



MEMORANDUM

Agenda Item No. 8(H)(2)

TO: Honorable Chairman Joe A. Martinez
and Members, Board of County Commissioners

DATE: January 24, 2012

FROM: R. A. Cuevas, Jr.
County Attorney

SUBJECT: Resolution approving a license agreement between Miami-Dade County and the Miami Military Museum and Memorial for the operation, maintenance and improvement of certain lands within the Gold Coast Railroad Museum Park at an annual rent of 8% adjusted gross income; and authorizing County Mayor to execute on behalf of the County, and to exercise any and all other rights conferred therein

The accompanying resolution was prepared by the Parks, Recreation and Open Spaces Department and placed on the agenda at the request of Prime Sponsor Commissioner Dennis C. Moss and Co-Sponsor Commissioner Rebeca Sosa.

R. A. Cuevas, Jr.
County Attorney


RAC/cp

Memorandum



Date: January 24, 2012

To: Honorable Chairman Joe A. Martinez
and Members, Board of County Commissioners

From: Carlos A. Gimenez
Mayor 

Subject: Gold Coast Railroad Museum Park - Miami Military Museum and Memorial License Agreement

Recommendation

It is recommended that the Board approve the attached resolution approving a License Agreement (Agreement) with the Miami Military Museum and Memorial (Museum) and authorize the County Mayor or County Mayor's designee to execute the Agreement on behalf of Miami-Dade County. The Agreement will allow the Museum to operate on County land, consistent with the approved General Plan for the Gold Coast Railroad Museum Park (Park) property, and further the development of the newly established Zoo Miami Entertainment Area.

Scope

The Gold Coast Railroad Museum Park (Park), a facility of county-wide significance, is located in Commission District 9. Approval of the Agreement will have a positive impact on the further development of the Park, Zoo Miami Entertainment Area and the residents and visitors to the County.

Fiscal Impact/Funding Source

The Museum agrees to assume all costs associated with operations and maintenance of the Museum Area, and pay the County 8% of adjusted gross receipts. The County has awarded \$3,000,000 (R-919-04 and R-695-11) in Building Better Communities General Obligation Bond (BBC-GOB) funding toward the restoration, relocation and reconstruction of the historic Richmond Naval Air Station Building 25.

Track Record/Monitor

Jon Seaman, Contract Manager for Miami-Dade County Parks, Recreation and Open Spaces Department (PROS), will monitor this Agreement to assure compliance with the terms of the Agreement.

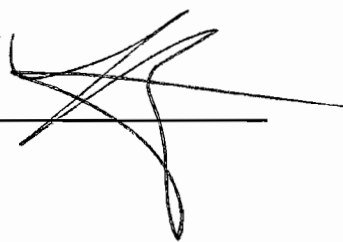

Background

The County and the Museum entered into a BBC-GOB grant to fund the restoration, reconstruction and relocation of Richmond Naval Air Station Building 25 from the adjacent U.S. Army property to the Gold Coast Railroad Museum Park property. The PROS issued a Letter of Permit to the Museum to allow it to relocate Building 25 to County land and to complete its reconstruction. The reconstruction was partially completed by April 2010 and the building was relocated in May 2010. The General Plan for the Park, approved under R-182-10 (Exhibit A), authorizes a Military Museum on the site, to be known as the Military Museum of South Florida, a facility dedicated to preserving the history and accomplishments of the Richmond Naval Air Station.

Honorable Chairman Joe A. Martinez
and Members, Board of County Commissioners
Page 2

This Agreement (Exhibit B) has an initial term of 30 years, with two (2) additional ten (10) year options to renew. The Museum will assume all operations and maintenance responsibilities for existing facilities and any additional facilities and exhibits constructed in the future. The Agreement will allow the Museum to access and utilize public and private investments to further capitalize development of the area, through historic preservation tax credits.

Attachments



Lisa Martinez
Senior Advisor

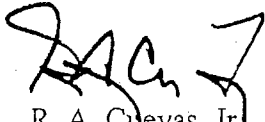


MEMORANDUM

(Revised)

TO: Honorable Chairman Joe A. Martinez
and Members, Board of County Commissioners

DATE: January 24, 2012


FROM: R. A. Cuevas, Jr.
County Attorney

SUBJECT: Agenda Item No. 8(H)(2)

Please note any items checked.

- "3-Day Rule" for committees applicable if raised
- 6 weeks required between first reading and public hearing
- 4 weeks notification to municipal officials required prior to public hearing
- Decreases revenues or increases expenditures without balancing budget
- Budget required
- Statement of fiscal impact required
- Ordinance creating a new board requires detailed County Manager's report for public hearing
- No committee review
- Applicable legislation requires more than a majority vote (i.e., 2/3's ____, 3/5's ____, unanimous ____) to approve
- Current information regarding funding source, index code and available balance, and available capacity (if debt is contemplated) required

Approved _____ Mayor
Veto _____
Override _____

Agenda Item No. 8(H)(2)
1-24-12

RESOLUTION NO. _____

RESOLUTION APPROVING A LICENSE AGREEMENT BETWEEN MIAMI-DADE COUNTY AND THE MIAMI MILITARY MUSEUM AND MEMORIAL FOR THE OPERATION, MAINTENANCE AND IMPROVEMENT OF CERTAIN LANDS WITHIN THE GOLD COAST RAILROAD MUSEUM PARK AT AN ANNUAL RENT OF 8% ADJUSTED GROSS INCOME; AND AUTHORIZING COUNTY MAYOR OR MAYOR'S DESIGNEE TO EXECUTE ON BEHALF OF THE COUNTY, AND TO EXERCISE ANY AND ALL OTHER RIGHTS CONFERRED THEREIN

WHEREAS, the Miami Military Museum and Memorial (hereafter referred to as "Museum") is a not-for-profit organization that was established to preserve, educate and inform the public about the unique history and events associated with the former and historic Naval Air Station ("NAS") Richmond located in the area now occupied by the Zoo Miami and Gold Coast Railroad Museum Park; and

WHEREAS, the Museum desires to use certain County-owned property located within the Gold Coast Railroad Museum Park ("Park") to be used to operate, improve and maintain a relocated two-story wooden building, that was originally the headquarters for the NAS Richmond, along with associated buildings and grounds (the "Military Museum"); and

WHEREAS, the Military Museum building will be owned by the Museum and the County is satisfied that the Museum does require the County-owned property for such use and the property is not otherwise needed for County purposes; and

5

WHEREAS, this Board desires to accomplish the purposes outlined in the accompanying memorandum, a copy of which is incorporated herein by reference,

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS OF MIAMI-DADE COUNTY, FLORIDA, that this Board approves the License Agreement between Miami-Dade County and the Museum, a not-for-profit organization, in substantially the form attached hereto, in order to allow the Museum to operate, maintain and improve the Military Museum, related improvements and certain lands within the Park for a term of fifty years, at an annual rent equaling 8% of adjusted gross income, and authorizes the County Mayor or County Mayor's designee to execute the License Agreement on behalf of the County and to exercise any and all other rights conferred therein.

The foregoing resolution was offered by Commissioner _____, who moved its adoption. The motion was seconded by Commissioner _____ and upon being put to a vote, the vote was as follows:

Joe A. Martinez, Chairman	
Audrey M. Edmonson, Vice Chairwoman	
Bruno A. Barreiro	Lynda Bell
Esteban L. Bovo, Jr.	Jose "Pepe" Diaz
Sally A. Heyman	Barbara J. Jordan
Jean Monestime	Dennis C. Moss
Rebeca Sosa	Sen. Javier D. Souto
Xavier L. Suarez	

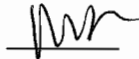
The Chairperson thereupon declared the resolution duly passed and adopted this 24th day of January, 2012. This resolution shall become effective ten (10) days after the date of its adoption unless vetoed by the Mayor, and if vetoed, shall become effective only upon an override by this Board.

MIAMI-DADE COUNTY, FLORIDA
BY ITS BOARD OF
COUNTY COMMISSIONERS

HARVEY RUVIN, CLERK

By: _____
Deputy Clerk

Approved by County Attorney as
to form and legal sufficiency.




Monica Rizo

Exhibit A
Gold Coast Railroad Museum
General Plan
R-182-10

**OFFICIAL FILE COPY
CLERK OF THE BOARD
OF COUNTY COMMISSIONERS
MIAMI-DADE COUNTY, FLORIDA**

Memorandum



Date: February 18, 2010
To: Honorable Chairman Dennis C. Moss
And Members, Board of County Commissioners
From: George M. Burgess
County Manager 
Subject: Governmental Facilities Hearing Application
GF09-04 Gold Coast Railroad Museum

Agenda Item No. 5(F)

Resolution No. R-182-10

RECOMMENDATION

It is recommended that the Board of County Commissioners approve the attached resolution endorsing the revised General Plan of the Gold Coast Railroad Museum located at 12450 SW 152 Street, in compliance with Section 33-303 of the Code of Miami-Dade County. This item was prepared by the Department of Planning and Zoning at the request of the Miami-Dade Park and Recreation Department and is recommended for approval.

LOCATION: 12450 SW 152 Street, unincorporated Miami-Dade County

COMMISSION DISTRICT: 9

**COMMISSION DISTRICT
IMPACTED:** Countywide

FOLIO NUMBER: 30-5926-000-0070

SIZE: 49.73-acres

BACKGROUND: In 1985, Resolution 493-85 authorized the construction and operation of the Gold Coast Railroad Museum. The property was acquired in 1987 through Federal surplus as a park and recreational facility to support a historic train museum. The facility has been developed in accordance with the approved site plan. The operation of the facility has been managed in accordance with a License Agreement approved pursuant to Resolution 1662-86.

ZONING: AU, Agricultural

JUSTIFICATION: The proposed modified General Plan for the Gold Coast Railroad Museum allows for the continued development of the site consistent with the approved CDMP Miami Metrozoo Entertainment Area and DRI.

FACILITY DESCRIPTION: The Gold Coast Railroad Museum is an existing facility comprised of a 42,500 square foot train shed, 1,200 square foot train building, 725 square foot administrative building, 150 square foot boiler building and 150 square foot ancillary building. The revised Gold Coast Railroad Museum General Plan proposes improvements and modifications to the existing Gold Coast Railroad Museum as well as the establishment of the Miami Military Museum and the relocation of the previously approved Main Street.

Proposed improvements

Gold Coast Railroad Museum

- Additional Train Shed - 40-50,000 sq. ft.
- Additional Train Buildings - 40-50,000 sq. ft.
- Museum/Exhibit/Banquet Areas - 20-30,000 sq. ft.
- Museum Administrative Areas - 9-12,000 sq. ft.
- Repair/Maintenance Buildings - 12-22,000 sq. ft.
- Train Yard – 20 acres

Miami Military Museum

- Military Museum – 12-14,000 sq. ft.
- Parade Ground – 2-4 acres
- Outdoor Display Building – 3-7,000 sq. ft.

Main Street

- Retail and foodservice – 50,000 sq. ft.
- Parking – 300-400 spaces

DEVELOPMENT: The further development of the Gold Coast Railroad Museum will be managed by museum staff. There are currently no funds to complete planned improvements.

The development of the Military Museum will be managed by museum staff. There are currently no funds to complete planned improvements beyond relocation of the Richmond Naval Air Station Building 25.

The Main Street retail and foodservice area will be managed by the Park and Recreation Department. It is expected that a private developer will make improvements to this area as part of the Miami Metrozoo Entertainment Area.

FUNDING: Capital budget allocations for the expansion of each museum will depend on future private fundraising and grants.

Funding for the relocation, restoration and stabilization for the Richmond Naval Air Station Building 25, has been allocated through the General Obligation Bond Program. This facility will be a part of the new Miami Military Museum. It is listed as project number 283 and to date is allocated \$2,000,000.

SITE REVIEW COMMITTEE: The committee's task is to review projects subject to 33-303 of the Code of Miami-Dade County with regard to the public need for the proposed facility, its impact upon the surrounding community, and other similar considerations. The committee reviewed this project on July 22, 2009.

COMMUNITY COUNCIL: The project was presented to Community Council #14 on September 10, 2009. The council members were fully supportive of the project.

PUBLIC HEARING: Section 33-303 of the Code of Miami-Dade County provides that, prior to the construction or operation of a facility in the unincorporated areas of Miami-Dade County, a favorable public hearing before the Board of County Commissioners (BCC) is required. The BCC may only authorize the use, construction and operation of such facilities after considering, among other factors, the public need for the facility, the type of function involved, existing land use patterns in that area and the nature of the impact of the facility on surrounding properties. The attached report from the Miami-Dade County Site Review Committee addresses these factors.

MONITOR: Gilberto Blanco, Principal Planner

DELEGATED AUTHORITY: This resolution authorizes the revised General Plan of the Gold Coast Railroad Museum.



Assistant County Manager

Memorandum



Date: February 18, 2010

To: George M. Burgess
County Manager

From: Miami-Dade County Site Review Committee

Subject: Governmental Facilities Hearing Application
GF09-04 Gold Coast Railroad Museum

RECOMMENDATION

It is recommended that the Board of County Commissioners approve the attached resolution for the revised General Plan for the Gold Coast Railroad Museum located at 12450 SW 152 Street, in compliance with Section 33-303 of the Code of Miami-Dade County. This item was prepared by the Department of Planning and Zoning at the request of the Miami-Dade County Park and Recreation Department and is recommended for approval. The Miami-Dade Site Review Committee's task is to review projects subject to Section 33-303 of the Code of Miami-Dade County with regard to the public need for the facility, its impact upon the surrounding community, and other similar considerations. All committee members recommend approval of the revised General Plan Gold Coast Railroad Museum.

BACKGROUND

In 1985, Resolution 493-85 approved a Government Facility Hearing authorizing the erection, construction and operation of the Gold Coast Railroad Museum to be located on a 49.73-acre site adjacent to Metrozoo. The property was acquired by the County in 1987 through Federal surplus as a park and recreational facility to support a historic train museum. Over the course of twenty-five years, the Gold Coast Railroad Museum has retained historic structures and constructed new facilities consistent with the approved site plan. The operation has been managed in accordance with a License Agreement approved by Resolution 1662-86.

Pursuant to Resolution Z-17-08 the Board of County Commissioners determined that the proposed modifications to the development program did not constitute (Resolution R-1207-75) a substantial deviation to the Miami Metrozoo Development of Regional Impact (DRI) pursuant to Section 380.06(19) of the Florida Statutes. This determination allowed the Park and Recreation Department to amend the previously approved DRI.

PROJECT DESCRIPTION

The Gold Coast Railroad Museum is an existing facility comprised of a 42,500 square foot train shed, 1,200 square foot train building, 725 square foot administrative building, 150 square foot boiler building and 150 square foot ancillary building. The revised Gold Coast Railroad Museum General Plan proposes improvements and modifications to the existing Gold Coast Railroad Museum as well as the establishment of the Miami Military Museum and the relocation of the previously approved Main Street.

Proposed improvements

Gold Coast Railroad Museum

- Additional Train Shed - 40-50,000 sq. ft.
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Miami Military Museum

- Military Museum – 12-14,000 sq. ft.
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Main Street

- Retail and foodservice – 50,000 sq. ft.
- Parking – 300-400 spaces

COMPREHENSIVE DEVELOPMENT MASTER PLAN

The 49.73-acre property is designated "Miami Metrozoo Entertainment Area" on the Adopted 2015-2025 Land Use Plan map. The principal uses in the "Miami Metrozoo Entertainment Area" include water park rides and attractions, a family entertainment center, museums, parks and open spaces, hotels and lodging, and other attractions and recreation facilities. The CDMP, indicates that the Gold Coast Railroad Museum's development program may include the following: new museum exhibition structures (50,000 sq. ft.), themed retail (20,000 sq. ft.), restaurant space ancillary to the museum (30,000 sq. ft.) with 600 seats, transit railroad with stops throughout the Miami-Dade Metrozoo DRI site, and up to 385 parking spaces.

