Authorized Representative:
Signature of Proposer's Authorized Representative:	Date:

State of _____)
)

County of _____)

of _____, a corporation, and that the instrument was signed in behalf of the said corporation by authority of its board of directors and acknowledged said instrument to be its voluntary act and deed. Before me:

On this ____ day of _____, 20__, personally appeared before me _____ who stated that (s)he is the _____

 Notary Public for the State of _____
 My Commission Expires: _____

APPENDIX B



MIAMI BEACH

“No Bid” Form

2015-013-WG SECURITY OFFICER SERVICES

PROCUREMENT DEPARTMENT
1700 Convention Center Drive
Miami Beach, Florida 33139

Note: It is important for those vendors who have received notification of this solicitation but have decided not to respond, to complete and submit the attached “Statement of No Bid.” The “Statement of No Bid” provides the City with information on how to improve the solicitation process. Failure to submit a “Statement of No Bid” may result in not being notified of future solicitations by the City.

Statement of No Bid

WE HAVE ELECTED NOT TO SUBMIT A PROPOSAL AT THIS TIME FOR REASON(S) CHECKED AND/OR INDICATED BELOW:

Workload does not allow us to proposal

Insufficient time to respond

Specifications unclear or too restrictive

Unable to meet specifications

Unable to meet service requirements

Unable to meet insurance requirements

Do not offer this product/service

OTHER (Please specify)

We do do not want to be retained on your mailing list for future proposals of this type product and/or service.

Signature: _____

Title: _____

Legal Company Name: _____

Note: Failure to respond, either by submitting a proposal or this completed form, may result in your company being removed from our vendors list.

PLEASE RETURN TO:
CITY OF MIAMI BEACH
PROCUREMENT DEPARTMENT
ATTN: William Garviso
RFP PROPOSAL #2015-013-WG
1700 Convention Center Drive
MIAMI BEACH, FL 33139

APPENDIX C



MIAMI BEACH

Minimum Requirements & Specifications

2015-013-WG
SECURITY OFFICER SERVICES

PROCUREMENT DEPARTMENT
1700 Convention Center Drive
Miami Beach, Florida 33139

The City of Miami Beach is seeking proposals from qualified firms for Security Officer Services in a manner that ensures the highest level of security for a diverse number of posts, while performing a variety of functions and duties.

The objective is to accomplish the following:

- Create a visible presence of security personnel within the City of Miami Beach to improve the perception of public safety.
- Provide assistance and information to citizens and visitors.
- Provide assistance to law enforcement through deterrence, observance and reporting of suspected criminal activity.
- Address issues associated with the homeless and others whose behavior conflicts with acceptable community norms.
- Safeguard the citizens, visitors, employees and property of the City of Miami Beach.
- Expand and contract to meet the staffing needs of the City and demonstrate where they have done so previously.

The City of Miami Beach is very interested in innovative approaches, incorporating industry best practices, which exceed the requirements listed below.

C1. Minimum Requirements. The Minimum Eligibility Requirements for this solicitation are listed below. Proposer shall submit detailed verifiable information affirmatively documenting compliance with each minimum requirement. Proposers that fail to comply with minimum requirements will be deemed non-responsive and will not be considered.

- a. Proposer shall be licensed in accordance with Chapter 493, Florida Statutes to perform Security Services.
- b. Proposer shall have provided continuous security guard services for a minimum of five (5) years for other public sector entities with similar scope. Provide at least five (5) references for which like services have been performed within the past five (5) years. The City reserves the right to contact any party that the bidder has worked for in the past and to reject a bidder(s) based on past poor performance.
- c. Proposer shall have a Dun and Bradstreet (D&B) Supplier Evaluation Risk (SER) score rating of not higher than 6.

C2. Statement of Work Required.

The Successful Contractor Shall Provide:

- a. A minimum of three (3) roving Level V Security Officers equipped with an automobile on duty within the City limits of Miami Beach at all times. The Level V Security Officers must be able to respond to any site within 15 minutes. A list must be submitted in writing, identifying the name(s) of each roving shift Level V Security Officers, and all security personnel under their supervision, to the Contract Administrator or their designee.
- b. Written activity and incident reports, maintenance requests, visitor logs, etc. as dictated by the post assignment. Preference will be given to Bidders who utilize web-based security officer reporting software.

- c. A guard tour system (Deggy or near field communications (NFC) tags) at contracted posts to ensure security officers are making required rounds at assigned frequencies and times. Preference will be given to Bidders who utilize web-based security officer reporting software.
- d. A weekly report, downloaded from Deggy's or NFC tags installed at each post, to the Contract Administrator or its designee. Preference will be given to Bidders who utilize web-based guard tour tracking software.
- e. The location of the Deggy's or NFC tags to the Contract Administrator or their designee for approval.
- f. A Project Manager who will be required to meet with City representatives upon request.
- g. All uniforms, radios, firearms, rain gear, traffic vests, tools and equipment necessary to perform the required security services in accordance with the bid documents.
- h. Uninterrupted services under all conditions, to include, but not limited to the threat or the actuality of a strike, adverse weather conditions, a disaster, or emergency situations, at the agreed upon hourly contractual rate.
- i. Rules and Regulations Manual for Security Officers.
- j. Project Manager to work with the Contractor Administrator or their designee to review and/or develop Post Orders for all locations where Security Officers will be utilized with the City of Miami Beach.
- k. A written, quarterly report of security incidents to the Contract Administrator or its designee.

In addition, the Successful Contractor will be responsible for advertising and recruiting qualified security officers, training the security officers, preparing paychecks, payroll taxes, Social Security and withholding taxes, preparing W-2's, unemployment and workmen's compensation claims and liability insurance. The obligation of the City of Miami Beach will be solely to compensate the Successful Contractor for the number of hours provided monthly in accordance with the contract price schedule. The Successful Contractor will provide a Schedule of Values/Payment Schedule to the City's Contract Administrator for review and approval, prior to the commencement of work.

Any costs incurred in order to perform the Services required by the City of Miami Beach, is a business expense the Successful Contractor must assume.

C3. Specifications

Location of Required Services

It is the intent of the City to award the provision of Security Officers for selected facilities as well as for other facilities as may be required by the City during the term of the contract. Security officers are needed for a diverse number of posts within the City of Miami Beach to perform a variety of functions and duties. Posts include, but are not limited to, Lincoln Road Mall, City Hall campus, parking lots and garages, the beach and board walks, the Bass Museum, and the Normandy Shores Gatehouse. In addition, security officers are sometimes needed to assist with special events.

The amount of service hours, officer levels, required service type and duties shall be determined solely by

the City in its best interests. The City reserves the right to add or delete sites that need to be covered by security guard services.

The City shall approve all prospective Proposer personnel prior to their assignment to the City. The City reserves the right to interview any prospective employee of the selected proposer prior to the person being assigned to City assignment. The City additionally reserves the right to relieve any employee from a duty assignment, and/or bar the employee from further service under this solicitation.

