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REQUEST FOR PROPOSALS (RFP)
EVENT NO.: EVN0039676
EVENT TITLE: OPERATION OF WATERSPORTS CONCESSION AT CRANDON PARK

PRE-PROPOSAL AND SITE VISIT CONFERENCE TO BE HELD:

November 20, 2025 at 9:00 AM (local time)
Marjory Stoneman Douglas Biscayne Nature Center
6767 Crandon Blvd, Key Biscayne, Miami, Florida 33149

ISSUED BY MIAMI-DADE COUNTY:
Strategic Procurement Department
(Through the Expedited Purchasing Program)
for
Parks, Recreation and Open Spaces Department

MIAMI-DADE COUNTY CONTACT FOR THIS SOLICITATION:

Coleen Christie, Procurement Contracting Officer
111 NW 1st Street, Suite 1300, Miami, Florida 33128
Coleen.Christie@miamidade.gov

PROPOSALS DUE:
December 12, 2025 at 2:00 PM (local time)

IT IS THE POLICY OF MIAMI-DADE COUNTY (COUNTY) THAT ALL ELECTED AND APPOINTED COUNTY OFFICIALS AND COUNTY EMPLOYEES SHALL ADHERE TO THE PUBLIC SERVICE HONOR CODE (HONOR CODE). THE HONOR CODE CONSISTS OF MINIMUM STANDARDS REGARDING THE RESPONSIBILITIES OF ALL PUBLIC SERVANTS IN THE COUNTY. VIOLATION OF ANY OF THE MANDATORY STANDARDS MAY RESULT IN ENFORCEMENT ACTION. (SEE IMPLEMENTING ORDER 7-7)

Electronic Proposal responses to this RFP are to be submitted through a secure mailbox at Integrated Financial Resources Management System (INFORMS) until the date and time as indicated in this document. It is the sole responsibility of the Proposer to ensure its Proposal reaches INFORMS before the Solicitation closing date and time. There is no cost to the Proposer to submit a Proposal in response to a Miami-Dade County Solicitation via INFORMS. Electronic Proposal submissions may require the uploading of electronic attachments. The submission of attachments containing embedded documents or proprietary file extensions is prohibited. All documents should be attached as separate files. Proposers must allow sufficient time to complete online forms and upload all Proposal documents. All information and documents must be fully entered, uploaded, acknowledged ("Confirm") and recorded into INFORMS before the date and time of the INFORMS Solicitation End Date, or the system will **stop** the process and the submission will be considered late and will not be accepted. No part of a Proposal can

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be submitted via hardcopy, email, or fax. All expenses involved with the preparation and submission of Proposals to the County, or any work performed in connection therewith, shall be borne by the Proposer(s).

A Proposer may submit a modified Proposal to replace all or any portion of a previously submitted Proposal up until the Proposal due date. The County will only consider the latest version of the Proposal.

Requests for additional information or inquiries must be made in writing and submitted using the question/answer feature provided by **INFORMS** at https://supplier.miamidade.gov. The County will issue responses to inquiries and any changes to this Solicitation it deems necessary via written addenda issued prior to the Proposal due date and time (see Mandatory Online Forms and Addendum Acknowledgement Section of INFORMS site). Proposers who obtain copies of this Solicitation from sources other than through INFORMS risk the possibility of not receiving addenda and are solely responsible for those risks.

If you submit your proposal and subsequently an Addendum is issued, failure to resubmit the proposal by clicking on the "Submit Proposal" button, after acknowledging Addenda or making any edits to your proposal in INFORMS, will result in your proposal not being received by the County.

1.0 PROJECT OVERVIEW AND GENERAL TERMS AND CONDITIONS

1.1 Introduction

Miami-Dade County, hereinafter referred to as the County, as represented by the Miami-Dade County Park, Recreation and Open Spaces Department ("PROS"), is soliciting proposals from experienced and capably financed entities to operate a water sports concession at Crandon Park ("Park") located at 6747 Crandon Boulevard, Miami, Florida. The type of water sports envisioned include stand-up paddleboard rentals and instruction, kite boarding rentals and instruction, kayak rentals and services normally associated with the water sports industry. Selected Proposer will have the right to sell non-alcoholic sports-type beverages and prepackaged snacks; however, no ice cream, cooking or food preparation of any kind will be permitted on the Site. All water sports concession operations shall be conducted in conformance with the Crandon Park Master Plan("CPMP") as such plan may be amended from time to time.

The County anticipates awarding a contract for a five year period, with one (1), five-year option to renew, at the County's sole discretion.