The CDMP further indicates that the specific range and intensity of appropriate uses in the Miami Metrozoo Entertainment Area may vary according to availability and ease of access to public services and facilities; the museum shall have a maximum 0.30 Floor Area Ratio (FAR), which applies only to the building structures and not parking facilities, landscaped areas, environmentally protected lands and other non-buildable common areas. All of the uses proposed in the modified General Plan comply with the uses identified in the CDMP. The museum currently retains an estimated 0.038 FAR (73,750 sq. ft.). At maximum, the proposed general plan modifications would add an estimated 0.120 FAR (235,000 sq. ft.), and would increase the overall Gold Coast Railroad Museum FAR to approximately 0.158 FAR. Thus, the FAR would not exceed the maximum 0.30 FAR allowed by the CDMP.

Further, Resolution Z-17-08 sets a threshold of 50-acres (45-acres for museum facilities and open space and 5-acres for open space and transportation facilities) for new development for the Gold Coast Railroad Museum. As indicated on the General Plan, the proposed development is within the threshold set forth by Resolution Z-17-08.

The CDMP also indicates that the use of the Gold Coast Railroad Museum property shall be limited "Parks and Recreation uses, museums, and ancillary food service and related retail that supports museum uses pursuant to the approved General Plan and Program of

Utilization (R-493-85) and Article 7 of the Home Rule Amendment and Charter as amended from time to time.

In conclusion, the proposed General Plan modifications to the Gold Coast Railroad Museum are **consistent** with the CDMP.

EXISTING LAND USE PATTERN

ZONING

LAND USE PLAN DESIGNATION

Subject Property:

AU, Agricultural

Miami Metrozoo Entertainment Area

NORTHEAST: AU, Vacant

Institutions, Utilities and Communications

NORTHWEST: AU, Vacant

Institutions, Utilities and Communications

SOUTH: AU, Parking lot

Institutions, Utilities and Communications
and Metrozoo Entertainment Area

SOUTHWEST: AU, Vacant

Institutions, Utilities and Communications

STAFF RECOMMENDATIONS

The **Department of Planning and Zoning** has reviewed the application and recommends approval and provides the following comments:

- The Department of Planning and Zoning recommends approval of the proposed Gold Coast Railroad Museum. The 49.73-acre site is designated for the **Miami Metrozoo Entertainment Area** on the adopted 2015 and 2025 Land Use Plan (LUP) map of the Comprehensive Development Master Plan (CDMP). Staff is of the opinion that the proposed Railroad Museum will enhance the cultural awareness of the community by providing historic and cultural events to the residents of Miami-Dade County at this frequently visited location. In addition, the plans submitted by the applicant indicate enhancements to the existing structures on the site and proposed structures which will provide shelter from inclement weather and other environmental conditions for the historic trains. Some of the proposed structures will include theaters, restaurants, banquet halls, and retail areas. In addition, the plans depict a parking area for 349 parking spaces, outdoor garden areas, dirigible/airbase exhibit space and other recreational and activity areas. Staff opines that the requested facility should be approved as requested. As such, staff opines that as a cultural facility the proposed multi-cultural building on this site is **consistent** with the Comprehensive Development Master Plan (CDMP).

Conditions

1. That in the approval of the plan, the same be basically in accordance with the plan submitted for the hearing entitled, "Gold Coast Railroad Museum", prepared

by Enviroscape Land Planning & Landscape Architecture for the Miami-Dade County Park and Recreation Department, date stamped received 10/2/09 and dated on the plan 9/2009 consisting of 1 page.

2. That all landscaping to be provided on site in accordance with Chapter 18A (The Landscape Code).

The **Public Works Department – Right of Way Division** has reviewed the application and provides the following comment:

- No additional right-of-way dedication is required.

The **Public Works Department (PWD) – Highway Engineering Division** has reviewed the application and provides the following comments:

- PWD has no proposed roadway project adjacent to the subject site in the 2010 Transportation Improvement Program (TIP), nor in the 2030 Long Range Transportation Plan (LRTP).
- The Metropolitan Planning Organization (MPO) has a transportation study for the SW 152 Street Corridor, from SW 162 Avenue to US-1. Please contact Jesus Guerra, MPO, at (305) 375-4507, for more information.
- Please be advised that a PWD permit will be required for this project. Please contact PWD Permit Section, at (305) 375-2142, for more information.

Should you have any questions, please contact Javier Heredia, P.E., Section Head, Highway Planning, at (305) 375-1901.

The **Public Works Department – Land Development Division** has reviewed the application and has no objection to this project. A plat is not required.

The **Fire Rescue Department** has reviewed the application, has no objection and provides the following comments:

- The closest station serving this area is the Richmond Fire Rescue Station #43 located at 13390 SW 152 Street. This station is equipped with an aerial and a rescue and can provide a two to three minute response time to this site.
- This project must comply with Uniform Fire Safety Rules and Standards. All site plans must be reviewed by Fire and Water Engineering Bureau located at 11805 SW 26 Street, telephone (786) 315-2771.

The **Miami-Dade Water & Sewer Department (M-DWASD)** comments and recommendations for the site review are as follows:

Water

The project can be connected to any of the existing sixteen (16)-inch water mains close to the southern boundary of the property and/or within the property, provided there is access to those mains. Any public water main extension within the property shall be

twelve (12)-inch minimum in diameter. If two or more fire hydrants are to be connected to a public water main extension within the property, then the water system shall be looped with two (2) P.O.C(s). There are water and/or sewer mains within the property, either existing dedicated right of way or easements, which need to be removed and relocated if in conflict with the proposed development. Easements associated with mains to be removed and relocated shall be closed and vacated before starting construction in the easement(s) areas. In order to close and vacate an easement, please contact Odalys Bello at (786)268-5268 or e-mail her at obello@miamidade.gov for more information. In case of right of ways to be closed and vacated within the property, mains shall be removed and relocated, replacement mains shall be installed, tested and accepted by the department before existing ones can be removed. Easements, either existing or proposed shall be shown on plat.

Sewer

The project can be connected to an existing eight (8)-inch gravity sewer close to the northeastern boundary of the property, provided there is access to that main, otherwise a private pump extension is required as long as all legal requirements are met and the connection can be done to an existing eight (8)-inch force main close to the southern and eastern boundary of the property. There are water and/or sewer mains within the property, either in existing dedicated right of way or easements, which need to be removed and relocated if in conflict with the proposed development. Easements associated with mains to be removed and relocated shall be closed and vacated before starting construction in the easement(s) areas. In order to close and vacate an easement, please contact Odalys Bello at (786) 268-5268 or e-mail her at obello@miamidade.gov for more information. In case of right of ways to be closed or vacated within the property, mains shall be removed and relocated if needed before closing/vacating them. In the event that the existing facilities are to be removed and relocated, replacement mains shall be installed, tested and accepted by the department before existing ones can be removed. Easements, either existing or proposed shall be shown on plat.

General Notes

The size of the required water mains will depend upon the subject property's approved zoning, being twelve (12) inch minimum in diameter required for high density residential, commercial, business, industrial, hospitals, public buildings, etc. and eight (8) inch minimum in diameter required for low and medium density residential zonings.

Please note that improvements to the sewer system may be required based on the project's sewage flow to be discharged into M-DWASD's system and the condition of the sewage pump station(s) receiving the reference sewage flow at the time a request is sent to the M-DWASD. Please be advised that the right to connect the referenced property to the Department's sewer system is subject to the terms, covenants and conditions set forth in the Settlement Agreement between the Florida Department of Environmental Protection ("DEP") and the County dated July 27, 1993, the First Amendment to Settlement Agreement between DEP and the County dated December 21, 1995, the First Partial Consent Decree and the Second and Final Partial Consent Decree entered in the United States of America Environmental Protection Agency vs. Metropolitan Dade County (Case Number 93-1109 CIV-MORENO), as currently in effect or as modified in the future, and all other current, subsequent or future agreements, court orders, judgments, consent orders, consent decrees and the like entered into between the County and the United States, State of Florida and/or any

other governmental entity, and all other current, subsequent or future enforcement and regulatory actions and proceedings.

The **Office of ADA Coordination** has reviewed the subject application has no objections. Applicant needs to submit 50% development documents for preliminary review.

The **General Services Administration Design and Construction Services Division** has reviewed the subject application and has no objections to the project.

The **Department of Environmental Resources Management (DERM)** has reviewed the subject application and has determined that it meets the minimum requirements of Chapter 24 of the Code of Miami-Dade County, Florida (the Code). Accordingly, DERM may approve the application, and the same may be scheduled for public hearing.

Potable Water Service and Wastewater Disposal

Public water and public sanitary sewers can be made available to the subject property. Therefore, connection of the proposed development to the public water supply system and sanitary sewer system shall be required in accordance with Code requirements.

Existing public water and sewer facilities and services meet the Level of Service (LOS) standards set forth in the Comprehensive Development Master Plan (CDMP). Furthermore, the proposed development order, if approved, will not result in a reduction in the LOS standards subject to compliance with the conditions required by DERM for this proposed development order.

Notwithstanding the foregoing, and in light of the fact that the County's sanitary sewer system has limited sewer collection, transmission, and treatment capacity, no new sewer service connections can be permitted, unless there is adequate capacity to handle the additional flows that this project would generate. Consequently, final development orders for this site may not be granted if adequate capacity in the system is not available at the point in time when the project will be contributing sewage to the system. Lack of adequate capacity in the system may require the approval of alternate means of sewage disposal. Use of an alternate means of sewage disposal may only be granted in accordance with Code requirements, and shall be an interim measure, with connection to the public sanitary sewer system required upon availability of adequate collection/transmission and treatment capacity.

Stormwater Management

A Surface Water Management Individual Permit from the South Florida Water Management District shall be required for the construction and operation of the required surface water management system. This permit shall be obtained prior to site development, final plat or public works approval of paving and drainage plans. The applicant is advised to contact DERM for further information regarding permitting procedures and requirements.

All stormwater shall be retained on-site utilizing properly designed seepage or infiltration drainage structures. Drainage must be provided for the 5-year/1-day storm event with full on-site retention of the 25-year/3-day storm. Pollution Control devices shall be required at all drainage inlet structures.

Site grading and development shall comply with the requirements of Chapter 11C of the Code.

The development criteria and the level of on-site flood protection may vary from those mentioned above if ground water stages are increased as a result of the implementation of the Comprehensive Everglades Restoration Plan.

Any proposed development shall comply with County and Federal flood criteria requirements. The proposed development order, if approved, will not result in a reduction in the Level of Service standards for flood protection set forth in the CDMP subject to compliance with the conditions required by DERM for this proposed development order.

Wetlands

The subject property does not contain wetlands as defined by Section 24-5 of the Code; therefore, a Class IV Wetland Permit will not be required.

The applicant is advised that permits from the Army Corps of Engineers (305-526-7181), the Florida Department of Environmental Protection (561-681-6600) and the South Florida Water Management District (1-800-432-2045) may be required for the proposed project. It is the applicant's responsibility to contact these agencies.

Natural Forest Communities

A portion of folio (30-5926-000-0070) is a designated covenanted Natural Forest Community (NFC) and/or EEL (Environmentally Endangered Lands) managed property. NFC's are upland natural areas (Pine Rockland and Hardwood Hammocks) that, meet one or more of the following criteria: the presence of endangered, threatened, rare, or endemic species; low percentage of site covered by exotic plant species; high overall plant diversity; wildlife habitat values; and geological features. EEL managed properties are subject to NFC regulations (See Section 24-49 of the Code) and EEL Ordinance for preservation and management consistent with the purposes set forth in Section 24-50 of the Code.

The County has a vested interest in maintaining the NFC/EEL portion as a natural preserve. Development on parcels that are NFCs and/or EEL managed properties must avoid adverse impacts to the preserve associated with the placement of buildings, construction of infrastructure, storage of construction materials and equipment, final grade, drainage and erosion. In order to minimize potential damage to the NFC/EEL portions of the property, an erect barrier should be placed along the edge of the area prior to commencing any work. Also, in order to avoid causing damage to plants and substrate, heavy machinery may not be parked along side or inside the NFC/EEL portions of the property. Roads are preferable to buildable lots abutting the natural area property line.

This pineland will be maintained by the use of periodic ecological prescribed burning. This management technique reduces the wildfire threat and is beneficial to wildlife and the rare plant species harbored by this plant community. Such burning is generally performed once every three years. The subject property may be affected by the periodic smoke events from the prescribed burns or unexpected wildfires. According to the landscape code for Miami-Dade County, controlled species may not be planted within

500 feet of the native plant community. Please refer to the Landscape Manual of the Department of Planning and Zoning for a list of these controlled landscaping plants.

The site plan submitted with this application on October 2, 2009, entitled "Gold Coast Museum General Plan/Title: Amended General Plan" and dated September, 2009, includes and identifies a portion of the NFC areas that are under covenant (CFN 2008E0661288) on folio 30-5926-000-0070. Please be advised that all conditions of the covenant must be adhered to. The plan also includes pine rockland areas on folio 30-5936-000-0050 that contain the Federally-listed plant species Deltoid Spurge (*Chamaesyce deltoidea*). The Natural Resources Planning Section also recommends that this area be delineated and added to the existing NFC inventory at Miami Metrozoo.

Finally, the subject property contains prohibited trees as defined in Section 24-49.9 of the Code. Pursuant to Section 24-49-9 of the Code, all prohibited trees are exempt from permitting and must be removed from the site prior to development. Notwithstanding the foregoing, the applicant is advised that Section 24-49 of the Code requires the preservation of tree resources. A Miami-Dade County Tree Removal Permit is required prior to the removal or relocation of any other tree on the subject property that is not a prohibited species. The applicant is advised to contact DERM staff for permitting procedures and requirements prior to development of site and landscaping plans.

Tree Preservation

The subject property contains prohibited trees as defined in Section 24-49.9 of the Code. Pursuant to Section 24-49.9 of the Code, all prohibited trees are exempt from permitting and must be removed from site prior to development. Notwithstanding the foregoing, the applicant is advised that Section 24-49 of the Code requires the preservation of tree resources. A Miami-Dade County Tree Removal Permit is required prior to the removal or relocation of any tree on the subject property that is not a prohibited species. The applicant is advised to contact DERM staff for permitting procedures and requirements prior to development of site and landscaping plans.

Hazardous Materials Management

Due to the nature of uses allowed in the existing zoning classification, the applicant may be required to obtain DERM approval for management practices to control the potential discharge and spillage of pollutants associated with some land uses permitted in the requested zoning district. The applicant is advised to contact the Permitting Section of DERM's Pollution Regulation and Enforcement Division at (305) 372-6600 concerning required management practices.

Operating Permits

Section 24-18 of the Code authorizes DERM to require operating permits from facilities that could be a source of pollution. The applicant is advised that the requested use of the subject property may require operating permits from DERM. The Permitting Section of DERM's Pollution Regulation and Enforcement Division may be contacted at (305) 372-6600 for further information concerning operating requirements.

Fuel Storage Facilities

Section 24-45 of the Code outlines regulations for any proposed or existing underground storage facilities. The regulations provide design, permitting, installation, modification, repair, replacement and continuing operation requirements and criteria. In

addition, monitoring devices, inventory control practices and pressure testing of fuel storage tanks is required. The applicant is advised to contact the Permitting Section of DERM's Pollution Regulation and Enforcement Division may be contacted at (305) 372-6600 concerning permitting requirements for fuel storage facilities.

Concurrency Review Summary

DERM has conducted a concurrency review for this application and has determined that the same meets all applicable LOS standards for an initial development order, as specified in the adopted CDMP for potable water supply, wastewater disposal, and flood protection. Therefore, the application has been approved for concurrency subject to the comments and conditions contained herein.

This concurrency approval does not constitute a final concurrency statement and is valid only for this initial development order, as provided for in the adopted methodology for concurrency review. Additionally, this approval does not constitute any assurance that the LOS standards would be met by any subsequent order applications concerning the subject property.

This memorandum shall constitute DERM's written approval, as required by the Code.

If you have any questions concerning the comments, or wish to discuss this matter further, please contact Christine Velazquez at (305) 372-6764.