Personnel Requirements and Services

All personnel employed by the selected proposer(s) to perform duties as a result of this solicitation shall be approved prior to performing said duties. Contractor personnel shall keep active, and possess at all times while on duty, those professional, technical licenses or certificates as required by all Federal and Florida State Statutes. This includes a company-issued photo I.D. Card. All are to be conspicuously displayed at all times while on duty. The selected proposer shall provide in all instances radio equipped, uniformed Security Officers, and armed if requested, to provide security service at the designated locations.

Adherence to Law

The selected proposer(s) shall adhere to all Federal, State, and Local Laws that apply to the provision of Security Officer Services, as a result of this solicitation, as well as those laws that regulate the general public. This shall include, but not be limited to, compliance with Federal Tax Laws (e.g. payment of Federal Withholding Taxes) State of Florida Unemployment Taxes, Workers Compensation Federal Wage and Hour Regulations, Living Wage Ordinance and other applicable laws and regulations.

Background Checks

Prior to assigning personnel to the City, the Contractor, at no cost to the City, shall perform background checks on its personnel which complies with, at a minimum, Section 1012.465, Florida Statutes. By virtue of submitting a proposal to this RFP, the Contractor fully indemnifies and holds the City harmless for any and all actions and damages resulting from its failure to comply with this requirement. Any findings shall be reported to the City, through its Human Resources Director, who shall have the ultimate discretion to allow or not any Contractor personnel on City property. Additionally, the City may require, at any time (including annual contract anniversary, change in assignment or any other instance for which an additional background check is deemed necessary by the City through its Human Resources Director), that any Contractor personnel submit to additional background screenings as deemed necessary by the City. The Contractor shall reimburse the City for the cost of said background check, plus an administrative fee of 10%).

The City shall have the right to refuse to allow any Contractor personnel to work on City property when it deems that their presence on City property is not in the City's best interest.

Drug Testing

Prior to assigning personnel to the City, the Contractor, at no cost to the City, shall perform and proposed personnel shall pass a drug test following the protocols outlined in 49 CFR, Part 40. The following panel of ten drugs shall be tested for at the Successful Contractor's expense. Bidder shall bear all cost associated with the initial drug tests. Any findings shall be reported to the City, through its Human Resources Director, who shall have the ultimate discretion to allow or not any Contractor personnel on City property.

The City's current 10-panel drug test and cut-off levels are as follows:

<u>Drug</u>	<u>Initial Test Level</u>	<u>GC/MS Confirm Test Level</u>
Amphetamines	1000 ng/ml	500 ng/ml
Barbiturates	300 ng/ml	150 ng/ml
Benzodiazepines	300 ng/ml	150 ng/ml
Cocaine metabolites	300 ng/ml	150 ng/ml
Marijuana metabolites	50 ng/ml	15 ng/ml
Methadone	300 ng/ml	300 ng/ml
Methaqualone	300 ng/ml	150 ng/ml
Opiates	2000 ng/ml	2000 ng/ml
Phencyclidine	25 ng/ml	25 ng/ml
Propoxyphene	300 ng/ml	150 ng/ml

In the case of an alcohol test, a result of 0.04 or greater constitutes a positive result. A confirmation breathalyzer test shall be administered following the initial test in accordance with the procedures in Title 49 Code of Federal Regulations, Part 40.

Minimum Requirements for All levels of Security Officers

- a. Possess a valid Class "D" security officer license pursuant to F.S. 493. All officers shall maintain this license on their person at all times while providing service to the City under the Contract.
- b. Shall be a citizen of the United States of America, or an alien who has been lawfully admitted for permanent residence as evidenced by Resident/Alien Registration Receipt Card Form 1-151, or who presents other evidence from U.S. Citizenship and Immigration Services that employment will not affect his/her immigration status. Acceptable evidence shall consist of a birth certificate or appropriate naturalization papers.
- c. Shall have a valid State of Florida Driver's license. (Required if Security Officer is assigned to vehicular patrol (e.g. motor vehicles or golf cart).
- d. Shall be at least 21 years of age.
- e. Shall have a high school diploma or a GED. High school diploma or GED shall be from an accredited and verifiable institution.
- f. Successfully pass a test for drug and illegal substance use.
- g. Be able to communicate effectively in English (multilingual preferred).
- h. Ability to write a report in English.
- i. Ability to communicate, provide information and directions in a courteous manner.
- j. Trained and certified in basic first aid and Cardiopulmonary Resuscitation (CPR).
- k. Trained in the use of Automated External Defibrillators (AEDs).
- l. Physically capable of pursuing and detaining individuals who have committed criminal acts.
- m. Pass criminal background checks, FDLE and NCIC III.

In addition, Security Officers shall meet the specific requirements for each level as specified below:

- a. Security Officer Level I – An unarmed individual with a Class D license. Minimum one (1) year of experience as a licensed Security Officer.
- b. Security Officer Level II – An unarmed individual with a Class D license. A minimum of two (2) years experience as a Class D, Licensed Security Officer or in the military or law enforcement are required.

- c. Security Officer Level III – An Armed individual with Class D and Class G licenses. A minimum two (2) years experience, either as Class D, licensed Security Officer or in the military or law enforcement.
- d. Security Officer Level IV - An armed individual with Class D and Class G licenses. A minimum five (5) years experience, as a Class D licensed Security Officer and two(2) years experience as a Class G licensed Security Officer or five (5) years in the military or law enforcement.
- e. Security Officer Level V – An armed or unarmed individual with Class D and Class G licenses. A minimum of five (5) years experience, either as a licensed Class G, Security Officer or in the military or law enforcement, are required. The individual shall have the ability to supervise, monitor, and regulate Security Officers with Class D and Class G licenses in their performance of assigned duties. This level of Security Officer may be a site supervisor when multiple Security Officers are required present at the same time, to coordinate Security Service efforts.
- f. Security Officer Level VI - An armed or unarmed individual with Class D and Class G licenses. A minimum of ten (10) years experience either as a licensed Class G Security Officer or in the military or law enforcement are required. The individual shall have the ability to supervise, monitor, and regulate Security Officers with Class D and Class G licenses in their performance of assigned duties. This level of Security Officer may be a project manager when multiple site supervisors are required for large or complex sites, to coordinate Security Service efforts.

Personnel Probation

All security officers working for the City of Miami Beach are subject to a thirty (30) day probation period. If during this probation period, the City of Miami Beach is not satisfied with the performance of a security officer, the City of Miami Beach will notify the Successful Contractor of such performance and the Successful Contractor will replace the security officer immediately.

Additionally, the City of Miami Beach reserves the right to demand in writing that the Successful Contractor relieve an employee from a duty assignment, and/or ban the employee from further service under the contract, at the sole discretion of the City of Miami Beach.

Personnel employed by the Successful Contractor are ineligible to work for the City of Miami Beach for the following reasons:

- a. Military conduct resulting in dishonorable or undesirable discharge.
- b. Any pattern of irresponsible behavior including, but not limited to, bad driving or employment record.