The anticipated schedule for this Solicitation is as follows:

Pre-Proposal Conference:	See front cover for date, time, and place. Attendance is recommended but not mandatory. Should you need an ADA accommodation to participate in Pre-Proposal Conference (i.e., materials in alternate format, sign language interpreter, etc.), please contact the Internal Services Department's ADA Office five days prior to scheduled conference to initiate your request. The ADA Office may be reached by phone at (305) 375-2013 or via email at: Skarlex.Alorda@miamidade.gov or Heidi.Johnson-Wright@miamidade.gov. TTY users may reach the ADA Office by calling the Florida Relay Service at 711.
Deadline for Receipt of Questions:	December 3, 2025 at 2:00PM (local time)
Proposal Due Date:	See front cover for date and time.
Evaluation Process:	December 2025/January 2026
Projected Award Date:	February 2026

1.2 Definitions

The following words and expressions used in this Solicitation shall be construed as follows, except when it is clear from the context that another meaning is intended:

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1. The words “Beach Marshal” is a safety official at a public place, responsible for maintaining order, ensuring safety, and guiding participants.

2. The words “Bear Cut Preserve” is a protected nature preserve where watersport activities are not allowed. There is to be no launching in this area per environmental requirements with regulatory agency.

3. The words “Check-In Staff Member” is watersports vendor employee who ensures participants have the necessary requirements to safely perform the activity.

4. The words “Common Carrier/Contracted Carrier” to mean a person, firm, or corporation that undertakes for hire, as a regular business, to transport persons or commodities from place to place, offering their services to all such as may choose to employ the common carrier and pay their charges.

5. The words “Competitive Selection Committee” or “Review Team” to mean the group of individuals who are tasked with reviewing, evaluating and scoring the Proposals submitted in response to this RFP.

6. The word “Concessionaire” to mean an entity that is authorized by contract, permit, lease, or other legal instrument supported by mutual consideration to engage in the sale of consumer goods (beverages, food, etc.), and services. In this case, it is concessionaires who are authorized to sell on County property.

7. The words “Concession Attendant” is the team member who runs the front desk of the watersports center.

8. The word “Selected Proposer” or “Contractor” to mean the Proposer that receives any award of a contract from the County as a result of this Solicitation, also to be known as “the prime Contractor”.

9. The word “County” to mean Miami-Dade County, a political subdivision of the State of Florida.

10. The words “Joint Venture” to mean an association of two or more persons, partnerships, corporations, or other business entities under a contractual agreement to conduct a specific business enterprise for a specified period with both sharing profits and losses. The Joint Venture must be a legally formed entity prior to Proposal submission.

11. The words “Lifeguard Towers #1” is the location of the launching corridor for watersport services.

12. The words “Lifeguard Towers #2” is the location of the staging area for launching preparations. This area must maintain safety clearance road for MDFR emergency safety access.

13. The words “Lifeguard Towers #3” is the location of the staging area for launching preparations. This area must maintain safety clearance road for MDFR emergency safety access.

14. The words “North Concession Building” is the concession service location within Crandon Park. It is located on the North Beach section of parking lot 1.

15. The word “Proposal” to mean the properly signed and completed written good faith commitment submitted by the Proposer in response to this Solicitation, as amended or modified through negotiations.

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16. The words "Selected Proposer" or "Proposer" to mean the person, firm, entity or organization, as stated on the Submittal Form, submitting a Proposal to this Solicitation.

17. The words "Swim Area Monitor" to mean the persons/staff responsible for monitoring the launching corridor and staging area between the lifeguard towers #1 – 3. The swimming area is for public swimming and MDFR lifeguards monitor public swimming not the watersport concession operations.

18. The word "Responsible Proposer" shall refer to a Proposer that has the capability in all respects to fully perform the contract requirements and the integrity and reliability that will assure good faith performance.

19. The words "Responsive Proposer" shall refer to a Proposer that has submitted a Proposal that conforms in all material aspects to the Solicitation.

20. The words "Scope of Services" to mean Section 2.0 of this Solicitation, which details the work to be performed by the Contractor.

21. The word "Solicitation" to mean this Request for Proposals (RFP) or Request for Qualifications (RFQ) document, and all associated addenda and attachments.

22. The word "Subcontractor" to mean any person, firm, entity or organization, other than the employees of the Contractor, who contracts with the Contractor to furnish labor, or labor and materials, in connection with the Services to the County, whether directly or indirectly, on behalf of the Contractor.

23. The words "Work", "Services", "Program", or "Project" to mean all matters and things that will be required to be done by the Contractor in accordance with the Scope of Services, and the terms and conditions of this Solicitation.

1.3 General Proposal Information

Pursuant to Florida Statutes Section 287.05701, Proposers are hereby notified that the County will not request documentation of, or consider, the social, ideological or political interests of a Proposer when determining if a Proposer is a responsible vendor nor will the County give preference to a Proposer based on the Proposer's social, ideological or political interests.

The County may, at its sole and absolute discretion, reject any and all or parts of any or all Proposals; accept parts of any and all Proposals; further negotiate project elements including but not limited to project fees, revenues or pricing; postpone or cancel at any time this Solicitation process; or waive any irregularities in this Solicitation or in the Proposals received as a result of this process. In the event that a Proposer wishes to take an exception to any of the terms of this Solicitation, the Proposer shall clearly indicate the exception in its Proposal. The County shall treat the Proposer's inclusion of exceptions, assumptions or alternate terms in the Proposal as requests to negotiate project elements, and the inclusion of same shall not result in the Proposal being deemed non-responsive. The County is not bound to accept any exceptions, assumptions or alternates during negotiations, and the County shall consider a Proposal submitted to be an offer to supply goods or services in strict compliance with the terms of this Solicitation. Exceptions, assumptions or alternates may be considered by the County during negotiations to the extent such exceptions, assumptions or alternates do not materially change any provision of the Solicitation. The County reserves the right to request and evaluate additional information from any Proposer regarding Proposer's responsibility after the submission deadline as the County deems necessary.