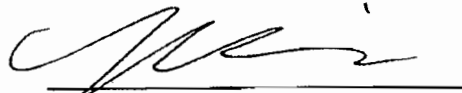
MIAMI-DADE COUNTY SITE REVIEW COMMITTEE

APPLICATION GF09-04

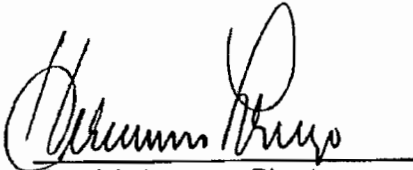
MIAMI-DADE PARK AND RECREATION DEPARTMENT
GOLD COAST RAILROAD MUSEUM



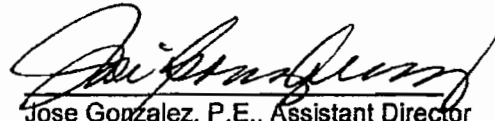
Esther Calas, Director
Public Works Department




Marc C. LaFerrier, AICP, Director
Department of Planning and Zoning




Herminio Lorenzo, Director
Miami-Dade Fire Rescue Department



Jose Gonzalez, P.E., Assistant Director
Department of Environmental
Resource Management

for Maria T. Cabote 

Sergio Garcia, Plans Review Manager
Plans Review Section
Water and Sewer Department



Wendi J. Norris, Director
General Services Administration



MEMORANDUM

(Revised)

TO: Honorable Chairman Dennis C. Moss
and Members, Board of County Commissioners

DATE: February 18, 2010

FROM: R. A. Cuevas, Jr.
County Attorney

SUBJECT: Agenda Item No. 5(F)

Please note any items checked.

- "3-Day Rule" for committees applicable if raised
- 6 weeks required between first reading and public hearing
- 4 weeks notification to municipal officials required prior to public hearing
- Decreases revenues or increases expenditures without balancing budget
- Budget required
- Statement of fiscal impact required
- Ordinance creating a new board requires detailed County Manager's report for public hearing
- No committee review
- Applicable legislation requires more than a majority vote (i.e., 2/3's ____, 3/5's ____, unanimous ____) to approve
- Current information regarding funding source, index code and available balance, and available capacity (if debt is contemplated) required

Approved _____ Mayor
Veto _____
Override _____

Agenda Item No. 5 (F)
2-18-10

RESOLUTION NO. R-182-10

RESOLUTION APPROVING THE REVISED GENERAL PLAN OF THE GOLD COAST RAILROAD MUSEUM LOCATED AT 12450 SW 152 STREET IN THE MIAMI METROZOO ENTERTAINMENT AREA, IN COMPLIANCE WITH SECTION 33-303 OF THE CODE OF MIAMI-DADE COUNTY

WHEREAS, this Board desires to accomplish the purposes outlined in the accompanying memorandum, a copy of which is incorporated herein by reference, and has conducted a public hearing in compliance with the provisions of Section 33-303 of the Code of Miami-Dade County, Florida,

NOW THEREFORE, BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS OF MIAMI-DADE, COUNTY, FLORIDA, that this Board hereby finds that the revised General Plan for the Gold Coast Railroad Museum located at 12450 SW 152 Street, in the Miami Metrozoo Entertainment Area more specifically described as follows:

SEE ATTACHED EXHIBIT A

is necessary to provide for historic building preservation and cultural enhancement of the citizens of Miami-Dade County, Florida and in so finding, has considered, among other factors, the type of function involved, the public need therefore, the land use pattern in the area, and the nature of the impact on the surrounding property.

Resolution No. R-182-10

Agenda Item No. 5 (F)

Page No. 2

The foregoing resolution was offered by Commissioner **Jose "Pepe" Diaz** who moved its adoption. The motion was seconded by Commissioner **Dennis C. Moss** and upon being put to a vote, the vote was as follows:

	Dennis C. Moss, Chairman	aye		
	Jose "Pepe" Diaz, Vice-Chairman	aye		
Bruno A. Barreiro	aye	Audrey M. Edmonson	aye	
Carlos A. Gimenez	aye	Sally A. Heyman	aye	
Barbara J. Jordan	aye	Joe A. Martinez	aye	
Dorin D. Rolle	aye	Natacha Seijas	aye	
Katy Sorenson	aye	Rebeca Sosa	aye	
Sen. Javier D. Souto	aye			

The Chairperson thereupon declared the resolution duly passed and adopted this 18th day of February, 2010. This resolution shall become effective ten (10) days after the date of its adoption unless vetoed by the Mayor, and if vetoed, shall become effective only upon an override by this Board.

MIAMI-DADE COUNTY, FLORIDA
BY ITS BOARD OF
COUNTY COMMISSIONERS



HARVEY RUVIN, CLERK

By: **DIANE COLLINS**
Deputy Clerk

Approved by County Attorney as
to form and legal sufficiency.

Dennis A. Kerbel

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MIAMI-DADE COUNTY
BOARD OF COUNTY COMMISSIONERS
NOTICE OF PUBLIC HEARING

The BOARD OF COUNTY COMMISSIONERS of Miami-Dade County, Florida will meet Thursday 18th day of February 2010 9:30 a.m. in the County Commission Chambers, Second Floor, Stephen P. Clark Center, 111 N.W. First Street, Miami, Florida, to consider the following request:

Application: GOLD COAST RAILROAD MUSEUM
Number: GF09-04
Applicant: MIAMI-DADE PARK AND RECREATION
Location: 12450 SW 152 Street, incorporated Miami-Dade County
Size: 49.67-acres
Request: Approval of the amended general plan for the Gold Coast Railroad Museum located in the Miami Metrozoo Entertainment Area.

Legal Description: FOLIO: 30-5926-000-0070
A PORTION OF SECTIONS 25 AND 26, TOWNSHIP 55 SOUTH, RANGE 39 EAST, MIAMI DADE COUNTY, FLORIDA.

Commence at the Northwest corner of the Northeast $\frac{1}{4}$, of Section 26, for a distance of 35.00 feet; thence S 88°05'03" W, along a line parallel with and 35.00 feet South of, as measured at right angles to, the North line of the Northwest $\frac{1}{4}$ of said Section 26, for a distance of 42.17 feet; thence S 38°47'18" W, along the Southeasterly Right of Way of CSX Transportation, Inc., for a distance of 712.14 feet to the Point of Beginning; thence Southwesterly, and Southeasterly, along a circular curve to the left, having a radius of 731.10 feet, and a central angle of 77°17'46", for an arc distance of 986.31 feet to a point of tangency; thence S 51°44'51" E, for a distance of 79.24 feet; thence S 58°51'18" e, for a distance of 1,917.17 feet to a point hereinafter called point "E"; thence continues 58°51'18"E, for a distance of 40.00 feet (the last four courses being along the Northeasterly Right of Way line of the CSX Transportation, Inc. spur line); thence S 31°08'07" W, for a distance of 260.87 feet; thence S 58°51'08" E, for a distance of 2,009.93 feet; thence S 85°39'01" W, for a distance of 1,366.98 feet; thence N 58°55'54" W, for 906.55 feet; thence N 28°48'50" W, for a distance of 492.59 feet to a point of curvature; thence Northwesterly along a circular curve to the right having a radius of 771.10 feet and a central angle of 24°32'45", for an arc distance of 330.34feet to appoint of tangency; thence N 04°16'05" W, for a distance of 290.73 feet to a point of curvature; thence Northwesterly, along a circular curve to the left having a radius of

741.10 feet and a central angle of $54^{\circ}35'13''$, for an arc distance of 706.06 feet to a point of tangency; thence $N 58^{\circ}51'18'' W$, for a distance of 696.41 feet to a point of curvature; thence Northwesterly and Southwesterly, along a curve to the left, having a radius of 741.10 feet and a central angle of $66^{\circ}36'06''$, for an arc distance of 861.46 feet; thence $N 38^{\circ}47'18'' E$, along the Southeasterly Right of Way line of the CSX Transportation, Inc. railroad, for a distance of 1,161.10 feet to the Point of Beginning, lying and being in Miami Dade County, Florida, containing 49.67 Acres more or less.

OBJECTIONS MAY BE MADE IN PERSON AT THE HEARING OR FILED IN WRITING PRIOR TO THE HEARING DATE. MAIL OBJECTIONS AT LEAST FIVE BUSINESS DAYS PRIOR TO THE HEARING TO THE DEPARTMENT OF PLANNING AND ZONING, ATTENTION: Gilberto Blanco, 111 NW 1 STREET, 12 FLOOR, MIAMI, FLORIDA 33128. SIGN LANGUAGE INTERPRETERS ARE AVAILABLE UPON REQUEST. PLEASE CALL (305)670-9099 AT LEAST FOUR DAYS IN ADVANCE.

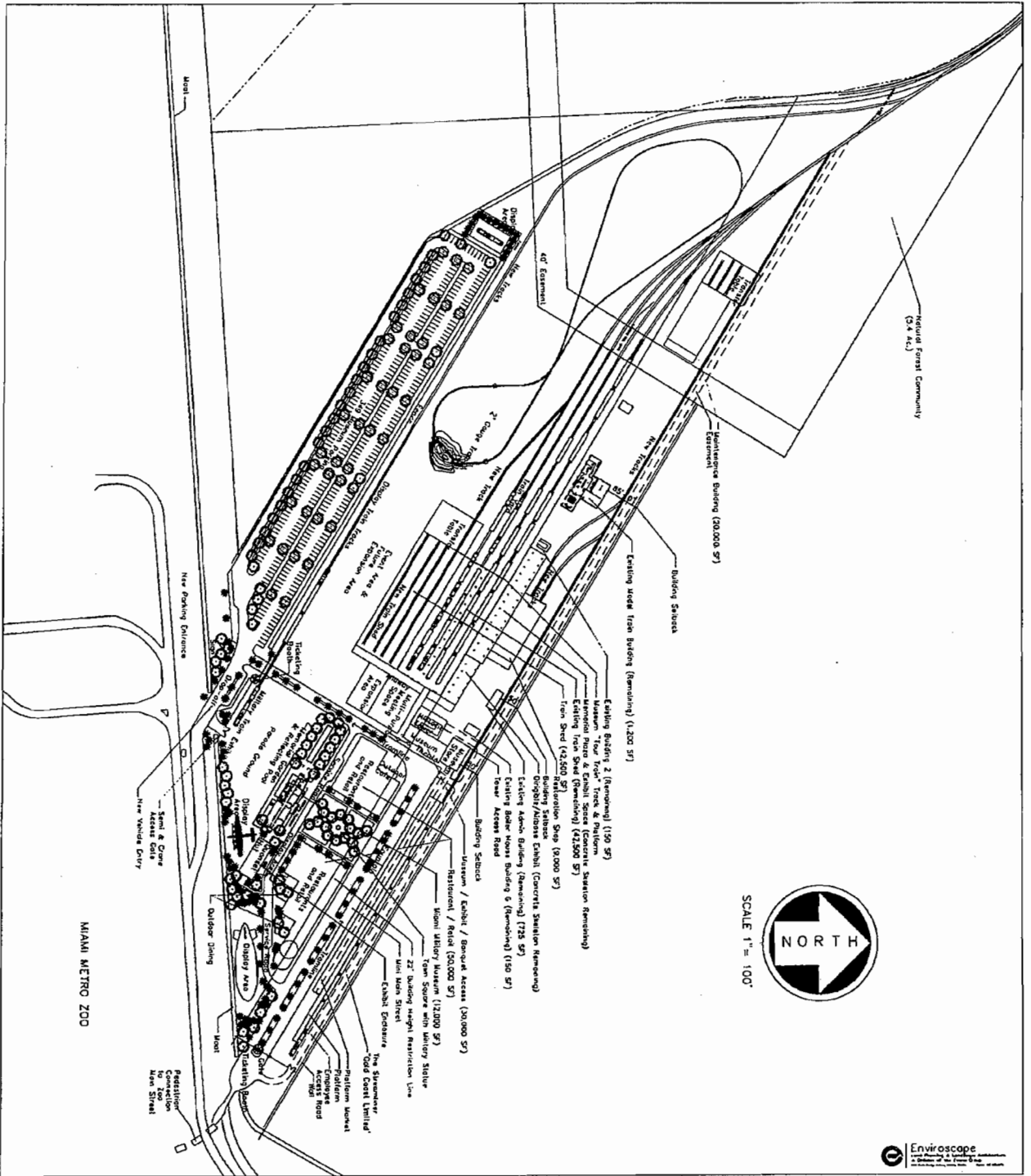
EXHIBIT "A"

MIAMI-DADE COUNTY PARK AND RECREATION DEPARTMENT

Legal Description

A PORTION OF SECTIONS 25 AND 26, TOWNSHIP 55 SOUTH, RANGE 39 EAST, MIAMI DADE COUNTY, FLORIDA.

Commence at the Northwest corner of the Northeast ¼, of Section 26, for a distance of 35.00 feet; thence S 88°05'03" W, along a line parallel with and 35.00 feet South of, as measured at right angles to, the North line of the Northwest ¼ of said Section 26, for a distance of 42.17 feet; thence S 38°47'18" W, along the Southeasterly Right of Way of CSX Transportation, Inc., for a distance of 712.14 feet to the Point of Beginning; thence Southwesterly, and Southeasterly, along a circular curve to the left, having a radius of 731.10 feet, and a central angle of 77°17'46", for an arc distance of 986.31 feet to a point of tangency; thence S 51°44'51" E, for a distance of 79.24 feet; thence S 58°51'18" e, for a distance of 1,917.17 feet to a point hereinafter called point "E"; thence continues 58°51'18"E, for a distance of 40.00 feet (the last four courses being along the Northeasterly Right of Way line of the CSX Transportation, Inc. spur line); thence S 31°08'07" W, for a distance of 260.87 feet; thence S 58°51'08" E, for a distance of 2,009.93 feet; thence S 85°39'01" W, for a distance of 1,366.98 feet; thence N 58°55'54" W, for 906.55 feet; thence N 28°48'50" W, for a distance of 492.59 feet to a point of curvature; thence Northwesterly along a circular curve to the right having a radius of 771.10 feet and a central angle of 24°32'45", for an arc distance of 330.34 feet to a point of tangency; thence N 04°16'05" W, for a distance of 290.73 feet to a point of curvature; thence Northwesterly, along a circular curve to the left having a radius of 741.10 feet and a central angle of 54°35'13", for an arc distance of 706.06 feet to a point of tangency; thence N 58°51'18" W, for a distance of 696.41 feet to a point of curvature; thence Northwesterly and Southwesterly, along a curve to the left, having a radius of 741.10 feet and a central angle of 66°36'06", for an arc distance of 861.46 feet; thence N 38°47'18" E, along the Southeasterly Right of Way line of the CSX Transportation, Inc. railroad, for a distance of 1,161.10 feet to the Point of Beginning, lying and being in Miami Dade County, Florida, containing 49.67 Acres more or less.



Enviroscope
 11110 W. 22nd Avenue, Suite 200
 Miami, FL 33186
 781-228-8800
 www.enviroscope.com

Contract #		
Year	Scale	Sheet
2009	1" = 100'	1 of 1
Drawn	Checked	Date
		5/2/09

Project Title:
**GOLD COAST RAILROAD MUSEUM
 GENERAL PLAN**
 12450 S.W. 152 ST., MIAMI FLORIDA
 Drawing Title: AMENDED GENERAL PLAN

Miami-Dade County
 Park and Recreation Department
 275 N.W. 2nd STREET, 4th FLOOR, MIAMI, FL 33128

Revisions		
#	Date	Description

Design	Drawn: MORG
Checked:	
Survey:	C. SILVA
Interferer:	
Project Manager:	

LANDSCAPE ARCHITECT
 STATE OF FLORIDA
 No. 52224
 MIAMI, FLORIDA 33128 (305) 362-1965

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Exhibit B
Military Museum and Memorial
License Agreement

MIAMI MILITARY MUSEUM AND MEMORIAL

LICENSE AGREEMENT

THIS LICENSE AGREEMENT (the "Agreement") made and entered into as of this _____ day of _____, 2012 by and between the Friends of the Military Museum of South Florida at NAS Richmond, Inc. (DBA "Miami Military Museum and Memorial"), a non-profit corporation organized and existing under the laws of the State of Florida, having its principal office at 12450 SW 152 Street, Miami, Florida, 33176 (hereinafter referred to as the "LICENSEE"), and Miami-Dade County, a political subdivision of the State of Florida, having its principal office at 111 NW 1st Street, Miami, Florida 33128 (hereinafter referred to as the "COUNTY").