Security Officer Levels I-IV Duties

1. Report to work on time and remain on assigned post until relieved or as required.
2. Maintain a professional appearance. Uniforms shall be clean, pressed and include a name tag; shoes polished.
3. Maintain a courteous attitude to the public and City employees at all times.
4. While assigned to a fixed post, patrol of an area or a facility, detect and prevent individuals or groups from committing acts injurious to others or to property.
5. Intervene to terminate injurious acts to persons or to property and detain individuals for further investigation or arrest in accordance the State of Florida's Security Officers Handbook (F.S.S. Chapter 493).
6. Communicate effectively with the public and City of Miami Beach personnel to provide directions

- and assistance.
7. Conduct patrols in accordance to post orders. Where applicable, a guard tour system shall be used to record and report security officers' presence at designated posts.
 8. Raise and lower flags at designated times where applicable.
 9. Lock and unlock gates and doors at designated times.
 10. Turn on and off lights as required.
 11. Ensure that only authorized personnel are permitted access to closed or restricted facilities or locations.
 12. Respond to reports of sick or injured persons and notify appropriate authorities.
 13. Report safety hazards, malfunctioning equipment, spills and other such matters to appropriate individuals.
 14. Monitor and operate fire alarm systems, intrusion detection systems and CCTV systems as required.
 15. Respond to fire/burglar alarms and emergency situations. Evaluate the situation and take appropriate action as prescribed in Post Orders and/or facility emergency procedure/evacuation plan.
 16. Investigate questionable acts and behavior on City property. Question witnesses and suspects to ascertain or verify facts and notify appropriate authorities if warranted.
 17. Operate a vehicle (bicycle, golf cart, motor vehicle) as required.
 18. Maintain daily logs, prepare daily and incident reports.
 19. Provide escorts to City employees and visitors to their vehicles when requested.
 20. Perform any other duties or functions not specifically mentioned above, but which are identified as falling within the scope and responsibilities of a security officer's responsibilities.

Security Officers Level V Duties

In addition to the duties listed above Security Officers shall:

1. Patrol area of assignment and actively supervise all security officers under their command.
3. Ensure proper inventory of keys, electronic key cards and supplies.
4. Conduct daily inspections to verify all posts are manned and all security officers are fully equipped and in proper uniform.
5. Be knowledgeable of all security officer positions and duties.
6. Be knowledgeable of all City/County ordinances related to quality of life issues.

Security Officers Level VI Duties

1. Functions as the Project Manager for the City of Miami Beach.
2. Project Manager will be required to meet with City representatives upon request.
3. Project Manager will work with the Contractor Administrator or their designee to review and/or develop Post Orders for all locations where Security Officers will be utilized with the City of Miami Beach.
4. Immediately report any unusual incident to the Contract Administrator or their designee.
5. Coordinate with Contract Administrator or its designee all security operations and services for regular and special events to insure proper staffing.
6. Install guard tour system sensors where directed by the City of Miami Beach Contract Administrator or its designee.
7. Provide weekly downloads of all the City of Miami Beach posts where guard tour system sensors are installed. The downloaded information will accompany the weekly invoices.
8. Be knowledgeable of all security officer positions and duties.
9. Be knowledgeable of all City/County ordinances related to quality of life issues.

Limitation on Employee-Hours and Assignments

No personnel assigned to the City shall provide more than twelve (12) hours of service, including all break periods, in any twenty-four (24) hour period, unless the work periods are separated by an eight (8) hour non-duty period. This limitation may be waived by the City in emergency situations that are beyond the control of the Contractor, (e.g, weather conditions, civil disturbances, natural disasters, etc.) which prevents the next shift from getting to their assignment. Each occurrence will require an individual waiver provided by the City.

Overtime

No overtime for either regularly scheduled or special events will be paid by City of Miami Beach for security personnel supplied by the Successful Contractor unless pre-approved by the City of Miami Beach Contract Administrator or its designee.

Training

Specialized training may be required to assume the duties and responsibilities of some posts within the City of Miami Beach.

The cost for such training will be considered part of the Successful Contractor's operational expenses and should be considered when proposing an overall hourly rate. While attending training, security officers must be paid at the City's living wage rate. Time spent in training, although required, is not billable to the City of Miami Beach. When required, security officers must successfully complete training prior to assuming duty under this contract.

Written documentation of having successfully completed the training is to be included in the employee's personnel file.

The Successful Contractor is required to ensure that all security officers providing traffic control and code enforcement services are certified by Miami Dade College-Southeast Institute of Criminal Justice at the North - Dade Campus. In addition, security officers providing traffic control and code enforcement services would be required to attend training provided by the City related to enforcing City of Miami Beach ordinance and codes.

Special Equipment

The selected proposer(s) may be required to provide licensed and insured motor vehicles, off street motorized carts, Segway's and bicycles at an additional cost. Such posts or duty assignments shall be requested as needed, and when appropriate, the selected proposer shall receive additional compensation.

The selected proposer(s) may also be required by the City to provide Security Officers equipped with specialized equipment, including, but not limited to, firearms, Guard Tour systems, Body Cameras and other specialized technologies. Such posts or duty assignments shall be requested as needed, and where appropriate, the selected proposer shall receive additional compensation.

Contractor Furnished Items

The selected Proposer(s) shall provide all working materials necessary for proper performance including, but not limited to, items such as bound log books, with preprinted consecutive numbered and lined pages, notebooks, pens, and pencils. The selected Proposer, at no charge to the City, shall supply these materials, unless otherwise specified by the City. All post orders, logbooks, incident reports and records are the sole property of the city of Miami Beach. These records are subject to inspection by the City at any time. Upon termination of any contract issued as a result of this solicitation and all renewals thereof, the selected Proposer(s) shall surrender all records or documents (e.g. log books, incident reports, etc) to the City within

thirty (30) days of the contracts termination date.

Communication

The Successful Contractor will be responsible for the following:

a. HAND-HELD RADIOS

Two-way hand-held radios, licensed for use by the Federal Communications Commission (FCC), will be provided by the Successful Contractor to all on-duty contract security officers and supervisors as required unless otherwise exempted by the City of Miami Beach Contract Administrator.

b. CENTRAL DISPATCH

The Successful Contractor will provide a centralized dispatching service through use of a local (Miami Beach) base station manned by experienced personnel on a 24- hour per day basis, to include a taped back-up system. A mobile transmitter/receiver, operated by field personnel, will not be considered sufficient to adequately provide such service. Note: Repeater must be located within the city limits of Miami Beach. However, dispatch does not have to be on Miami Beach, but must reside in Miami- Dade County.