WITNESSETH:

WHEREAS, the COUNTY owns and operates the Gold Coast Railroad Museum Park property located at 12450 SW 152nd Street, Miami, Florida for the recreation and cultural enjoyment of patrons, and which is administered for by the Miami-Dade Parks, Recreation and Open Spaces Department (the "PROS"); and

WHEREAS, LICENSEE is a non-profit Florida corporation dedicated to the preservation, exhibition and operation of a military museum serving South Florida; and

WHEREAS, the LICENSEE owns the Richmond Building #25 (the "Museum Building") and, having relocated the Museum Building from federal to COUNTY lands, now seeks to complete the restoration and reconstruction of the Museum Building in part to help establish a military museum; and

WHEREAS, the COUNTY authorized the erection, construction and operation of the Gold Coast Railroad Museum Park ("Park") property (R-182-10) by adopting a general plan illustrating the development of various facilities, including museum facilities associated with the LICENSEE ("Exhibit A"); and

WHEREAS, in order to maintain consistency with the new General Plan, the COUNTY seeks to establish a License Agreement under which LICENSEE can construct, operate and maintain Richmond Building #25 and additional planned facilities lying within certain areas ("Museum") of the Park property; and

NOW THEREFORE, in consideration of the mutual covenants and provisions contained herein, the parties hereto agree as follows:

Article 1

- 1.1. **Purpose:** The COUNTY hereby grants unto the LICENSEE, and the LICENSEE hereby accepts from the COUNTY for the term of this Agreement, at the rate and upon the covenants and conditions as set forth, the exclusive right to develop, operate and maintain a military museum building ("Museum Building") and associated exhibits on a portion of COUNTY-owned land (the "License Area"), subject to the terms and conditions of this License Agreement; and such rules, regulations, directions, ordinances, statutes and laws which may exist or may be adopted by bodies having appropriate jurisdiction. LICENSEE shall use the License Area only for the use permitted herein and not conduct any business nor provide any services nor sell any item or product not expressly provided for by this Agreement without the prior written approval of the COUNTY. LICENSEE shall conduct its business at all times in accordance with this Agreement.
- 1.2. **Term:** The COUNTY hereby grants to the LICENSEE for a term of thirty (30) years a license to use the License Area described in this Agreement to be operated as specified herein. The term and Commencement Date of this Agreement shall begin on the date the Agreement is executed, subject to the conditions, covenants and Agreements made on the part of LICENSEE.
- 1.3. **Renewal Option:** Provided that there are no defaults by the LICENSEE, the LICENSEE reserves the right to request an option to extend this Agreement for up to two (2) additional terms of ten (10) years each beyond the current contract period, and will notify the COUNTY in writing of the requested extension. The COUNTY, at its sole discretion, may grant this request subject to it receiving that written request at least one hundred and eighty (180) days in advance of the expiration date of the Agreement.
- 1.4. **Property Description:** The Park is located at 12450 SW 152nd Street, Miami, Florida, as shown on Attachment 1 attached hereto and incorporated herein by reference. The land and License Area extend to the limits of the property, together with the appurtenances specifically granted in this Agreement, including the use of common with other public areas of the Park property, as hereinafter more fully provided.
- 1.5. **Miami Military Museum and Memorial:** Within the property, the License Area is specifically located and further defined as shown in Attachments 2 & 3. The LICENSEE accepts the area, including all License Area, in an "as is" condition and subject to all existing encumbrances,

charges, conditions, covenants, easements, restrictions, right-of-ways and other matters of record.

1.6. Exclusivity and Non-exclusivity: This Agreement provides for the LICENSEE to have exclusive control of the License Area, but that in no way prevents the COUNTY from authorizing other services, products or items by other licensees, vendors, concessionaires or others elsewhere adjacent and within the License Area.

A. The LICENSEE has acknowledged the COUNTY's intent to develop a restaurant and retail area (the "Mini-Main Street") to be located adjacent to and outside of the License Area entrance. The COUNTY grants to the LICENSEE and its authorized representatives the non-exclusive right to use the common spaces associated with the Mini-Main Street.

B. The LICENSEE has acknowledged the COUNTY's intent to develop a Railroad Museum, located adjacent to and outside of the License Area, within the Park property. The COUNTY grants to the LICENSEE and its authorized representatives the non-exclusive right to use the Railroad Museum common spaces.

C. The LICENSEE has acknowledged the COUNTY's intent to develop new parking areas for the property to be located adjacent to the Park entrance. The COUNTY grants to the LICENSEE and its authorized representatives the non-exclusive right to use the vehicular parking spaces associated with the parking lot.

1.7. License: This Agreement is not intended to and shall not be construed to vest the LICENSEE with any title, estate, possessory interest or property right in any real properties, personal properties or equipment of the COUNTY or in any part thereof, including without limitation the License Area and the existing equipment. The COUNTY does not by this Agreement relinquish, convey, or qualify in any degree its respective possession, title, control, or management of any properties or equipment, except where the LICENSEE seeks to lease the Building for the purposes of seeking historic preservation tax credits. LICENSEE shall not be held liable for possessory interest taxes related to real property owned by the COUNTY.

It is expressly understood and agreed that no real or personal property is leased to LICENSEE, that this is a License and not a Lease, that LICENSEE's right to use the License Area and operate the License Area hereby granted shall continue only so long as LICENSEE shall comply strictly and promptly with each and all of the undertakings, provisions, covenants, Agreements, stipulations and conditions herein contained. LICENSEE agrees not to represent itself as an agent or associate of the COUNTY or any unit thereof.

A. LICENSEE shall not license, sublicense nor subcontract the License Area or operations or any part thereof, or use the same or any part thereof, or permit the same or any part

thereof, to be used for any other purpose than above stipulated or make any alterations therein without the written consent of the COUNTY.

- B. Subject to the provisions of this Agreement, the LICENSEE shall not subcontract its interest in this Agreement or in the Museum Building, or allow any other person or entity (except LICENSEE's authorized representatives) to occupy or use all or any part of the License Area or the buildings and improvements located therein, without first obtaining COUNTY consent. The LICENSEE shall, in each instance of a proposed subcontract, give written notice of its intention to subcontract, to the COUNTY at least ninety (90) days or more before the proposed effective date of any such proposed subcontract, specifying in such notice what the LICENSEE proposes to contract, the proposed date thereof, and specifically identifying the proposed subcontracting entity, and such notice shall be accompanied by executed copies of the proposed subcontract document, current financial statements and the names, addresses, business entity number and the principals of the proposed subcontracting entity. The COUNTY shall not approve any subcontracts that are not ancillary to military museum functions.
 - C. Upon receipt of said written notice, the COUNTY shall contact the National Park Service for their review of the subcontract compliance with the terms of conveyance of said property to the COUNTY. The COUNTY shall within thirty (30) days from the date the National Park Service returns their recommendation; notify the LICENSEE of either consent or refusal to consent to the proposed subcontract.
 - D. Notwithstanding the above Section 1.7, the LICENSEE has elected to pursue the use of federal historic tax credits in the redevelopment of the Building, which will require LICENSEE to lease the Building to tenants. LICENSEE shall provide a copy of all such leases to be entered into pursuant to this subsection to the COUNTY prior to their execution.
- 1.8. Attachments:** The Attachments listed in this Paragraph and attached to this Agreement are hereby incorporated in and made a part of this Agreement:

Attachment 1: Gold Coast Railroad Museum Park Property

Attachment 2: General Plan of Park Property

Attachment 3: Miami Military Museum and Memorial License Area

Attachment 4: Park and Recreation Development Rider

Article 2

- 2.1 **Use:** Except when and to the extent that the License Area may be untenable by reason of damage by fire or other casualty, LICENSEE shall, after beginning initial Museum operation, continuously and uninterruptedly use, occupy and operate for purposes outlined herein all of the License Area. LICENSEE shall have on the License Area adequately trained personnel for efficient service to customers. LICENSEE shall notify COUNTY in writing when LICENSEE has sufficiently adapted the Museum Building to a point where public visitation can take place and Museum operations will commence.
- 2.2 **Limitations on Use:** LICENSEE shall use and operate the Museum Building and the License Area and any part thereof, in a manner which would not, in any way, (i) violate any legal requirements or insurance requirements; (ii) cause structural injury to the License Area or Park property or any part thereof; (iii) constitute a public or private nuisance; (iv) impair the appearance of the License Area or Gold Coast Railroad Museum; (v) impair or interfere with the cleaning, heating, ventilating or air-conditioning of the License Area or the proper and economic functioning of any other area within the Park; (vi) impair or interfere with any of the other users of the License Area; or (vii) impair any of the LICENSEE's obligations under this Agreement.
- 2.3 **Governmental Approvals:** If any governmental license or permit shall be required for the proper and lawful conduct of LICENSEE's business in the License Area, or any part thereof, or if failure to secure such license or permit would in any way adversely affect the COUNTY, LICENSEE, at its expense, shall duly procure and thereafter maintain such license or permit and submit the same to inspection by the COUNTY. LICENSEE shall at all times comply with the terms and conditions of each such license or permit.
- 2.4 **Right of Entry:** The COUNTY shall have the right to enter the License Area, subject to a prior call to the site manager 24 hours before the visit, as well as in emergency circumstances, whether or not during normal business hours, to examine same and to make such repairs, alterations, replacements, or improvements as the COUNTY deems necessary. Notwithstanding the foregoing, the COUNTY assumes no obligation to make repairs in the License Area other than those expressly provided for in this Agreement. The COUNTY agrees, however, that any such repairs, alterations, replacements, or improvements shall be made with

minimum amount of inconvenience to LICENSEE and that the COUNTY will diligently proceed therewith to completion.

During the one hundred and eighty (180) days prior to the expiration of the term of this Agreement, the COUNTY may show the License Area to prospective licensees.

Article 3

- 3.1 Percentage of Monthly Gross Receipts:** LICENSEE shall pay COUNTY an amount equal to eight percent (8%) of all "adjusted gross receipts", paid monthly. Said monthly receipts are to be paid on a monthly basis to the MDP.
- 3.2 Adjusted Gross Receipts.** The term "adjusted gross receipts" as used in this Agreement means all monies owed or paid to or in consideration of determinable value received by the LICENSEE for services, admissions, merchandise and other transactions made by the LICENSEE, its subcontractors or concessionaires, regardless of when or where the order therefore is received, or the goods delivered, or services rendered, or in consideration of any other thing of value, less:
- A. Any taxes imposed by law which are separately stated to and paid by a customer and directly payable to a taxing authority.
 - B. Refunds on sales.
 - C. Cash or non-cash items received in connection with promotional programs for the Park, including barter and discounts, provided such promotional programs are primarily for the purpose of Park promotion and not direct production of revenue, but not to exceed thirty percent (30%) of cash revenues.
 - D. Employee meals sold at a discount.
 - E. Approved sales of fixtures, trade fixtures and personal property other than in the ordinary course of business.
 - F. Grants, bequests and donations of money, services or railroad paraphernalia, historical memorabilia, and other related non-earned receipts. Such grants, bequests and donations

of money must be approved by the COUNTY in writing if the donation of money is to be considered excluded from the adjusted gross receipts.

- 3.3 Additional Taxes:** If at any time during the term of this Agreement, including any renewal thereof, under the laws of the State of Florida, or any political subdivision thereof, a tax, charge, capital levy, or excise on rents (fixed minimum or additional) or percentage fees, or other tax (except income tax), however described, against the COUNTY on account of the rent or percentage fees payable herein, such tax, charge, capital levy, or excise on rents or other taxes shall be deemed to constitute real estate taxes on the License Area and the premises for the purposes of this Paragraph.
- 3.4 Taxes on LICENSEE's Personal Property:** LICENSEE shall be responsible for and shall pay before delinquency all municipal, county, or state taxes assessed against any occupancy interest or personal property of any kind, owned by or placed in, upon or about the License Area by LICENSEE.
- 3.5 Late Payment Charge:** In the event that the LICENSEE fails to make any payments on time, as required to be paid under the provisions of this Agreement, a penalty at the rate of 1.5% per month or any portion of a month shall accrue from the due date, against the delinquent payment(s) until same is paid. The right of the COUNTY to require payment of such late payment charge and the obligation of the LICENSEE to pay same shall be in addition to and not in lieu of the rights of the COUNTY to enforce other provisions herein, including termination of this Agreement, or pursuing other remedies provided by law.
- 3.6 Application of Payments:** Payments by the LICENSEE to the COUNTY are applied to any unpaid balance in the following manner. Any accrued late fees are first deducted from the payment. The remaining payment balance is then applied proportionately to the Percentage of Monthly Adjusted Gross Receipts and the associated sales and use tax. Any remaining balance in the payment will be applied to any other "Additional Rents" which are any monies due to the COUNTY above and beyond Percentage of Monthly Adjusted Gross Receipts.

3.7 Worthless Check or Draft: In the event that the LICENSEE delivers a dishonored check or draft to the COUNTY in payment of any obligation arising under this Agreement, the LICENSEE shall incur and pay to the COUNTY a service charge of \$10.00 or five percent (5%) of the face amount of the check, whichever is greater. For each such dishonored check, such payment and service charge shall be made within five (5) days from written notice of such default. Further, in such event, the COUNTY may require that future payments required pursuant to this Agreement be made by cashier's check or other means acceptable to the COUNTY. A second such occurrence of dishonored check or draft during the Agreement term will constitute a default allowing termination of this Agreement by the COUNTY.

3.8 Payment. The Percentage of Monthly Adjusted Gross Receipts payable by LICENSEE to the COUNTY herein shall be payable in twelve (12) equal monthly installments on the first day of each month during the term of this Agreement. Such payments, as well as other amounts payable by LICENSEE to the COUNTY under this Agreement, all of which shall be deemed to be Additional Rent for the purposes of collection only herein, shall be paid promptly when due, without notice for any reason whatsoever and without abatement, except as hereinafter provided. Percentage of Monthly Adjusted Gross Receipts shall be paid to the COUNTY on or before the 15th day following the end of each month during the term of this Agreement and on or before the 15th day of the month following the expiration or earlier termination of this Agreement. All rental and percentage fees provided for in this Agreement shall be submitted to:

Miami-Dade Park and Recreation Department
Finance Division
275 N.W. 2nd Street, 3rd Floor
Miami, FL 33128

(Checks shall be made payable to the "Miami-Dade County Board of County Commissioners.")

3.9 Accord and Satisfaction: No payment by LICENSEE or receipt by COUNTY of a lesser amount than any payment of Percentage of Monthly Adjusted Gross Receipts herein stipulated shall be deemed to be other than on account of the earliest stipulated Percentage of Monthly Adjusted Gross Receipts then due and payable, nor shall any endorsement or statement on any check or any letter accompanying any check or payment for Percentage of Monthly Adjusted

Gross Receipts be deemed an accord and satisfaction. The COUNTY may accept such check or payment without prejudice to COUNTY's right to recover the balance of such Percentage of Monthly Adjusted Gross Receipts or to pursue any other remedy provided in this Agreement, by law or in equity.

3.10 Gross Receipts:

- A. Agreement Year Defined: "Contract Year" means a twelve-month period beginning on the Commencement Date of this Agreement.
- B. Gross Receipts Defined: "Gross Receipts" means all receipts from the sale of services or merchandise by LICENSEE and sub-LICENSEE(s) of LICENSEE, sold in, upon or from the License Area, including such sales as shall in good faith be credited by LICENSEE and sub-LICENSEEs in the regular course of its or their business to personnel employed at the time of sale at the License Area, and mail and telephone orders received at the License Area and off-premises sales, but shall not be deemed to mean or include the following: amounts paid to the LICENSEE by sub-LICENSEEs in excess of percentage fees paid directly to the COUNTY by the sub-LICENSEE; amounts credited by LICENSEE or its sub-LICENSEEs for returned or defective merchandise; sales, excise and similar taxes; goods provided to the COUNTY or LICENSEE employees at its cost (plus shipping and handling charges); any credit card merchant or bank transaction processing fees levied, upon the transaction and remitted as such by LICENSEE; the proceeds of sales of LICENSEE's trade fixtures, operating equipment or other property used by LICENSEE or its sub-LICENSEEs in the operation of its business and not acquired or held by it for the purpose of sale. Sales shall be deemed to have been made when services or merchandise has been served, shipped or delivered or when charged against the purchaser on the books of LICENSEE, or its sub-LICENSEEs, whichever of such events shall first occur.
- C. LICENSEE's Certification of Receipts: LICENSEE shall submit to COUNTY on or before the 15th day following the end of each month during the term of this Agreement and on or before the 15th day of the month following the expiration or earlier termination of this Agreement, a written statement, signed by LICENSEE and certified by it to be true and

correct, showing the amount of Adjusted Gross Receipts during the preceding month. LICENSEE shall submit to COUNTY on or before the 60th day following the end of each Contract Year an Annual Written Statement, signed by Owner, CEO, or Financial Officer of the LICENSEE and certified by it to be true and correct, setting forth the amount of Adjusted Gross Receipts during the preceding Contract Year, which statement shall also be duly certified by an independent Certified Public Accountant. The statements referred to herein shall be in such form and style and contain such details and breakdowns as COUNTY may reasonably determine or require.