Successful Contractor personnel must be available at the Miami Beach Central Dispatch Station with the ability and authority to take immediate action on behalf of the Successful Contractor. The Successful Contractor will provide the names, with all pertinent information, of these assigned personnel to the City of Miami Beach Contract Administrator.

c. SYSTEM QUALITY

The Successful Contractor will at all times maintain high quality radio communications (transmitting and receiving). The Successful Contractor will be totally responsible for providing and maintaining required system quality, as follows:

1. The Successful Contractor will provide/lease a network of transceivers and repeaters of sufficient strength and capacity to service all areas of Miami Beach.
2. The Successful Contractor must provide/lease an exclusive radio frequency operated exclusively by the Contractor. Radios will have printout identification and emergency capability.
3. The Successful Contractor must implement a program of maintenance and repair for all equipment used in the performance of this contract. Such a program will ensure the optimum performance of all equipment at all times, thereby allowing the system to meet the service requirements and quality standards specified above.
4. The Successful Contractor will ensure that all radio equipment has sufficient operating power at all times during a tour of duty. It may be necessary for the Successful Contractor to implement a system by which fresh batteries, adequate supply of flashlights or charged radios, are delivered to the posts in order to meet this requirement.

d. EVALUATION OF RADIO COMMUNICATIONS SYSTEM

All aspects of the Successful Contractor's radio communications system will be evaluated by the City of Miami Beach prior to award of Contract. Should the system be judged inadequate to provide service within the contractual standards specified herein, and the Successful Contractor is unable and/or unwilling to make changes deemed necessary by the City of Miami Beach, then the Successful Contractor will be considered non-responsive to the required Terms and Conditions of this Contract. Likewise, should there be a deterioration of performance during the term of this contract, and the Successful Contractor is unable or unwilling to make the required improvements,

the City of Miami Beach may terminate, in accordance with the Termination for Default Clause of this Contract. The City of Miami Beach will address, in writing to the Contractor, any/all identified inadequacies of the required radio communications prior to any termination procedures.

Key Control

The Successful Contractor will establish and implement methods of ensuring that all keys issued to the Successful Contractor by the City are not lost, or misplaced, and are not used by unauthorized person(s). No keys issued the Successful Contractor by the City will be duplicated. The Successful Contractor will develop procedures covering key control that will be included in his/her quality control plan, which will be submitted to the City's Contract Administrator and Procurement Director. The Successful Contractor may be required to replace, re-key, or reimburse the City for replacement of locks or re-keying as a result of Successful Contractor losing keys.

In the event a master key is lost or duplicated, all locks and keys for that system will be replaced by the City and the total cost deducted from the monthly payment due the Successful Contractor.

The Successful Contractor will immediately report a lost key the Contract Administrator, but no later than the next workday.

Uniforms

All security officers furnished to the City of Miami Beach will be well-groomed and neatly uniformed. Each security officer supplied by the Successful Contractor will wear a nameplate bearing the guard's name. Successful Contractor's name will appear either on guard's nameplate or as a patch on the security officer's uniform. Uniforms will be readily distinguishable from the City of Miami Beach Police uniforms.

Uniforms must be provided at the contractor's expense or may be charged to the employee (guard), but must not be deducted from the employees' paycheck therefore reducing the hourly pay rate to less than the living wage rate.

Photo Identification

Work hereunder requires Successful Contractor's employees to have photo identification on their person at all times. The City of Miami Beach reserves the right to verify a guard's identity and required credentials.

If for any reason, any Successful Contractor employee is terminated, the Contract Administrator will be advised in writing.

Records

The Successful Contractor will submit all invoices to the City of Miami Beach containing an itemized employee time record, to include the employee name and hours worked/shift, for the time period identified on the invoice. If applicable, the computerized printout from the guard tour system will accompany the weekly invoices. These printouts will be the same date and time frame of the submitted invoices and submitted in a hard copy or digital (preferred) format.

All correspondence, records, vouchers and books of account, insofar as work done under this Contract is concerned, will be open to inspection by an authorized City of Miami Beach representative during the course of the Contract and for a period of two (2) years after expiration of the Contract.

The Successful Contractor will maintain a personnel file for each employee employed under the Miami Beach contract. At a minimum, this file will, include:

- Personal information of the employee, sex/race/DOB/ and social security number.

- Copies of Florida Driver license, Class "D" Security Guard license and Class "G" Firearms License (if applicable).
- Copies or notification of all disciplinary actions taken by the Contractor or City of Miami Beach to include verbal or written warnings.
- Training records.
- Proof of successful Background Check and Drug Screening.

The City reserves the right to perform an audit of the Successful Contractor's payroll and related records of employees assigned to the City of Miami Beach to ascertain that such employees' records correctly reflect payment received for the specific hours worked for the City. Such audit will be at the discretion and option of the City.

Successful Contractor will be required to provide any and all records in its possession which contain information concerning hours worked and payment received based on the contractor's invoices to the City of Miami Beach. All required documentation and personnel files will be readily available for inspection by any authorized City of Miami Beach representative, during initial research and during the course of this Contract. Failure to have the required documentation will be deemed as non-compliance to the Terms and Conditions of the contract.

Liquidated Damages

The selected Proposer(s) shall be liable for damages, indirect or direct, resulting from its failure to meet all contractual requirements or standards. The City, in its sole discretion, will determine the damages arising from such failure. The City assessment of all Liquidated Damages will be final. Repeated violations or patterns of violations will result in a doubling or tripling of the amount of Liquidated Damages. Subsequent violations will result in a Vendor Non-Performance. Any of these violations may result in selected Proposer's personnel being removed from the post and/or Contract issued as a result of this solicitation at the request of the City. A written notice of a violation and intent to impose liquidated damages shall be provided to the selected Proposer(s) in the form of an Infraction Report. Infraction Reports shall be issued to the selected Proposer(s) promptly by the City, in order to afford the selected Proposer(s) time to notify the City of extenuating circumstances. The graduation of Liquidated Damages will occur with the involvement of the same facility, selected Proposer's personnel and a pattern of the same incidents at multiple posts (i.e. repeated violations of the same type). Any violations committed by selected Proposer(s)'s personnel may result in the suspension or removal from duty of said personnel at the discretion of the City. Violations that may result in the assessment of Liquidated Damages include, but are not limited to, the following;

Management/Administrative Violations (\$100 per infraction):

1. Not properly equipped for specific detail.
2. No radio or inoperative radio.
3. Failure to fix an inoperative guard tour system or system component.
4. Leaving a post unattended or failure to fill post assignment within one hour of a scheduled assignment or event.
5. Lack of contract supervision.
6. Excessive hours on duty (more than a 10 hour shift if not approved in advance by the Contract Administrator).
7. Utilization of a security officer previously suspended from duty by the Contract Administrator.
8. Failure to follow all Vendor Rules and Regulations.

Security Officer Violations (\$100 per infraction):

1. Unprofessional appearance or behavior.
2. Inappropriate behavior (reading, lounging, talking and texting on cell phone, etc.)
3. Failing to promptly prepare written reports.

4. Not completing required rounds.
5. Failing to follow post orders.
6. Failure to adhere to City of Miami Beach policies and procedures.

Security Officer Significant Violations (\$250.00):

1. Late for duty.
2. Sleeping on duty.
3. Abandoning post.
4. Failure to report an incident
5. Any action that would cause the City harm, physically, financially, or reputational.

Once a violation is identified and written notification of intent to fine ("Contract Discrepancy Report") is issued to the Successful Contractor. The Successful Contractor will have seven (7) days to provide a written response to the Contract

Repeated violations will be taken as proof of a general incapacity on the part of the Successful Contractor to perform in accordance with contract requirements.

Should it not be possible to reach the contractor or supervisor and/or should remedial action not be taken within 48 hours of any failure to perform according to specifications, the City reserves the right to declare Contractor in default of the contract or make appropriate reductions in the contract payment.

Conservation Of Utilities

The Successful Contractor will be directly responsible for instructing employees in utilities conservation practices. The Successful Contractor will be responsible for operating under conditions, which preclude the waste of any/all utilities.

Licenses And Permits

Successful Contractor will abide by all ordinances and laws pertaining to his operation and will secure, at his expense, all licenses and permits necessary for these operations.

Performance Evaluation Meetings

The Successful Contractor will assign a Contract Manager to meet with the City of Miami Beach Contract Administrator regularly and as required. A mutual effort will be made to resolve all problems identified. The written minutes of these meetings will be signed by the Successful Contractor's Contract Administrator and the City's Contract Administrator, and a copy will be forwarded to the Procurement Director. Should the Successful Contractor not concur with the minutes, he will state in writing to the Procurement Director any areas wherein he does not concur.

Service Excellence Standards

Excellent Customer Service is the standard of the City of Miami Beach. As contract employees of the City, security officers will be required to conduct themselves in a professional, courteous and ethical manner at all times and adhere to the City's Service Excellence standards.

Post Order, Rules and Regulation Manual

The City of Miami Beach will provide to Successful Contractor, for the duration of the contract, the Post Order and Rules and Regulation Manual. Changes to Post Orders, if needed, will be provided by the Contract Administrator through written addendum to these orders. All Security Personnel shall have access to these Post Orders and any updates at all times while on duty. This may be accomplished by storing the Post Orders on site or, in the instance in which no secure storage is available, delivering them to the site at the beginning of each tour of duty.

Should the City elect to utilize the services of the Security Officers for code enforcement, the City will provide guidance, direction and specific training related to the enforcing of City of Miami Beach City ordinances and codes.

Additionally, the City of Miami Beach reserves the right to have any security officer removed from Miami Beach posts for violations of the Post Orders.

Court Appearances

The selected Proposer(s) personnel may be required to testify in various judicial proceedings on behalf of the City. These personnel shall coordinate all Contract-related court appearances with the City when such appearances are required. Any selected Proposer(s) personnel required to make a court appearance shall be remunerated by the selected Proposer(s) at the same hourly rate as would be earned while on duty under any Contract issued as a result of this solicitation and all extensions or renewals thereof, and the selected Proposer(s) shall in turn be remunerated by the City at the stipulated billing rate. The selected Proposer(s) shall invoice for the actual hours the employee spent at court, of whether or not his/her testimony was used and/or provided. (Court delays are common, and multiple appearances by the testifying employee may be required). A copy of the original subpoena shall be submitted with the corresponding invoice. Contract-related Court testimony on behalf of the City shall take priority over all other scheduled duties, and the selected Proposer(s) shall coordinate with the City to ensure that this is done with no impact to daily operations. Selected Proposer(s) personnel scheduled to testify on behalf of the City due to their Contract related duties shall appear for court testimony in full uniform however, without chemical weapons, batons, handcuffs or firearms.

Estimated Weekly Service Hours by Security Officer Levels

POST	LEVEL	ESTIMATED WEEKLY SERVICE HOURS
Open Spaces (Parks, Boardwalks, etc.)	1 Officer Level V (Supervisor)	112 Hours
Parking Facilities	2 Officers Level V (Supervisor)	224 Hours
7 th Street Garage	1 Officer Level I or II	168 Hours
17 th Street Garage	1 Officer Level I or II	168 Hours
16 th Street Garage	1 Officer Level I or II	168 Hours
South Beach Walk (14-21 St.)	1 Officer Level I or II	105 Hours
Alaska Bay Walk (1-4 St.)	1 Officer Level I or II	42 Hours
N. Beach Recreation Corridor (64-79 St.)	2 Officer Level I or II	176 Hours
City Hall Campus	1 Officer Level III	168 Hours
	3 Officers Level IV	120 Hours
	1 Supervisor Level V	40 Hours
	3 Officers Level IV	120 Hours
	1 Officer Level V (Supervisor)	40 Hours
Normandy Shores Gatehouse	1 Officer Level 1 or II	168 Hours
Bass Museum	5 Officers Level I or II	150 Hours
Sanitation Detail	1 Officer Level I or II	9 Hours
Citywide	1 Officer Level VI/Project Manager	40 Hours

APPENDIX D



MIAMI BEACH

Special Conditions

2015-013-WG
SECURITY OFFICER SERVICES

PROCUREMENT DEPARTMENT
1700 Convention Center Drive
Miami Beach, Florida 33139

1. **TERM OF CONTRACT.** The contract shall commence upon the date of notice of award and shall be effective for two (2) years.
2. **OPTION TO RENEW.** The City, through its City Manager, will have the option to extend for three (3) additional one-year periods subject to the availability of funds for succeeding fiscal years.

Continuation of the contract beyond the initial period is a City prerogative; not a right of the bidder. This prerogative will be exercised only when such continuation is clearly in the best interest of the City.

3. **PRICES SHALL BE FIXED AND FIRM:** All prices quoted in the awardee's bid submittal shall remain firm and fixed, unless amended in writing by the City.
4. **COST ESCALATION.** The hourly rates proposed by successful vendor(s) shall remain fixed for the term of the contract, however the City may consider requests for markup adjustment in the event of unforeseen governmental mandates (e.g., taxes, healthcare mandates, Living Wage, etc.) imposed upon the contractor. Requests for adjustment to hourly rates shall be submitted to the City's Procurement Department for review. If the requested adjustment is approved, the Procurement Department will formalize the adjustment by formal contract modification.

It shall be further understood that the City reserves the right to reject any adjustment submitted by the vendor, and/or terminate the contract with the vendor based upon such price adjustments.

5. **ADDITIONAL SERVICES.** Services not specifically identified in this request may be added to, or deleted from, any resultant contract upon successful negotiations and mutual consent of the contracting parties.
6. **FAILURE TO PERFORM.** The City reserves the right to take any action necessary to ensure that the security forces are fully staffed in order to protect the City of Miami Beach property, personnel, and assets. This may include contractual arrangements with others contractors for the purpose of obtaining alternative resources in the event that the successful contractor cannot perform

If such arrangements are deemed necessary, then the successful contractor may, at the sole discretion of the City of Miami Beach, be terminated, and any cost incurred by the City of Miami Beach may be withheld from funds owed to the Successful Contractor.

7. **SUB-CONTRACTING.** Contractors/Proposers may subcontract to qualified security guards/firms, with the prior written approval by the City, when requested to provide additional guards for special/major events or on an "as needed" basis.