- D. Examination of LICENSEE's Books and Records: Such books and records as are necessary to determine the amount of any Percentage of Monthly Adjusted Gross Receipts payable to COUNTY shall be subject to examination by COUNTY or its authorized representatives at reasonable times during LICENSEE's business hours, at COUNTY's expense and in such manner as not to interfere unreasonably with the conduct of LICENSEE's business.
- E. LICENSEE's Receipts Records: For the purpose of computing and verifying the Percentage of Monthly Adjusted Gross Receipts due hereunder, LICENSEE shall prepare and keep, for a period of not less than three (3) years following the end of each Agreement Year, adequate books and records, including but not limited to those relating to inventories, purchases, and receipts of merchandise, and all sales and other pertinent transactions by LICENSEE. LICENSEE shall record at the time of sale each receipt from sales or other transactions, whether for cash or on credit, in one or more sealed cash register or registers having a cumulative total. LICENSEE shall keep, for at least three (3) years following the end of each Agreement Year, all pertinent original sales records, which records shall include (i) cash register tapes; (ii) serially-numbered sales slips; (iii) mail orders; (iv) telephone orders; (v) settlement report sheets of transactions with subtenants, LICENSEEs, and LICENSEEs; (vi) records showing that merchandise returned by customers was purchased by such customers; (vii) receipts or other records of merchandise taken out on approval; (viii) income and sales tax returns; and (ix) such other records which would normally be

examined and required to be kept by an independent accountant pursuant to generally accepted auditing standard in performing an audit of LICENSEE's Adjusted Gross Receipts. The acceptance by COUNTY of payments of Percentage of Monthly Adjusted Gross Receipts or reports thereon shall be without prejudice and shall in no case constitute a waiver of COUNTY's right to examination of LICENSEE's books and records of its Adjusted Gross Receipts and inventories of merchandise.

F. Audit of LICENSEE's Business Affairs and Records: COUNTY shall have the right to cause, upon five (5) days written notice to LICENSEE, a complete audit to be made by a designated external auditing firm or other certified public accounting firm selected by the COUNTY, or the Audit and Management Services Department of the COUNTY. LICENSEE shall make all such records available for said examination at the License Area or at some other mutually agreeable location. If the result of such audit shall show that LICENSEE's statement of Adjusted Gross Receipts for any period has been understated, LICENSEE shall pay COUNTY the amount due. If such understatement is three percent (3%) or more, LICENSEE shall pay COUNTY the cost of such audit in addition to any deficiency payment required, plus ten percent (10%) of any such deficiency, all of which shall be collectible hereunder as rent. A report of the findings of said accountant shall be binding and conclusive upon COUNTY and LICENSEE. The furnishing by LICENSEE of any grossly inaccurate statement may constitute a default of this Agreement as determined by the COUNTY. If LICENSEE fails to record, maintain, or make available sales supporting documentation as specified above, LICENSEE shall be deemed to be in default of this Agreement.

3.11 County Approval: Prior to commencing Museum operations, the LICENSEE shall notify the COUNTY in writing, at least one-hundred and twenty (120) days in advance, of its intent to commence operations and request COUNTY approval of its plan for operating the License Area ("Operating Plan"). The Operating Plan shall address the organization's mission, finance, administration, museum capital development and operational parameters. Once operational, the LICENSEE shall notify and request COUNTY approval of any substantial changes to the

Operating Plan or any changes to the LICENSEE or License Area.

Further it is understood by the LICENSEE that should the COUNTY disapprove of any Operation Plan items the LICENSEE may offer alternative solutions. The COUNTY reserves the right with stated just cause to require the LICENSEE to change within a stated time any and all items it deems in need of change, despite previous approval of same.

3.12 LICENSEE's Employees and Personnel: LICENSEE's employees in contact with the public shall (a) perform their duties in an efficient and courteous manner, (b) be courteous and cooperative and present a neat, clean and professional appearance, and (c) be able to understand and communicate in spoken English. Failure of a LICENSEE's employee to do so shall be grounds for the COUNTY to find LICENSEE in default of this Agreement. LICENSEE's employees will not be considered agents of the COUNTY.

LICENSEE's employees shall all be in full compliance with Ordinance 08-07, Chapter 26-38 of the County Code, whereby all LICENSEE employees shall all have a national criminal background check by a Professional Background Screener to prepare a report to insure that no worker, vendor or staff member or volunteer is listed on the National Sex Offender Public Registry. This background check shall be performed every three (3) years thereafter. Upon notice of evidence that any staff member has been found not in compliance with Chapter 26-38, LICENSEE will immediately take the necessary action to prohibit their return to the property.

The LICENSEE shall provide the Department with the name and telephone number of a contact management person of the LICENSEE who will be on call, at all times, for emergencies or other matters related to the operations under this Agreement.

3.13 Hours of Operation: Once operational, LICENSEE intends to operate the Museum seven (7) days a week during those hours approved by the COUNTY or as otherwise agreed among the parties. Sufficient LICENSEE staff shall be available to provide outstanding service. The LICENSEE may change its hours of operation within its Operations Plan, but must give COUNTY as least thirty (30) days written notice of any such change. Hours of operation should generally be consistent with that of Zoo Miami.

3.14 Pricing: LICENSEE shall establish and maintain a pricing schedule that will be provided to the

COUNTY prior to commencement of operations. If the LICENSEE wishes to change its standard prices, LICENSEE will provide to the COUNTY a schedule of such proposed changes not later than thirty (30) days prior to the intended implementation date, for approval or disapproval by the COUNTY, at any time during this Agreement Term when price changes are contemplated. Pricing for special events or services shall be expeditiously approved/disapproved by the Department.

Article 4

- 4.1 Signs:** The nature, size, shape and installation of LICENSEE's business signs within the License Area or in, on or adjacent to the License Area must first be approved in writing by COUNTY. With the exception of those signs or sign structures that the COUNTY requests to retain, all signs shall be removed by the LICENSEE at the termination of this License Agreement and any damage or unsightly condition caused to premises because or due to said signs shall be satisfactorily corrected or repaired by the LICENSEE. Notwithstanding the above, the LICENSEE shall have the right to place signage on the Building signifying it as the occupant.
- 4.2 Quality of LICENSEE's Service:** The LICENSEE shall conduct its operations in an orderly manner and so as not to annoy, disturb, or be offensive to customers, patrons, or others in the immediate vicinity of such operations. The LICENSEE shall control the conduct, demeanor and appearance at all times or on-site of its officers, members, employees, agents, representatives, and upon objection of the COUNTY concerning the conduct, demeanor or appearance of any such person, LICENSEE shall immediately take all necessary steps to correct the cause of such objection. LICENSEE shall take good care of said premises, shall use the same in a careful manner and shall, at its own cost and expense, keep, maintain, and repair and, upon the expiration of this Agreement or its termination in any manner, shall deliver said premises to the COUNTY in the same condition as at the commencement of this Agreement, with the exception of loss by fire or other casualty and normal wear and tear. LICENSEE shall furnish good, prompt and efficient service, adequate to meet all reasonable demands. Therefore, it is expressly

understood and agreed that said operation shall not interfere in any manner with the use of public areas or infringe upon the normal method of operations of any other parties authorized to conduct business at or near the Gold Coast Railroad property. The LICENSEE agrees that a determination by the COUNTY will be accepted as final in evaluating whether LICENSEE's activities infringe on the rights of others as described above and that LICENSEE will fully comply with any decisions on this matter.

4.3 Services/Equipment Provided by County: The County shall provide access to the following on-site infrastructure:

- A. Electrical as existing.
- B. Water facilities as existing.
- C. Sewage collection as existing.

4.5 Equipment and Services Provided by LICENSEE: The LICENSEE, at its sole cost, shall provide at the License Area:

A. Grounds and Facility Maintenance. LICENSEE shall properly provide for all grounds and facility maintenance within the License Area during the term of this Agreement. This includes buildings and facilities owned by the LICENSEE or the COUNTY and all actions to construct, upgrade, repair, improve or make consistent with revised code as required to be available to the public in a safe and secure manner.

B. Janitorial service within the License Area.

The LICENSEE shall keep the License Area and equipment clean at all times. The provision of janitorial services and all interior maintenance within the License Area are the sole and exclusive responsibility of the LICENSEE. Upon failure of the LICENSEE to maintain the License Area as required in this Paragraph, the COUNTY may, after fifteen days written notice to the LICENSEE, enter upon the License Area and perform all cleaning, maintenance and repairs which may be necessary and the cost thereof, plus 25% for administrative costs, shall constitute Additional Rental(s), and shall be billed to and paid by the LICENSEE.

B. Pest extermination.

C. LICENSEE shall provide and place in and around the License Area approved covered

receptacles, approved by the COUNTY for trash, garbage and other refuse. LICENSEE shall provide for proper handling, transfer and disposal of trash, garbage and other refuse caused as a result of its operation. LICENSEE will transport or have transported its trash to an approved dumpster or garbage truck.

4.6 Equipment Installed by LICENSEE: The LICENSEE shall furnish and install all furnishings, fixtures and equipment necessary for the operation of the License Area. All furnishings, fixtures and equipment acquired for the License Area shall be of a high quality as good as or better than that found at other COUNTY Licensed Areas. Following the installation of any additional equipment, furnishing and improvements which may vest with the COUNTY, LICENSEE shall provide to the COUNTY a statement setting forth the cost of such equipment, furnishings or improvements and the date upon which the installation of such equipment, furnishings and improvements was completed.

LICENSEE agrees that all new equipment, furnishings and improvements provided shall meet the requirements of all applicable building, fire, pollution and other related codes. LICENSEE shall not alter or modify any portion of the License Area or the improvements constructed therein without first obtaining written approval from the COUNTY.

4.7 Ownership of Improvements: During the term of this Agreement, the Museum Building, restored and relocated with COUNTY funds, shall remain the property and responsibility of the LICENSEE, unless otherwise conveyed by LICENSEE and accepted by the COUNTY. COUNTY's acceptance of such property shall be at its sole discretion. During the term of this Agreement, title to all other improvements constructed outside of the Museum Building elsewhere in the License Area by the COUNTY, or constructed using COUNTY funds, shall immediately vest with the COUNTY, and all improvements purchased or constructed by the LICENSEE in this License Area (with the exception of the Museum Building) using private funds shall immediately vest with the COUNTY. Notwithstanding the foregoing, military artifacts and exhibit displayed throughout the License Area will remain owned by the party that procured them. Upon the expiration or earlier termination of this Agreement for any reason, all existing and subsequently installed fixtures, equipment, improvements and appurtenances attached to

or built into the License Area in such a manner as to become part of the freehold, whether or not by or at the expense of LICENSEE, shall become and remain a part of and be surrendered with the License Area to the COUNTY.

Any furniture, furnishing, equipment or other articles of movable personal property owned by LICENSEE and located in the License Area, shall be and shall remain the property of LICENSEE and may be removed by it at any time during the term of this Agreement so long as LICENSEE is not in default of any of its obligations under this Agreement, and the same have not become a part of the freehold, and so long as such does not materially affect LICENSEE's ability to use the License Area and conduct its business as required herein. However, if any of LICENSEE's property is removed and such removal causes damage to the License Area, LICENSEE shall repair or pay the cost of repairing any damage to the License Area resulting from such removal. Any property belonging to LICENSEE and not removed by LICENSEE at the end of the Agreement including any renewal or extension period, shall, at the election of the COUNTY, be deemed to be abandoned by LICENSEE, and the COUNTY may keep or dispose of such property and restore the premises to good order within ten (10) days after vacating property therefore. At the end of the Agreement including any renewal or extension period, LICENSEE shall deliver to the COUNTY the keys and combinations to all safes, cabinets, vaults, doors and other locks left by LICENSEE on the License Area.

At any time during the term of the Agreement, but only after the LICENSEE has completed all building restoration to the Museum Building and made it fully operational, the LICENSEE may request that the COUNTY assume ownership of the Museum Building. If the COUNTY agrees to accept the conveyance of the Museum Building pursuant to terms and conditions acceptable to the COUNTY, the LICENSEE shall convey the Museum Building by deed or bill of sale, as solely determined by the COUNTY. Any such conveyance will be presented to the Board of County Commissioners ("Board") for its approval and acceptance. Such conveyance shall be contingent upon the Board simultaneously approving an agreement to lease the Museum Building back to the LICENSEE ("Lease Agreement") and allow the LICENSEE to enter into a long-term sub-lease agreement for the Museum Building with investors for the Museum

Building. This sub-lease is necessary to provide the LICENSEE with the ability to take advantage of historic preservation tax credits.

The Lease Agreement shall be substantially similar to the underlying this Agreement, but its terms shall additionally include provisions that specifically permit the LICENSEE to sub-lease the Museum building for historic tax credits, subject to prior County written approval that would not unreasonably be withheld or delayed. The Lease Agreement shall include the following provisions:

- A. The term of the Lease Agreement shall be for 50 years and convey the same rights and obligations on the LICENSEE as lessee of the Museum Building that it had as when it was fee simple owner. Any lease agreement shall only convey an interest in the Museum Building and not the Licensed Area or any of the land or real property underlying the Museum Building.
- B. The COUNTY shall consider a Subordination and Non-Disturbance Agreement (SNDA) whereby the sub-lease between LICENSEE and a third party related to the Museum Building alone may remain in place after a default by the LICENSEE. Agreeing to this SNDA will in no way impact the COUNTY's ability to retain ownership of the Museum Building, move the Museum Building to another site or park or control the occupant or use. In no event will the SNDA cover the right, use or enjoyment of the land and License Area underlying the Museum Building.
- C. The COUNTY may permit a Leasehold Mortgage of the LICENSEE'S assets in order to provide a means providing debt financing. Any mortgage applied would only affect the Museum Building and not the underlying land and, if there is a breach or default by the LICENSEE OR LESSEE, the COUNTY could require that the Museum Building be removed from the property.
- D. Other terms that may be necessary to address federal provisions of the tax code related to investor provided tax credits and historic preservation funding, all of which are subject to the reasonable approval of the COUNTY.

4.8 Security and Protection: The LICENSEE acknowledges and accepts full responsibility for the

security and protection of its equipment, other personal property and money used in connection with the requirements of this Agreement. The COUNTY makes no warranties as to any obligation to provide security for the License Area or LICENSEE. LICENSEE may provide its own specialized security for the License Area, subject to the COUNTY's written approval, or work with existing security systems already provided within the Zoo Miami area. Absence of said LICENSEE security measures shall not create any security obligation on behalf of the COUNTY.