Should the Successful Contractor provide security guards employed by a sub-contractor, the Successful Contractor will be required to provide a Labor and Materials (Payment Bond), in the amount of \$100,000. The successful contractor will also provide an

Employee Dishonesty Bond in the amount of \$25,000. Additionally, the City reserves the right to deduct payment(s) in an amount specified in the bid/contract documents for either non-qualified security guard, and/or for unsatisfactory performance in accordance with the specified Terms and Conditions of the RFP.

8. **SERVICE LOCATIONS AND ASSIGNMENT HOURS.** It will be the sole discretion of the City of Miami Beach as to locations, number of guards and hours of services needed. The City of Miami Beach reserves the right to change possible locations and the required hours of service during the term of the Contract.
9. **PROTECTION OF PROPERTY.** The Successful Contractor will at all times guard against damage to or loss of property belonging to the City of Miami Beach. It is the responsibility of the Successful Contractor to replace or repair any property lost or damaged by any of its employees. The City of Miami Beach may withhold payment or make such deductions as it might deem necessary to ensure reimbursement for loss or damage to property through negligence of the Successful Contractor, its employees or agents.
10. **PERFORMANCE BOND.**
The vendor to whom a contingent award is made shall duly execute and deliver to the City a Performance and Payment Bond in an amount that represents 100% of the vendor's offer price. The Performance and Payment Bond Form supplied by the City shall be the only acceptable form for these bonds. No other form will be accepted. The completed form shall be delivered to the City within 15 calendar days after formal notice of award. If the vendor fails to deliver the payment and performance bond within this specified time, including granted extensions, the City shall declare the vendor in default of the contractual terms and conditions, and the vendor shall surrender its offer guaranty/bid bond, and the City shall not accept any offer from that vendor for a twelve (12) month period following such default.

The following specifications shall apply to any bond provided:

All bonds shall be written through surety insurers authorized to do business in the State of Florida as surety, with the following qualifications as to management and financial strength according to the latest edition of Best's Insurance Guide, published by A.M. Best Company, Oldwick, New Jersey:

Bond Amount	Best Rating
500,001 to 1,500,000	B V
1,500,001 to 2,500,000	A VI
2,500,001 to 5,000,000	A VII
5,000,001 to 10,000,000	A VIII
Over 10,000,000	A IX

On contract amounts of \$500,000 or less, the bond provisions of Section 287.0935, Florida Statutes (2007) shall be in effect and surety companies not otherwise qualifying with this

paragraph may optionally qualify by:

1. The surety company is licensed to do business in the State of Florida;
2. The surety company holds a certificate of authority authorizing it to write surety bonds in this state;

Providing evidence that the surety has twice the minimum surplus and capital required by the Florida Insurance Code at the time the solicitation is issued;

Certifying that the surety is otherwise in compliance with the Florida Insurance Code; and

Providing a copy of the currently valid Certificate of Authority issued by the United States Department of the Treasury under SS. 31 USC 9304-9308.

Surety insurers shall be listed in the latest Circular 570 of the U.S. Department of the Treasury entitled "Surety Companies Acceptable on Federal Bonds", published annually. The bond amount shall not exceed the underwriting limitations as shown in this circular.

For contracts in excess of 500,000 the provisions of Section B will be adhered to plus the company must have been listed for at least three consecutive years, or holding a valid Certificate of Authority of at least 1.5 million dollars and on the Treasury List.

Surety Bonds guaranteed through U.S. Government Small Business Administration or Contractors Training and Development Inc. will also be acceptable.

In lieu of a bond, an irrevocable letter of credit or a cash bond in the form of a certified cashier's check made out to the City of Miami Beach will be acceptable. All interest will accrue to the City of Miami Beach during the life of this contract and/or as long as the funds are being held by the City.

The attorney-in-fact or other officer who signs a contract bond for a surety company must file with such bond a certified copy of power of attorney authorizing the officer to do so. The contract bond must be counter signed by the surety's resident Florida agent.

APPENDIX E



MIAMI BEACH

Cost Proposal Form

2015-013-WG
SECURITY OFFICER SERVICES

PROCUREMENT DIVISION
1700 Convention Center Drive
Miami Beach, Florida 33139

APPENDIX E PROPOSAL TENDER FORM

Failure to submit Section 5, Bid Price Form, in its entirety and fully executed by the deadline established for the receipt of proposals will result in proposal being deemed non-responsive and being rejected.

Bidder affirms that the prices stated on the proposal price form below represents the entire cost of the items in full accordance with the requirements of this RFP, inclusive of its terms, conditions, specifications and other requirements stated herein, and that no claim will be made on account of any increase in wage scales, material prices, delivery delays, taxes, insurance, cost indexes or any other unless a cost escalation provision is allowed herein and has been exercised by the City Manager in advance. This Proposal Tender Form shall be completed mechanically or, if manually, in ink. Proposal Tender Form completed in pencil shall be deemed non-responsive. All corrections shall be initialed.

	<u>DESCRIPTION</u>	<u>EST QTY</u>		<u>ANNUAL EST QTY</u>	<u>TOTAL</u>
1	Security Officer Level I	30,004 hours		\$_____/Hour	\$____
2	Security Officer Level II	30,004 hours		\$_____/Hour	\$____
3	Security Officer Level III	8,736 hours		\$_____/Hour	\$____
4	Security Officer Level IV	12,480 hours		\$_____/Hour	\$____
5	Security Officer Level V	21,632 hours		\$_____/Hour	\$____
6	Security Officer Level VI	2080 hours		\$_____/Hour	\$____
7	Vehicle	2 each		\$_____/monthly	\$____
	Option			\$_____/hourly	
8	Bicycle	8 each		\$_____/monthly	\$____
	Option			\$_____/hourly	
9	Golf Cart	4 each		\$_____/monthly	\$____
	Option			\$_____/hourly	
				TOTAL	\$____

Bidder's Affirmation
Company: _____
Authorized Representative: _____
Address: _____
Telephone: _____
Email: _____
Authorized Representative's Signature: _____
Prompt Payment Terms _____ % _____ Days

APPENDIX F



MIAMI BEACH

Insurance Requirements

2015-013-WG
SECURITY OFFICER SERVICES

PROCUREMENT DIVISION
1700 Convention Center Drive
Miami Beach, Florida 33139



MIAMI BEACH

INSURANCE REQUIREMENTS PROFESSIONAL SERVICES

The provider shall furnish to the Human Resources Department, Risk Management Division, City of Miami Beach, 1700 Convention Center Drive, 3rd Floor, Miami Beach, Florida 33139, Certificate(s) of Insurance which indicate that insurance coverage has been obtained which meets the requirements as outlined below:

- A. Worker's Compensation and Employer's Liability Insurance for all employees of the provider as required by Florida Statute 440.
- B. Commercial General Liability on a comprehensive basis in an amount not less than \$1,000,000 combined single limit per occurrence, for bodily injury and property damage. City of Miami Beach must be shown as an additional insured with respect to this coverage.
- C. Automobile Liability Insurance covering all owned, non-owned and hired vehicles used in connection with the work, in an amount not less than \$1,000,000 combined single limit per occurrence for bodily injury and property damage.
- D. Professional Liability Insurance in an amount not less than \$1,000,000 with the deductible per claim, if any, not to exceed 10% of the limit of liability.