- 4.9 Hurricane Preparedness:** In the event of a hurricane, the LICENSEE will follow the COUNTY's Emergency Operations Center plan of action. The LICENSEE shall follow the COUNTY's emergency evacuation and hurricane plan as set forth for the License Area or LICENSEE.
- 4.10 Utility Services:** The COUNTY has caused all necessary utility lines and services to be brought to the License Area. LICENSEE shall not place any unacceptable load or burden on the capacity of the applicable building systems and utility lines of the LICENSEE, as determined either by the public utility providing such service or by the COUNTY in the exercise of reasonable judgment. LICENSEE shall make all repairs caused by LICENSEE's negligence.
- 4.11 Payment of Utility Services:** LICENSEE agrees to pay for all charges for utility service used or consumed in or upon the License Area including, but not limited to: electricity, gas, and water and sewerage charges. To the extent that such utility charges are separately measured by metering or otherwise, LICENSEE agrees to pay the actual cost thereof, without addition or surcharge by the COUNTY. To the extent that such utility charges are not separately metered, LICENSEE agrees to pay LICENSEE's pro-rata share thereof, as determined by the COUNTY. In the event of a dispute between the parties regarding the amount of any utility or service provided by the COUNTY and not separately metered, the COUNTY and the LICENSEE shall have the right to engage a registered Professional Engineer to compute LICENSEE's utility usage, and determine an equitable utility charge to LICENSEE based upon such usage.
- 4.12 Curtailment or Interruption of Service:** The COUNTY reserves the right to interrupt, curtail or suspend the provision of any utility service to which LICENSEE may be entitled hereunder when

necessary by reason of accident or emergency or for repairs, alterations, or improvements which, in the judgment of COUNTY, are desirable or necessary to be made, or due to difficulty in obtaining supplies or labor or for any other cause beyond the reasonable control of the COUNTY. The work of such repairs, alterations, or improvements shall be performed with reasonable diligence. The COUNTY shall in no respect be liable for any failure of the utility companies or governmental authorities to supply utility service to LICENSEE or for any limitation of supply resulting from governmental orders or directives. No diminution or abatement of rent or other charges, nor damages, shall be claimed by LICENSEE by reason of the COUNTY's or other individual's interruption, curtailment or suspension of a utility service, nor shall this Agreement or any of LICENSEE's obligations hereunder be affected or reduced thereby.

4.13 Damages: LICENSEE shall repair all damages to the License Area caused by the LICENSEE, its employees, agents, or independent contractors.

4.14 Inspection by County: The COUNTY shall have the authority to make periodic reasonable inspections of all the License Area, equipment, and operations during the normal operating hours thereof to determine among other things, if such are being maintained in a neat and orderly condition. The LICENSEE shall be required to make any improvements in cleaning or maintenance methods as required by the COUNTY. Such periodic inspections may also be made at the COUNTY's discretion to determine whether the LICENSEE is operating in compliance with the terms and provisions of this Agreement.

Article 5

5.1 Damage or Destruction of Premises: LICENSEE is required to carry insurance on the Museum Building as specified in this Agreement, and, if damaged, use such proceeds to restore and make the Museum Building usable in accordance with the terms of this Agreement. If any part of the License Area other than the Museum Building is partially damaged by fire, windstorm or other casualty, but not rendered unusable for the purposes of this Agreement, the same shall with due diligence be repaired by the COUNTY from proceeds of its insurance coverage and/or

at its own cost and expense and a pro-rata adjustment of the Percent of Monthly Gross Receipts payable hereunder for the period of the LICENSEE's business interruption, shall be made. If the damage shall be so extensive as to render such License Area unusable for the purposes intended, but capable of being repaired within thirty (30) days, the damage shall be repaired with due diligence by the COUNTY from the proceeds of the insurance coverage and/or at its own cost and expense, and for the period of LICENSEE's business interruption a pro-rata adjustment shall be made as to the Percent of Monthly Adjusted Gross Receipts and utility fees.

In the event the said License Area are completely destroyed or so damaged that they will remain unusable for more than thirty (30) days, the LICENSEE and the COUNTY shall be under no obligation to repair and reconstruct the premises, and adjustment of the rent payable hereunder shall be proportionately made up to the time of such damage or destruction, and the portion of the Agreement which pertains to such destroyed property shall cease and terminate, and all adjustments which are proper including restoration of the site to a clean, neat and usable condition shall be made accordingly. However, at the option of the COUNTY, and through negotiations pertaining to all matters for continuing the License Area operations in this Agreement, the COUNTY or the LICENSEE may reconstruct the premises upon such terms and conditions as the parties may agree. In the alternative, should circumstances or mutual agreement between the COUNTY and LICENSEE determine that the License Area should not be reconstructed, all insurance proceeds shall accrue solely to the COUNTY.

5.2 County's Repair, Facilities Repairs, Alterations and Additions by the County: The COUNTY, as its responsibility, and at its expense (except if the damage is caused by LICENSEE), shall make all repairs and replacements, structural and otherwise, necessary, or desirable in order to keep in good order only those improvements it constructs or causes to construct within the License Area.

There shall be no allowance to LICENSEE for a diminution of rental value for interruption of business and no liability on the part of the COUNTY by reason of inconvenience, annoyance, or injury to business arising from the COUNTY, LICENSEE or others making any repairs,

alterations, addition, improvements, restorations, or replacements, in or to any portion of the License Area, or to fixtures, appurtenances, or equipment thereof. The COUNTY shall have the absolute right to make reasonable repairs, alterations, and additions to any structures and License Area, including the License Area under this Agreement, free from any and all liability to the LICENSEE for loss of business or damages of any nature whatsoever during the making of such repairs, alterations, and additions, except for such damage caused by the sole negligence or intentional misconduct by the COUNTY and where not otherwise indemnified by the LICENSEE, subject to the limitations of Section 768.28, Florida Statutes. In making such repairs, alterations, and additions, the COUNTY shall take such reasonable measures as are necessary to minimize interference with LICENSEE's operation of the License Area, for short term disruption to LICENSEE's business of one week or less the COUNTY will attempt to make accommodations to minimize the inconvenience and injury to LICENSEE's business.

5.3 LICENSEE's Work and LICENSEE's Design Criteria: All construction work in support of the approved General Plan for the License Area shall be accomplished by LICENSEE at LICENSEE's sole expense and in accordance with this Agreement and the Development Rider, attached as Attachment 4 and made a part hereto by reference. In no event shall LICENSEE do any work without the express written consent of the COUNTY.

5.4 Performance of Obligations: LICENSEE covenants at all times during the term of this Agreement to perform promptly all of the obligations of LICENSEE set forth in this Agreement.

5.5 Ingress and Egress: Subject to the COUNTY's rules and regulations, statutes and ordinances, and terms of this Agreement governing the use of the License Area, LICENSEE, its agents and servants, patrons and invitees, and its suppliers of service and furnishers of materials shall have right of ingress and egress to and from the License Area and Gold Coast Railroad premises.

Article 6

6.1 Assignment, Sub-Licensing, and Successors in Interest:

A. LICENSEE shall not assign, mortgage, pledge, transfer nor otherwise encumber this Agreement or any portion thereof, nor any property associated with this Agreement without

prior written approval of the COUNTY. Unapproved assignment, mortgaging, pledging, transferring or encumbering shall be grounds for immediate termination of this Agreement by the COUNTY. It is agreed that all terms and conditions of this Agreement shall extend to and be binding on assignees and other successors as may be approved by the COUNTY.

- B. LICENSEE shall not enter into any sub-license Agreement for services required to be provided under this License Agreement without prior written approval of the COUNTY. Unapproved sub-licensing shall be grounds for immediate termination of this Agreement by the COUNTY. It is agreed that all terms and conditions of this Agreement shall extend to and be binding on any sub-licenses, including percentage payments on adjusted gross receipts as defined in this Agreement. LICENSEE shall be liable for acts and omissions by any sub-license affecting this Agreement. The COUNTY reserves the right to directly terminate (and evict or pursue any applicable remedy) any sub-license of the LICENSEE for any cause for which LICENSEE may be terminated.

Any services rendered hereunder pursuant to a sub-license must be made available and accounted for through the LICENSEE so as to provide seamless service to the public as if provided directly by the LICENSEE.

- C. Notwithstanding the above Paragraph A, LICENSEE shall have the ability to lease only the Museum Building so long as the use of the Building remains as a military museum and the COUNTY receives copies of any such leases prior to execution.
- D. If required to implement the LICENSEE's proposed legal structure, the COUNTY may enter into a Subordination and Non-Disturbance Agreement (SNDA) whereby the lease related to the Museum Building may remain in place after a default by the LICENSEE in order to comply with federal regulations relating to the provision of historic preservation tax credits. By agreeing to this SNDA, it will in no way impact the COUNTY's ability to gain ownership of the Building or control the occupant or use.

6.2 Ownership of LICENSEE: The ownership of the LICENSEE is very important to the COUNTY. Therefore, the COUNTY reserves the right to request an accurate list of LICENSEE board members upon reasonable notice.

6.3 Damage to Property of LICENSEE: The COUNTY will not be responsible for the real and personal property of the LICENCEE.

6.4 LICENSEE's Insurance: The LICENSEE or proposed subcontracting entity working within the License Area shall furnish to the COUNTY Certificate(s) of Insurance which indicate that insurance coverage has been obtained which meets the requirements as outlined below for the License Area during the term of this Agreement and separately for the Richmond 25 Building reconstruction:

- A. Worker's Compensation Insurance for all employees of the LICENSEE as required by Florida Statute, Chapter 440.
- B. Commercial General Liability Insurance on a comprehensive basis in an amount not less than \$1,000,000 combined single limit per occurrence for bodily injury, product liability and property damage. Miami-Dade COUNTY 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 Services in an amount not less than \$500,000 combined single limit per occurrence for bodily injury and property damage.
- D. Property Insurance Coverage on an "All Risk" basis. Miami Dade County must be shown as a Loss Payee A.T.I.M.A.

The insurance coverage required shall include those classifications, as listed in standard liability insurance manuals, which most nearly reflect the operations of the LICENSEE.

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 as to management and financial strength:

The Company must be rated no less than "B" as to management, and no less than Class "V" as to strength, by A.M. Best Company, Oldwiche, New Jersey, or its equivalent, subject to the approval of the COUNTY's Risk Management Division.

Or

The company must hold a valid Florida Certificate of Authority as shown in the latest

"List of All Insurance Companies Authorized or Approved to Do Business in Florida," issued by the State of Florida Department of Financial Services and are members of the Florida Guaranty Fund.

Certificates will indicate that no modification or change in insurance shall be made without thirty (30) days written advance notice to the certificate holder.

Compliance with the foregoing requirements shall not relieve the LICENSEE of any liability and obligation under this section or under any other section of this Agreement.

Award of this Agreement is contingent upon receipt from the LICENSEE of insurance documents within fifteen (15) calendar days after COUNTY notice. If the insurance certificate is received within the specified time frame but not in the manner prescribed in this Agreement, the LICENSEE shall be notified either verbally or written of such deficiency and shall have an additional five (5) days to submit a corrected certificate to the COUNTY. If the LICENSEE fails to submit the required insurance documents in the manner prescribed in this Agreement within twenty (20) calendar days after first COUNTY notice as indicated above, the LICENSEE shall be in default of the contractual terms and conditions and award of the Agreement will be rescinded, unless such time frame for submission has been extended by the COUNTY.

The LICENSEE shall assure that the insurance certificates required in conjunction with this Section remain in force for the duration of the contractual period; including any and all renewals or extension periods that may be granted by the COUNTY. If insurance certificates are scheduled to expire during the contractual period, the LICENSEE shall submit new or renewed insurance certificates to the COUNTY at a minimum of thirty (30) calendar days in advance of such expiration. In the event that expired certificates are not replaced with new or renewed certificates which cover the contractual period, the COUNTY shall suspend the Agreement until such time as the new or renewed certificates are received by the COUNTY in the manner prescribed in this Agreement; provided, however, that this suspended period does not exceed thirty (30) calendar days. Thereafter, the COUNTY may, at its sole discretion, terminate this Agreement.

The COUNTY reserves the right to reasonably amend the insurance requirements by the issuance of a notice in writing to the LICENSEE. Modification or waiver of any of the aforementioned requirements is subject to approval of the COUNTY's GSA Risk Management Division.

6.5 Release and Indemnification: The LICENSEE shall indemnify and hold harmless the COUNTY and its officers, employees, agents and instrumentalities from any and all liability, losses or damages, including attorneys' fees and costs of defense, which the COUNTY 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 this Agreement by the LICENSEE or its employees, agents, servants, partners principals or subcontractors. The LICENSEE 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 COUNTY, where applicable, including appellate proceedings, and shall pay all costs, judgments, and attorney's fees which may issue thereon. The LICENSEE expressly understands and agrees that any insurance protection required by this Agreement or otherwise provided by the LICENSEE shall in no way limit the responsibility to indemnify, keep and save harmless and defend the COUNTY or its officers, employees, agents and instrumentalities as herein provided.

Article 7

7.1 Termination by County: The occurrence of any of the following may cause this Agreement to be terminated by the COUNTY upon the terms and conditions as set forth below:

A. Automatic Termination:

- 1) Institution of proceedings in voluntary bankruptcy or reorganization by the LICENSEE.
- 2) Institution of proceedings in involuntary bankruptcy against the LICENSEE if such proceedings continue for a period of ninety (90) days.
- 3) Assignment by LICENSEE for the benefit of creditors without prior County notification

and approval.

- B. Termination after thirty (30) calendar days written notice by the County either by posting on or at the License Area and by certified or registered mail to the known address of LICENSEE set forth in this Agreement.
- 1) Non-payment of any sum or sums due hereunder after the due date for such payments; provided, however, that such termination shall not be effective if LICENSEE makes the required payment(s) during the thirty (30) calendar day period following mailing of the written notice. Notice of any condition posing a threat to health or safety of the public or patrons and not remedied within the thirty (30) calendar day period from receipt of written notice.
- C. Termination after thirty (30) days from receipt by LICENSEE of written notice having either been posted on or at the License Area or by certified or registered mail to the address of the LICENSEE set forth in this Agreement:
- 1) Non-performance of any covenant of this Agreement other than non-payment of rent or performance fees as provided for in Section B above and listed in A and B above, and failure of the LICENSEE to remedy such breach within the fourteen (14) calendar day period from receipt of the written notice.
 - 2) Revenue Control and Audit Defaults: The inability or failure of the LICENSEE to provide the COUNTY with an unqualified certified statement of Gross Sales, or to strictly adhere to the revenue control procedures established in this Agreement. In addition to termination for such uncured default, the COUNTY shall be entitled to collect damages in the full amount of the payments of the Security Deposit or Performance Bond or Line of Credit required in this Agreement.
- D. A final determination in a court of law in favor of the COUNTY in litigation instituted by the LICENSEE against the COUNTY or brought by the COUNTY against LICENSEE.
- E. Habitual Default: Notwithstanding the foregoing, in the event that the LICENSEE has repetitively defaulted four (4) times within a 12 month period, in the performance of or breached any of the terms, covenants and conditions required herein to be kept and

performed by the LICENSEE, regardless of whether the LICENSEE has cured each individual condition of breach or default as provided herein above, the LICENSEE may be determined by the Director of the COUNTY to be a "habitual violator". At the time that such determination is made, the COUNTY shall issue to the LICENSEE a written notice advising of such determination and citing the circumstances therefore. Such notice shall also advise the LICENSEE that there shall be no further notice or grace periods to correct any subsequent breaches or defaults and that any subsequent breach(s) or default(s), of whatever nature, taken with all previous breaches and defaults, shall be considered cumulative and, collectively, shall constitute a condition of non-curable default and grounds for immediate termination of this Agreement. In the event of any such subsequent breach or default, COUNTY may cancel this Agreement upon the giving of written notice of termination to the LICENSEE, such cancellation to be effective upon the tenth (10) day following the date of receipt thereof and all payments due hereunder shall be payable to said date, and the LICENSEE shall have no further rights hereunder. Immediately upon receipt of said notice of termination, the LICENSEE shall discontinue its operations at the LICENSEE, and proceed to remove all its personal property in accordance with this Agreement.

7.2 Termination by LICENSEE: LICENSEE shall have the right upon thirty (30) calendar days from receipt of written notice to the COUNTY by certified or registered mail to the address set forth in this Agreement to terminate this Agreement at any time after the occurrence of one or more of the following events:

- A. A breach by the COUNTY of any of the terms, covenants or conditions contained in this Agreement and the failure of the COUNTY to remedy such breach for a period of ninety (90) calendar days after receipt of written notice sent by registered or certified mail, return receipt requested, from the LICENSEE, of the existence of such breach.
- B. The assumption by the United States Government or any authorized agency thereof, or any other governmental agency, of the operation, control, or use of the LICENSEE, or any substantial part, or parts, thereof in such a manner as substantially to restrict LICENSEE's

operations for a period of ninety (90) calendar days or more.

7.3 **Surrender of Premises:** At the expiration or earlier termination of the term of this Agreement, LICENSEE shall peaceably surrender the License Area in as good a condition as the License Area were on the Commencement Date of this Agreement, ordinary wear and tear and damage by condemnation, fire or other casualty excepted. LICENSEE shall deliver all keys for the License Area to the COUNTY at the place then fixed for the payment of rent, and shall notify the COUNTY in writing of all combinations of locks, safes and vaults, if any, in the License Area. Ordinary wear and tear shall be deemed not to include damage or injury caused by moving LICENSEE's property or trade fixtures into or out of the License Area. LICENSEE's obligation to observe and perform the covenants set forth in this Paragraph shall survive the expiration or earlier termination of the term of this Agreement.

7.4 **Termination of Agreement:** Following the termination of this Agreement the LICENSEE, within fifteen (15) calendar days, or earlier if determined by the COUNTY, shall forthwith remove all of its personal property not acquired under the terms of this Agreement. Any personal property of LICENSEE not removed in accordance with this Paragraph may be removed by the COUNTY for storage at the cost of the LICENSEE or shall constitute a gratuitous transfer of title thereof to the COUNTY for whatever disposition is deemed to be in the best interests of the COUNTY. The COUNTY shall not be liable to LICENSEE for the safekeeping of LICENSEE's personal property during or after termination of this Agreement. The COUNTY shall have the senior interest in the LICENSEE's personal property. LICENSEE shall not remove any equipment, supplies in bulk, or fixtures within the Facilities License Area at any time without pre-approval in writing from the COUNTY. LICENSEE shall be liable to the COUNTY for the fair market value of any equipment, supplies in bulk, or fixtures removed without COUNTY pre-approved written permission. LICENSEE shall also be liable for any expenses including attorney's fees and cost incurred by the COUNTY in prosecuting any action against LICENSEE following unapproved item removal described above. LICENSEE shall also be liable to the COUNTY for any expenses incurred by the COUNTY in replacing any items wrongfully removed by LICENSEE. It is the intention of the parties to this Agreement that all furnishings and equipment purchased or leased by the LICENSEE except those permanently affixed to buildings, as defined under the laws of the State of Florida, shall be the personal property of the LICENSEE.

7.5 **Holding Over:** If LICENSEE remains in possession of the License Area after the expiration of the term of this Agreement, or any renewal or extension period, without a new Agreement

reduced to writing and duly executed and delivered (even if LICENSEE shall have paid, and COUNTY shall have accepted, rent in respect to such holding over), LICENSEE shall be deemed to be occupying the License Area only as a LICENSEE from month-to-month, subject to all covenants, conditions, and Agreements of this Agreement unless the COUNTY elects to negotiate said covenants, conditions and Agreements. If LICENSEE fails to surrender the License Area upon the termination of this Agreement, then LICENSEE, in addition to any liabilities to COUNTY accruing there from, shall indemnify and hold harmless the COUNTY and its assigns and agents from loss or liability resulting from such failure, including, without limiting the generality of the foregoing, any claims made by any succeeding LICENSEE on such failure. The COUNTY Mayor or designee is granted authority to negotiate changes in contracts, permits and concessions that are about to expire to assure that the COUNTY does not lose revenue opportunities due to delays in obtaining a successor contract, permit or concession. Where the Board of County Commission approval or action is required to effectuate such changes, the County Mayor shall submit same to the Commission at the next available Commission meeting.

7.6 **Lien:** The COUNTY may lien personal property of the LICENSEE on the License Area to secure the payment to the COUNTY of any unpaid money accruing to the COUNTY under the terms of this Agreement.

7.7 **Limiting Legislative or Judicial Action:** In the event that any municipal, county (including Miami-Dade County), state, or federal body of competent jurisdiction passes any law, ordinance, or regulation in any way restricting or prohibiting the use of the LICENSEE for the purposes of this Agreement, this Agreement will be terminate and unenforceable by any party to this Agreement and the COUNTY shall have no further liability under this Agreement. The parties acknowledge that any of the obligations in this Agreement will survive the term, termination and cancellation hereof. Accordingly, the respective obligations of the Contractor and the COUNTY under this Agreement, which by nature would continue beyond the termination, cancellation or expiration thereof, shall survive termination, cancellation or expiration hereof.

In the event that a referendum vote of the electorate of Miami-Dade County in any way restricts or prohibits the use of the LICENSEE for the purposes of this Agreement, this Agreement will be terminated and unenforceable by any party to this Agreement and the COUNTY shall have no further liability under this Agreement. If the COUNTY deems the Agreement terminated by function of this Paragraph, the COUNTY will not be liable to the LICENSEE for damages arising there from and the COUNTY shall have no further liability under this Agreement.

7.8 **Non-Discrimination:** LICENSEE does hereby for itself, its personal representatives, successors in interest, and assignors, as part of the consideration hereof, covenant and agree that:

- A. No person on the ground of race, color, religion, national origin, sex, sexual orientation, age, residency within or outside Miami-Dade County, or handicap shall be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination in the use of said License Area, except as provided by law.
- B. That in the construction of any improvements on, over, or under such land and the furnishings of services thereon, no person on the ground of race, color, religion, national origin, sex, sexual orientation, age, residency within or outside Miami-Dade County, or handicap shall be excluded from participation in, be denied the benefits of, or otherwise be subjected to discrimination, except as provided by law.
- C. That the LICENSEE shall use the premises in compliance with all other requirements imposed by or pursuant to Title 45, Code of Federal Regulations, Article 80, Non-discrimination under programs receiving Federal Assistance through the Health, Education and Welfare Act - Effectuation of Title VI of the Civil Rights Act of 1964, and as said Regulations may be amended.

That in the event of breach of any of the above non-discrimination covenants, the COUNTY shall have the right to terminate the Agreement and re-enter and repossess said License Area thereon and hold the same as if said Agreement had never been made or issued. This provision shall not be effective, where applicable, until the procedures of Title 45, Code of Federal Regulations, Part 80, are followed and completed including exercise or expiration of appellate rights.

LICENSEE shall not discriminate against any employee or applicant for employment in the performance of the Agreement with respect to hiring, tenure, terms, conditions, or privileges of employment because of age, sex, physical handicap (except where based on a bona fide occupational qualification), marital status, color, religion, national origin, or ancestry.

- 7.9 **No Waiver of Right to Enforce:** The waiver by COUNTY of any breach of any term, covenant, or condition herein contained shall not be deemed to be a waiver of such term, covenant, or any subsequent breach of the same or any other term, covenant, or condition herein contained. The subsequent acceptance of Percentage of Monthly Adjusted Gross Receipts hereunder by

COUNTY shall not be deemed to be a waiver of any preceding breach by LICENSEE of any term, covenant, or condition of this Agreement, other than the failure of LICENSEE to pay the particular Percentage of Monthly Adjusted Gross Receipts so accepted, regardless of COUNTY's knowledge of such preceding breach at the time of acceptance of such Percentage of Monthly Adjusted Gross Receipts. No covenant, term, or condition of this Agreement shall be deemed to have been waived by the COUNTY, unless such waiver is not in writing by COUNTY, nor there any accord and satisfaction unless expressed in writing and signed by both COUNTY and LICENSEE.

7.10 **Rules and Regulations:** The LICENSEE shall observe, obey, and comply with all rules and regulations adopted by the COUNTY and all laws, ordinances and/or rules and regulations of other governmental units and agencies having lawful jurisdiction, which may be applicable to LICENSEE's operations under this Agreement. Failure to do so will constitute a breach of this Agreement.

7.11 **Notices:** Any notices submitted or required by this Agreement shall be sent by registered or certified mail addressed to the parties as follows:

To the County: County Mayor
Miami-Dade County
111 NW 1 St., 29 Floor
Miami, FL 33128

Copy to: Director
Miami-Dade Parks, Recreation and Open Spaces Department
275 NW 2nd Street, 5th Floor
Miami, Florida 33128
Attn: Park and Recreation Director

To the LICENSEE: Executive Director
Miami Military Museum and Memorial
12450 SW 152 Street
Miami, Florida 33176

or to such other address as either party may designate in writing, and where receipt of same is acknowledged by the receiving party. The COUNTY may alternatively provide notice by posting written notice on or at the License Area. If attempted delivery of such notice by mail is thwarted by any avoidance of receipt or unavailability for receipt by the intended recipient, which notice

will have the effect of being constructively received by the recipient.

7.11 Rights to be Exercised by County: Wherever in this Agreement rights are reserved to the COUNTY, such rights may be exercised by the COUNTY.

7.12 Interpretations: This Agreement and the attachments hereto, and other documents and Agreements specifically incorporated by referenced herein, constitute the entire, fully integrated Agreement between the parties with respect to the subject matter hereof and supersede all prior or contemporaneous verbal or written Agreements between the parties with respect thereto, excepting any past or contemporaneous written or verbal Agreements expressly and clearly incorporated by reference within the four corners of this Agreement. This Agreement may be amended only by written document, properly authorized, executed, and delivered by both parties hereto. For the COUNTY, appropriate authorization shall be construed to mean appropriate formal action by the COUNTY or the Board of County Commissioners. This Agreement shall be interpreted as a whole unit and paragraph headings are for convenience only. The Agreement shall not be construed in favor of one party or the other. All matters involving the Agreement shall be governed by laws of the State of Florida.

7.13 Rights Reserved to County: All rights not specifically granted to the LICENSEE by this Agreement are reserved to the COUNTY. The designation of any particular remedy for the COUNTY is without prejudice to any other relief available in law or equity, and all such relief is reserved to the COUNTY.

7.14 Entirety of Agreement: The parties hereto agree that this Agreement sets forth the entire Agreement between the parties, and there are no promises or understandings other than those stated herein. None of the provisions, terms and conditions contained in this Agreement may be added to, modified, superseded or otherwise altered, except as may be specifically authorized herein or by written instrument executed by the parties hereto.

7.15 Headings: The headings of the various Paragraphs and Sections of this Agreement, are for convenience and ease of reference only, and shall not be construed to define, limit, augment or describe the scope, context or intent of this Agreement or any part or parts of this Agreement.

7.16 Waiver: Invalidation of any portion of this Agreement shall not automatically invalidate the entire

Agreement.

7.17 No Partnership or Agency: The COUNTY and the LICENSEE are independent entities and the officers, employees, and agents of one are not, and shall not represent themselves to be, officers, employees, or agents of the other. This Agreement does not constitute and shall not be represented to constitute a partnership between the COUNTY and the LICENSEE.

7.18 Venue: Any litigation between the COUNTY and the LICENSEE relating in any way to this Agreement shall be brought and presented exclusively in a Court located in Miami-Dade County, Florida and shall be governed by Florida Statutes.

IN WITNESS WHEREOF, the parties have executed this Agreement effective as defined herein and set forth above. By the signatures below, each part hereby represents and warrants that each individual is duly authorized to enter into and execute this Agreement for and on behalf of the respective organizations.

Attest:

MIAMI MILITARY MUSEUM AND MEMORIAL,
a non-profit corporation of the State of Florida

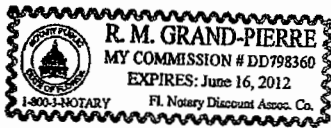
By: *Moules Brest*
Witness

By: *Anthony D. Atwood*
Museum President

STATE OF FLORIDA }
COUNTY OF MIAMI-DADE }

The foregoing instrument was acknowledged before me this 2nd day of NOVEMBER, 2011, by ANTHONY D. ATWOOD, who is personally known and who being duly sworn, deposes and says that the aforementioned is true and correct to his or her best knowledge.

[SEAL]



Notary Public: *R. M. Grand-Pierre*
Commission: DD798360 June 16, 2012

Attest:

MIAMI-DADE COUNTY, FLORIDA, a political subdivision of the State of Florida

By: _____
County Attorney

By: _____
County Mayor

STATE OF FLORIDA }
COUNTY OF MIAMI-DADE }

The foregoing instrument was acknowledged before me this ____ day of _____, 2011, by _____, respectively, of the Miami-Dade County, Florida, who is personally known and who being duly sworn, depose and say that the aforementioned is true and correct to their best knowledge.

[SEAL]

Notary Public: _____
Commission: _____

County Clerk

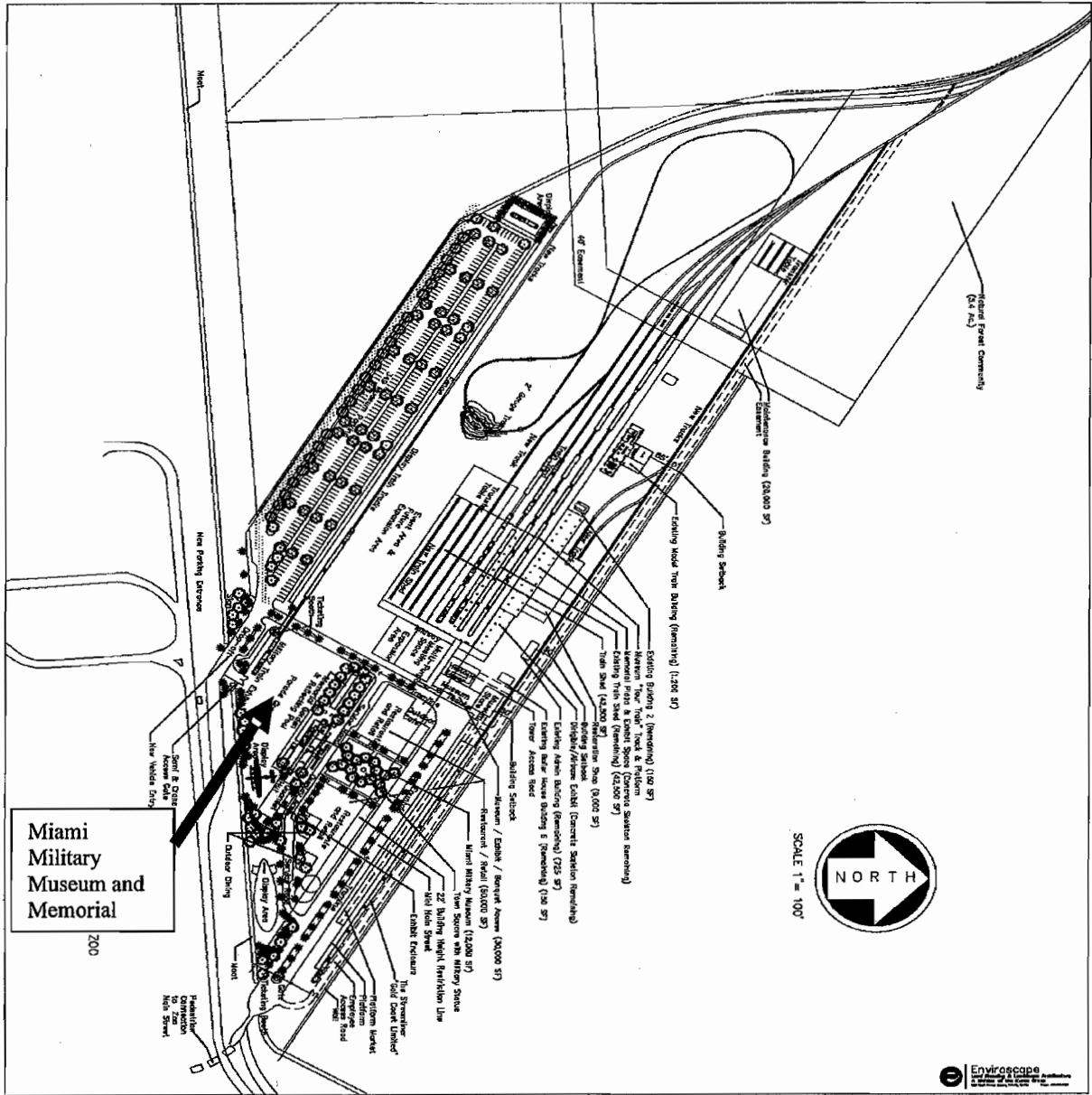
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Attachment 1
Gold Coast Railroad Property



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Attachment 2 Gold Coast Railroad Museum Park General Plan



<p>DATE: 1/20/08 BY: [Signature] CHECKED: [Signature] APPROVED: [Signature]</p>	<p>Project Title: GOLD COAST RAILROAD MUSEUM GENERAL PLAN 12450 S.W. 152 ST., MIAMI FLORIDA Drawing Title: AMENDED GENERAL PLAN</p>	<p>Miami-Dade County Park and Recreation Department 275 N.W. 2nd STREET, 4th FLOOR, MIAMI, FL 33128</p>	<table border="1" style="width: 100%; border-collapse: collapse;"> <thead> <tr> <th>NO.</th> <th>DATE</th> <th>DESCRIPTION</th> </tr> </thead> <tbody> <tr><td> </td><td> </td><td> </td></tr> <tr><td> </td><td> </td><td> </td></tr> <tr><td> </td><td> </td><td> </td></tr> <tr><td> </td><td> </td><td> </td></tr> <tr><td> </td><td> </td><td> </td></tr> </tbody> </table>	NO.	DATE	DESCRIPTION																<p>Designer: WWC Checker: C. SHUK Preparator: Project Manager:</p>
NO.	DATE	DESCRIPTION																				

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Attachment 4
Development Rider
Miami Military Museum and Memorial

This Development Rider is attached to and hereby made a part of the Agreement covering certain premises at the location above (the "Park") as provided in Exhibit 3 of the Agreement, Miami Military Museum and Memorial ("Contractor"). Words and phrases used in this Development Rider shall have the same meaning as in the Agreement unless specifically provided otherwise. If there is any conflict between the provisions of this Development Rider and the provisions of the terms and conditions of the Agreement, the terms and conditions of the Agreement will prevail.