The insurance coverage required above must include a waiver of subrogation in favor of the City. The insurance coverage required shall include those classifications, as listed in standard liability insurance manuals, which most nearly reflect the operations of the provider.

All insurance policies required above shall be issued by companies authorized to do business under the laws of the State of Florida, with the following qualifications:

The company must be rated no less than "B+" as to management, and no less than "Class VII" as to financial strength, by the latest edition of Best's Insurance Guide, published by A.M. Best Company, Oldwick, New Jersey, or its equivalent, subject to the approval of the City Risk Management Division.

Certificates will indicate no modification or change in insurance shall be made without thirty (30) days advance notice to the certificate holder.

CERTIFICATE HOLDER MUST READ:
CITY OF MIAMI BEACH
1700 CONVENTION CENTER DRIVE
3rd FLOOR
MIAMI BEACH, FL 33139

Compliance with the foregoing requirements shall not relieve the vendor of his liability and obligation under this section or under any other section of this agreement.

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MIAMI BEACH

OFFICE OF THE MAYOR AND COMMISSION

MEMORANDUM

To: Jimmy Morales, City Manager

From: Jonah Wolfson, Commissioner

Date: February 3, 2015

Re: **Commission Agenda Item – Discussion regarding Life Guard Stands on Miami Beach**

Please place on the February 11, 2015 Commission Agenda the following item:

Originally life guard stands in Miami Beach were located where there was a public beach. Over the years, as beach re-nourishment and sand dunes programs have been implemented the beach has grown and filled in. As a result, more life guard stands were needed and were installed in locations that were not originally public beaches in the past.

In 2007, 10 new life guard stand locations were identified and proposed to be implemented in phases. I believe sometime in 2007, the Commission approved the addition of three new life guard stand locations at 5th street, 16th street and 18th street beaches.

Now is the perfect time to complete the implementation of this original plan. I recently toured the beach and identified that these 6 locations should receive life guard stands (In my order of priority):

1. **Between 64th and 53rd Streets:** Currently there is no life guard stands between these streets, a span of 2,056 yards, 6,168 feet or 1.17 miles. Clearly this area needs at least 1 if not 2 new life guard stands for public safety reasons. Eight people have drowned in this area since 2004.
2. **Between 30th and 21st Streets:** 3,600 feet or .68 miles separate the life guard stand in this area of the beach. Nine people have drowned in this area since 2004.
3. **Between 46th and 41st Streets:** For a span of 964 yards or 2,892 feet, there is no life guard stand. This area of mid-beach gets heavy use from hotel visitors. Two people have drowned in this area since 2004.

Agenda Item R9E
Date 2-11-15

4. **Between 53rd and 46th Streets:** For a distance of 3,720 feet or 1,240 yards no life guard stand is in this area. Three people have drowned in this area since 2004.
5. **Between 69th and 64th Streets:** Around 600 yards is the distance between life guard stands in this area. Three people have drowned in this area since 2004.
6. **4th Street Beach:** A total of 514 yards separate the 5th street and 3rd street life guard stands. This is the largest distance between life guard stands in South Beach. Public safety reasons and high volume beach goers suggests that a new life guard stand should be placed in this area.

With resort tax collection at an all-time high addition of life guard stands to these beaches for our residents and visitors, is simply common sense.

Please feel free to contact my Aide, Brett Cummins at x6437, if you have any questions.

JW

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F&CWP Pending Items - Commission Referrals

Attachment 1

Item #	Title	Referred By	Date Referred	Handled By	Date Expiring per Reso # 2013-28147	Note
188	Discussion regarding The Greater Miami Convention and Visitors Bureau Interlocal Agreement	Tourism, Culture and Economic Development	March 5, 2014 Commission Item C4F	Max Sklar	2/13/2015	7/18/2014 The Committee recommended moving this item to the August 13, 2014 Budget meeting and then finalized at the September 10, 2014 Commission meeting with no recommendation. 8/13/14 The Committee recommended moving forward on a month to month extension under the current contracted terms not to exceed one (1) year. The intent is for staff to re-negotiate an incentive base plan that establishes a base fee and an incentive fee to be paid based on the overall achievement of annual performance goals. Budget is to also add a line item for an owner's representative that is not to exceed \$161,000 at the City Manager's discretion. Staff is to bring back the item to Committee once negotiations are completed. 1/7/15 Item deferred to February 2/2/15 The Committee recommended that the Greater Miami Convention and Visitors Bureau bring back a report or presentation to the Finance Committee as to how they promote Miami Beach.
192	Discussion regarding Police and Parking Department Towing Permit Requirements	Parking	April 23, 2014 Commission Item C4G	Saul Frances	5/12/2015	5/20/14 The Committee recommended no action and that Saul Frances Parking Director follow up on the implementation of the technology enhancements. This item is to be brought back to the September Finance Committee Meeting. 9/24/14 Item deferred to November meeting. 11/12/14 The Committee recommended bringing back the improved technology enhancements after the Police have had a chance to implement audio/video recordings and body cameras for both sworn and civilian city personnel.
194	Discussion regarding whether or not to pursue food and beverage concessions for Soundscape Park, Collins Park, and the Miami Beach Botanical Garden	Tourism, Culture and Economic Development	May 21, 2014 Commission Item C4C	Max Sklar	7/7/2015	6/20/14 The Committee recommended pursuing food and beverage concessions through the pop up concept or food trucks for Soundscape Park, Collins Park and the Miami Beach Botanical Garden to begin in October. 1/7/15 The Committee recommended moving forward with the Soundscape Park term sheet presented. The Committee also determined that Collins Park will go out as a Request for Letter of Interest for a pop up or a temporary food concession concept and the results are to be brought back to the Finance Committee. In reference to the Botanical Gardens the Committee is waiting for staff to bring back additional concepts.
208	Discussion regarding Parking Demand Analysis/Walker Parking Consultants	Parking	July 23, 2014 Commission Item C4I	Saul Frances	6/12/2015	12/12/14 The Committee took no action, but encouraged the Administration to return when potential solutions are identified.
210	Discussion regarding Exploring Issues brought up in an Internal Audit of the Miami Beach Police Athletic League (PAL), specifically regarding utility fees that are past due	Michael Grieco	July 23, 2014 Commission Item C4O	James Sutter	3/24/2015	9/24/14 The Committee recommended deferring this matter to the November Finance committee meeting. Internal Audit and Miami Beach Police Athletic League are to bring back the results of implementing the operational audit findings.
215	Discussion regarding Flooding and Sea Rise Regarding The 2015-2016 Storm Water Utilities Methodology	Michael Grieco Mayor's Blue Ribbon Panel	September 10, 2014 Commission Item C4G	Bruce Mowry	6/12/2015	12/12/14 No later than February Meeting
220	Discussion regarding Potential Purchase Of Air Rights For 6940 Abbott Avenue From AT&T For Future Development Of A Parking Garage In The North Beach Town Center	Tourism, Culture and Economic Development	September 10, 2014 Commission Item C4B	Max Sklar	3/24/2015	9/24/14 The Committee recommended hosting a North Beach Revitalization workshop for the City Commission and then also simultaneously negotiating with AT&T.
221	A Discussion To Consider A Request for Rent Relief From Penn 17, LLC., Regarding The Retail Space At The Pennsylvania Avenue Parking Garage			Max Sklar	3/24/2015	9/24/14 The Committee directed staff to secure some payment of rent from the tenant that shows their ability to pay. Also, under the City Manager's direction, hire an expert that can provide feedback on a lease modification that is in line with the current market rental rates for this location.
230	Discussion regarding the issuance of new Police and Parking Department towing permits to Beach Towing Services, Inc., and Tremont Towing, Inc.	Jonah Wolfson	October 22, 2014 Commission Item C4D	Saul Frances	4/12/2015	11/12/14 Item Deferred

Item #	Title	Referred By	Date Referred	Handled By	Date Expiring per Reso # 2013-28147	Note
232	Referral To The December 12, 2014 Finance & Citywide Projects Committee To Amend The Living Wage Ordinance Insurance Provision In Light Of ObamaCare	Deede Weithorn	November 19, 2014 Commission Item C4D	Alex Denis	6/12/2015	12/12/14 Item deferred to February
234	Referral To The Finance And Citywide Projects Committee A Discussion Regarding The Live Nation Management Agreement For The Jackie Gleason Theater.	Tourism, Culture and Economic Development	November 19, 2014 Commission Item C4F	Max Sklar	6/12/2015	12/12/14 Item deferred to January. 1/7/15 item deferred to February 2/2/15 The Committee instructed staff bring this item back showing the potential credits/refunds with the Required City Distribution.
238	Referral To The December 12, 2014 Finance And Citywide Projects Committee To Discuss A Public/Private Partnership For A Two-Story Parking Structure To Be Erected Over Both City Parking Lot P62 And A Private Parking Lot, On 42nd Street, Between Jefferson Street And Meridian Avenue.	Deede Weithorn	November 19, 2014 Commission Item C4K.	Saul Frances	6/12/2015	12/12/14 Item deferred to January. 1/7/15 item deferred to February 2/2/15 Item deferred.
239	Referral To The Finance And Citywide Projects Committee asking the Commission for \$10,000 for 2015 Senior Group Programs. He wants to reach out to senior citizens throughout Miami Beach.	Jonah Wolfson	November 19, 2014 Commission Item R9B	Maria Ruiz	6/12/2015	12/12/14 The Committee recommended bringing this item back to Finance and Citywide Committee no sooner than February 2015 after Stanley Shapiro meets with staff at the Office of Housing and Community Services regarding the variety of cultural, recreational and support programming available to elderly residents. The Committee would like the item to return with performance measures, outcomes and ensuring there is no duplication of efforts.
240	Discussion Regarding The Miami Beach Convention Center Booking Policy.	Tourism, Culture and Economic Development	November 19, 2014 Commission Item R9G	Max Sklar	6/12/2015	12/12/14 Item deferred to January. 1/7/15 Item deferred to February 2/2/15 The Committee recommended bringing this item back to the Finance Committee after Administration has had a chance to do outreach to the Convention Center clients and provide more information before this item is sent to Commission.
243	Discussion Regarding A Funding Time Line For The New Teen Center	Deede Weithorn	December 17, 2014 Commission Item C4A	John Rebar	6/17/2015	
244	Discussion Regarding City Manager Jimmy Morales' Letter Dated December 1, 2014 Regarding His Employment Contract	Deede Weithorn	December 17, 2014 Commission Item C4B	Sylvia Crespo-Tabak	6/17/2015	1/7/15 The Committee recommended moving this item to the Commission with staggered terms for the City Manager, City Clerk and the City Attorney. City Attorney date set for 2017, the City Clerk set for 2018 and the City Manager set for 2019. Chairperson Deede Weithorn has volunteered to work on developing the contract for the City Clerk. It was also recommended that the compensation and contract terms be discussed at an informal meeting open to the public. 2/2/15 Item deferred.
247	Discussion Regarding Partial Payments Of Annual And Sick Leave For Participants Of The Deferred Retirement Option Plan (DROP)	Deede Weithorn	December 17, 2014 Commission Item C4E	Sylvia Crespo-Tabak Patricia Walker	6/17/2015	1/7/15 Item deferred to February
250	Referral To The February 2, 2014 Finance And Citywide Projects Committee To Discuss Implementing A Contractor Prequalification Program In An Effort To Expedite Infrastructure Improvements	Deede Weithorn	January 14, 2015 Commission Item C4B	Alex Denis	7/14/2015	2/2/15 Item deferred.
253	Discussion Regarding The Requirement For City Contractors To Provide Equal Benefits For Domestic Partners	Deede Weithorn	January 14, 2015 Commission Item C4J	Alex Denis	7/14/2015	2/2/15 Item deferred.
260	Discussion regarding the Issuance of Bonds to Finance the Miami Beach Convention Center Project and for additional Stormwater Revenue Bonds	Patricia Walker	January 27, 2015 Commission Item C4D	Patricia Walker	7/27/2015	2/2/15 Item deferred.
261	Discussion Regarding The Concession Agreement For The Management And Operation Of A Food And Beverage Concession, Currently Operated By Blissberry, LLC., Located In A Portion Of The South Pointe Park Pavilion Building	Tourism, Culture and Economic Development	February 11, 2015 Commission Item C4A	Max Sklar	8/11/2015	
262	Discussion Regarding The Concession Agreement For The Management And Operation Of Concession Stand Buildings And Beachfront Concession Areas, Currently Operated By Tim Wilcox, Inc., Located At 21st And 46th Streets	Tourism, Culture and Economic Development	February 11, 2015 Commission Item C4B	Max Sklar	8/11/2015	
263	Discussion Regarding The Construction Of A Parking Garage At The 27th Street And Collins Avenue Parking Lot	Parking	February 11, 2015 Commission Item C4C	Saul Frances	8/11/2015	
264	Discussion Regarding The Issuance Of A Solicitation For The Placement Of ATM Machines On City Owned Property (i.e. City Owned Parking Garages, etc.)	Jonah Wolfson	February 11, 2015 Commission Item C4Q	Alex Denis Saul Frances Max Sklar	8/11/2015	

Item #	Title	Referred By	Date Referred	Handled By	Date Expiring per Reso # 2013-28147	Note
265	Discussion For Approval To Authorize The Issuance Of A Request For Proposals (RFP) For Security Guard Services	Emergency Management/ Procurement	February 11, 2015 Commission Item R2A	Chuck Tear Alex Denis	8/11/2015	
266	Discussion Regarding Life Guard Stands In Miami Beach	Jonah Wolfson	February 11, 2015 Commission Item R9E	Virgil Fernandez	8/11/2015	