I. CONSTRUCTION OF IMPROVEMENTS ON THE PREMISES

For the purposes of this Development Rider, Improvements shall mean the structure or public utility or any other installation or physical change made to the Facility to increase its value and utility or to improve its appearance. The Improvements the Contractor constructs at the premises shall be constructed in accordance with the provisions of this Agreement and such costs associated with the Improvements shall be limited to the requirements defined in Florida Statute 255.20 section (1). Where required by the County, at its sole discretion, any design and/or construction review or oversight of Improvements provided by the County will be reimbursed by the Licensee at its sole cost. Such reimbursements shall be limited to direct and indirect costs of County staff who are required to review and approve Improvements for the County.

A. Conceptual Plans. The Department shall have 60 days from receipt of the Conceptual Plan to review the Conceptual Plans and to solicit input from other government agencies in order to provide feedback to the Park regarding the general aesthetics, layout, traffic and pedestrian flow, site orientation and design of the proposed Improvements.

B. Sustainable Buildings Program. The Contractor shall cooperate and shall cause its subcontractors and subconsultants to cooperate with the County's Sustainability Manager incorporating green building practices into the planning and design of the Facility, pursuant to County Ordinance Number 07-65 concerning the County's Sustainable Buildings Program. The Contractor shall cause each of its subcontracts to include a provision that the subcontractor and/or subconsultant:

1. shall comply with all requirements of the County's Sustainable Building Program;
2. shall maintain all files, records, accounts of expenditures for contractor's or consultant's portion of the Project;
3. that such records shall be maintained within Miami-Dade County; and
4. that County shall have access thereto as provided in this Agreement.

C. Preliminary Plans and Specifications. Within 90 days after the Department notifies Contractor that the Department has approved the Conceptual Plan or provided notification to Contractor detailing required modifications, Contractor, at its cost, shall prepare and deliver to the Department five (5) "Preliminary Plans," including one Mylar set (A CADD file may be submitted in lieu of the Mylar set) for the construction of the Improvements at the Premises prepared by an architect or engineer licensed to practice as such in Florida, which Preliminary Plans shall include and show, without limitation, preliminary grading and drainage plans, soil tests, utilities, sewer and service connections,

Such Preliminary Plans shall be based on Conceptual Plans previously submitted by Contractor to the Department. The Project shall be constructed within the exterior property lines of the Premises; provided that required work beyond the Premises or utilities, access and conditional use requirements will not violate this provision. The Facility shall be aesthetically and functionally compatible with the setting of the Park.

Within 60 days after the Department receives Preliminary Plans as required in the preceding paragraph, the Department shall either approve of them or deliver to Contractor specific corrective comments. The Department shall not be unreasonable in exercising its approval rights hereunder. Contractor shall exercise reasonable diligence in attempting to resolve any objections by the Department to the Preliminary Plans.

If the parties are unable to resolve any objections by the Department to the Preliminary Plans within 30 days after Contractor has received the Department's objections, the Department shall have the right to terminate the Agreement upon notice to the other party, the parties being thereafter relieved of any liability hereunder and under the Agreement.

D. Final Plans. Within 90 days after the Preliminary Plans and specifications are approved between the parties, the Contractor, at its cost, shall prepare and deliver to the Department five (5) sets of Final Plans, including one Mylar set or CADD file, and specifications and working drawings ("Final Plans") covering the Project, which Final Plans must be consistent with the approved Preliminary Plans and signed and sealed by an architect or professional engineer licensed to practice as such in Florida. The Final Plans and all associated addenda and attachments shall be incorporated to the Agreement by reference.

E. Permits. Not later than the date that Contractor receives the Department's approval of the Final Plans as required in this Section, Contractor shall commence seeking from all governmental agencies having jurisdiction over the Park and the Facility all such required permits, and Contractor shall exercise due diligence in attempting to obtain such permits.

Subject to the timing requirements contained in the next paragraph, the obtaining of any such permits shall not be considered as complete until any review and/or appeal is final by the highest body authorized to determine same or until the time for such appeal or review has expired, whichever date is later. If suit or other proceedings are brought to invalidate any permit, the obtaining of the permits shall not be considered as complete until final judgment, decree, or other appropriate decision has been entered and the time for appeal there from shall have expired, or if any appeal has been taken, until the appeal has final determinations.

If Contractor is unable to obtain such permits within 120 days from the date Contractor delivers copies of the Final Plans to the Department as herein required, the Department shall have the right to terminate the Agreement upon notice to the other party. If Contractor is unable to obtain such permits within such period of time due solely to delays beyond the reasonable control of Contractor including, without limitation, acts of God, inclement weather, and like matters as mutually agreed between the Contractor and the Department, such period of time may be extended by the Department up until such permits have been obtained. However, if such permits are not obtained within 270 days from the date Contractor delivers copies of the Final Plans to the Department, notwithstanding the reason therefore, or by such deadline as parties may reasonably agree the Department shall have the right to terminate the Agreement upon notice to the other party.

When Contractor obtains all such permits it shall deliver copies of them to the Department.

F. Commencement and Completion of Construction of the Project. Within 30 days from the date that the Department receives copies of the permits and authorizations regarding construction of the

Project, which permits and authorizations shall be delivered to the Department within 3 business days of receipt by the Contractor, the Department shall deliver a Notice to Proceed with Construction and shall turn over possession of the Facility to Contractor, and Contractor shall, without delay, pursue commencement of construction and diligently pursue completion thereof. The construction of the Project shall be in accordance with the Final Plans. The Final Plans shall not be changed and/or modified without the Department's approval, which approval shall not be unreasonably withheld or delayed. The Department's approval shall not be deemed as a substitute for approval from any agency which issues permits and whose approval of modifications may be required.

All work in connection with the construction of the Project shall be performed in conformity with the Final Plans and shall comply with all applicable governmental permits, authorizations and laws. Contractor will permit unobstructed inspection by the Department's staff to determine compliance with the approved plans and specifications throughout construction.

The Contractor nor its subcontractors shall discriminate against any employee or applicant for employment to be employed in the performance of the contract with respect to his/her hire, tenure, terms, conditions or privileges of employment, or any matter directly or indirectly related to employment because of age, sex or physical handicap except where based on a bona fide occupational qualification; or because of marital status, race, color, religion, national origin or ancestry. All construction contracts between the Contractor and its subcontractors shall include the above non-discrimination provisions.

Contractor agrees that construction of the Project shall be completed within an agreed upon number of days from the date Contractor was provided possession of the Facility for construction. However, both parties agree that Contractor's obligation to commence construction of the Project and diligently pursue completion thereof is subject to delays resulting from causes beyond the reasonable control of Contractor including, without limitation, acts of God, inclement weather, and like matters.

Upon completion of construction of the Project, Contractor shall, at its cost, obtain a survey of the Facility and deliver to the Department "as built" drawings, including copies all of CADD drawing, accurately reflecting the Project at the Park. Both parties agree to execute and attach to the Agreement, a new Exhibit B showing the exact location of the Facility at the Park.

G. Provisions Applicable during Construction of Project In addition to the other provisions of the Agreement, the following provisions shall be applicable during the period of time that Contractor constructs Project:

1. Contractor shall notify the Department of Contractor's intention to commence construction of the Project at least twenty (20) days before the delivery of the Notice to Proceed by the Department.
2. All construction shall be performed by licensed contractors approved by the Department. Contractor shall furnish the Department with a true copy of Contractor's contract with the general contractor showing a breakdown of costs. Such contract shall give Contractor the right, but not the obligation, to assume the general contractor's obligations and rights under that contract if the general contractor should default.
3. During the construction of the Improvements, the Department or its designee shall periodically inspect the construction to ensure conformity with the approved improvement documents, and any changes thereto requested by the Contractor and approved by the Department in writing.

4. During subsequent construction of significant improvements, a Project Manager ("PM") for the Department may be assigned and shall be responsible to attend weekly/monthly construction meetings and periodically inspect and review the progress of construction to ensure adequate performance and conformity with the approved plans. Any changes requested by the Contractor must be in writing and approved by the Department prior to implementation. The Lessee shall at its sole cost remit to the County a fee for the PM to cover such project management costs.

H. Construction Bonds:

1. At least ten (10) days prior to any construction work on the Premises is commenced, or prior to the purchase of any materials, equipment or supplies for construction, the Contractor shall deliver to the County and record in the public records of Miami-Dade County, Florida, a payment and performance bond with a surety insurer authorized to do business in the State of Florida as a surety in the full amount of the construction cost of the Improvements. Such bond shall be in the form provided and attached hereto as part of the Development Rider, and shall name the Contractor as the principal and the County as the obligee.

2. Surety Bond Qualifications: The following specifications shall apply to bid, performance, payment, maintenance, and all other types of bonds.

A. 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:

<u>Bond Amount</u>	<u>Best's Rating</u>
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 bond amount of 500,000 or less, the provisions of Section 287.0935, Florida Statutes (1985) shall be in effect and surety companies not otherwise qualifying with this paragraph may optionally qualify by:

1. Providing evidence that the surety has twice the minimum surplus and capital required by the Florida Insurance Code at the time the invitation to bid is issued,
2. Certifying that the surety is otherwise in compliance with the Florida Insurance Code, and
3. Providing a copy of the currently valid Certificate of Authority issued by the United States Department of the Treasury under ss. 31 U.S.C. 9304-9308.

B. 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.

C. 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 his power of attorney authorizing

him to do so. The Contract bond must be countersigned by the surety's resident Florida Agent.

The Contractor may in lieu of a surety bond, submit a cash bond, conditioned upon the faithful performance of the work in strict accordance with this Contract and with the Plans and Specifications and the completion of the same free from all liens and within the time limit herein specified; the said Bond shall be so worded as to make the Contract a part thereof and shall contain a clause providing the right of suit or action for whose benefit said bond shall be executed as disclosed by the text of said Bond and Contract to the same extent as if he or they were the obligee or obligee therein specifically mentioned, and all such persons shall be held or deemed to be obligee thereof.

Florida Statutes 255.05 provide for the following conditions to be made in all Performance and Payment Bonds relating to public projects:

"A claimant, except a laborer, who is not in privity with the Principal and who has not received payment for his labor, materials, or supplies shall, within forty-five (45) days after beginning to furnish labor, materials, or supplies for the prosecution of the work, furnish the Principal with a notice that he intends to look to the bond for protection."

"A claimant who is not in privity with the Principal and who has not received payment for his labor, materials, or supplies shall, within ninety (90) days after performance of the labor or after complete delivery of the materials or supplies, deliver to the Principal and to the Surety written notice of the performance of the labor or delivery of the materials or supplies and of the non-payment."

"No action for the labor, materials, or supplies may be instituted against the Principal or the Surety unless both notices have been given. No action shall be instituted against the Principal or the Surety on the bond after one (1) year from the performance of the labor or completion of delivery of the materials or supplies."

3. The bonds shall provide the following, without limitation:

a. That a payment bond in an amount not less than the cost of construction of the Project is obtained that is conditioned to secure the completion of the Project free from all liens and claims of contractors, subcontractors, mechanics, laborers and materialmen in substantially the form attached hereto;

b. That a performance bond in an amount not less than the cost of construction of the Project is obtained that insures that the construction work shall be effected by the general contractor or, on their default, the surety in substantially the form attached hereto; and,

c. That the surety will defend and indemnify Miami-Dade County and Contractor against all loss, cost, damage, expense and liability arising out of or connected with the construction of the Project, up to the maximum bond requirement amount.

4. In the event that, for any reason, either or both of the Contractor's Payment and Performance bonds lapse or are held to be no longer valid or enforceable before the satisfaction of any and all claims by material men, laborers, subcontractors, or any suppliers of any kind, the Contractor shall pay all such claims, and indemnify, defend, and hold the County harmless against such claims.

I. Prior to the commencement of construction, Contractor shall provide or cause its subcontractors to provide an original policy for Builders Risk/Installation Floater on an "All Risk" basis in an amount not

less than one hundred percent (100%) of the insurable value of the building(s) or structure(s) or material(s). The policy shall be in the name of Miami-Dade County and the Contractor as their interests may appear. This insurance is to be maintained until substantial completion of the work, as determined by the Department.

(This insurance is in addition to the insurance required elsewhere).

1. No liens shall be attached to the Park or any part thereof.
2. Prior to the commencement of any work, Contractor shall demonstrate to the Department's satisfaction that all construction financing is in place.
3. Contractor shall work closely with the Department in scheduling and engaging in Contractor's construction activity so as not to disrupt Park events, including but not limited to Special Events. Where conflict may occur, the Department shall solely make the determination as to Contractor's right to continue work and the desirability of temporarily halting or continuing activity by Contractor.
4. Contractor shall be liable for any damage, loss, action, costs (including costs to defend any action) caused by Contractor's failure to cease work after written notice from the Department.

J. Art in Public Places. The Contractor shall, upon execution of the Agreement, and prior to preparing the Final Plans and specifications, through the Department initiate contact and confer with the Art in Public Places Representative for review of applicability of an art component to the Project. Should Art in Public Places determine that the installation of an art component is applicable to this Project based on the provisions of Ordinance No. 73-77 and subsequent amendments and guidelines, and should it decide to pursue said installation, the Contractor shall further confer with the Arts in Public Places Representative to develop a concept for art appropriate to the Project, and the Art in Public Places Professional Advisory Committee as to the type(s) of art, location(s) and possible artist(s). The Director of the Arts in Public Places program shall approve the final concept and location. The Art in Public Places Trust will make the final choice of the artist(s), upon recommendation of the Art in Public Places Professional Advisory Committee. As part of its Master Plan, Art in Public Places encourages and will give preference to collaborative projects between artist(s) and the Contractor to promote the integration of artwork and site. Such collaborative efforts shall include the active involvement of both the Contractor and the artist(s) during design development of the Project. The Contractor shall coordinate the installation of anchorages, special lighting, or plumbing or other utility or installation and connections as required for the proper installation of the artwork in accordance with the artist's concept(s) as part of their services under this Agreement.

Should the Art in Public Places fee be assessed against this Contract, the Contractor shall at its sole cost expend one-and-a-half-percent (1.5%) of the cumulative construction cost for the refurbishment of existing facilities for the commissioning of new works of art. All aspects concerning the acquisition of new works of art or the removal and/or relocation of existing works of art located within the Licenses Area shall comply with the Art in Public Places (APP) ordinance and the program Master Plan & Implementation Guidelines as are appropriate in the determination of the County. The Contractor may be requested to assign a representative to act as a liaison with APP for purposes of implementing the requirements set forth herein. The County reserves the right to make final determination on how funds appropriated herein are expended.

II. THE DEPARTMENT'S CONSTRUCTION OBLIGATIONS

A. Conditions of Premises. The Department shall deliver physical possession of the Premises to Contractor in an "as is" condition so that Contractor may commence construction.

B. Reasonable Access. The Department shall provide reasonable access to allow Contractor to have utilities brought to the Premises and to have constructed the approved improvements described in this Agreement.

C. Liquidated Damages. N/A