The Proposer's Proposal will be considered a good faith commitment by the Proposer to negotiate a contract with the County, in substantially similar terms to the Proposal offered and, if successful in the process set forth in this Solicitation and subject to its conditions, to enter into a Contract substantially in the terms herein. Proposer's Proposal shall be irrevocable until Contract award unless the

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Proposal is withdrawn. A Proposal may be withdrawn in writing only, addressed to the County contact person for this Solicitation, prior to the Proposal due date and time, or upon the expiration of one hundred eighty (180) calendar days after the opening of Proposals.

As further detailed in the Submittal Form, Proposers are hereby notified that all information submitted as part of, or in support of Proposals will be available for public inspection after opening of Proposals, in compliance with Chapter 119, Florida Statutes, (the "Public Record Law")

Any Proposer who, at the time of Proposal submission, is involved in an ongoing bankruptcy as a debtor, or in a reorganization, liquidation, or dissolution proceeding, or if a trustee or receiver has been appointed over all or a substantial portion of the property of the Proposer under federal bankruptcy law or any state insolvency law, may be found non-responsible.

To request a copy of any code section, resolution and/or administrative/implementing order cited in this Solicitation, contact the Clerk of the Board at (305) 375-5126, Monday- Friday, 8:00 a.m. – 4:30 p.m.

1.4 Cone of Silence

Pursuant to Section 2-11.1(t) of the Code of Miami-Dade County, as amended (the "Code"), a "Cone of Silence" is imposed upon each RFP or RFQ after advertisement and terminates at the time a written recommendation is issued. The Cone of Silence prohibits any communication regarding RFPs or RFQs between, among others:

- potential Proposers, service providers, lobbyists or consultants **and** the County's professional staff including, but not limited to, the County Mayor and the County Mayor's staff, County Commissioners or their respective staffs;
- the County Commissioners or their respective staffs **and** any member of the County's professional staff, other than any professional staff member who is designated by the County Mayor to engage in such communications; or
- potential Proposers, service providers, lobbyists or consultants, any member of the County's professional staff, the Mayor, County Commissioners or their respective staffs **and** any member of the respective Competitive Selection Committee.

The provisions do not apply to, among other communications:

- oral communications with the staff of the Vendor Outreach and Support Services Section, the responsible Procurement Contracting Officer (designated as the County's contact on the face of the Solicitation), provided the communication is limited strictly to matters of process or procedure already contained in the Solicitation document;
- oral communications at pre-Proposal conferences and oral presentations before Competitive Selection Committees during any duly noticed public meeting, public presentations made to the Board of County Commissioners (the "Board") during any duly noticed public meeting;
- recorded contract negotiations and contract negotiation strategy sessions; or
- communications in writing at any time with any County employee, official or member of the Board of County Commissioners unless specifically prohibited by the applicable RFP or RFQ documents.

When the Cone of Silence is in effect, all potential vendors, service providers, bidders, lobbyists and consultants shall file a copy of any written correspondence concerning the particular RFP or RFQ with the Clerk of the Board, which shall be made available to any person upon request. The County shall respond in writing (if County deems a response is necessary) and file a copy with the Clerk of the Board, which shall be made available to any person upon request. Written communications may be in the form of e-mail, with a copy to the Clerk of the Board at clerkbcc@miamidade.gov.

All requirements of the Cone of Silence policies are applicable to this Solicitation and must be adhered to. Any and all written communications regarding the Solicitation are to be submitted only to the Procurement Contracting Officer with a copy to the Clerk of the

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Board. The Proposer shall file a copy of any written communication with the Clerk of the Board. The Clerk of the Board shall make copies available to any person upon request.

1.5 Communication with Review Team Members

Proposers are hereby notified that direct communication regarding this Solicitation, written or otherwise, to individual Review Team Members or, to the Review Team as a whole, **are expressly prohibited**. Any oral communications with Review Team Members other than as provided in Section 2-11.1 of the Code, are prohibited.

1.6 Public Entity Crimes

Pursuant to Paragraph 2(a) of Section 287.133 of the Florida Statutes, a person or affiliate who has been placed on the convicted vendor list following a conviction for a public entity crime may not submit a Proposal for a contract to provide any goods or services to a public entity; may not submit a Proposal on a contract with a public entity for the construction or repair of a public building or public work; may not submit Proposals on leases of real property to a public entity; may not be awarded or perform work as a contractor, supplier, subcontractor, or consultant under a contract with any public entity; and, may not transact business with any public entity in excess of the threshold amount provided in Section 287.017 of the Florida Statutes for Category Two for a period of thirty-six (36) months from the date of being placed on the convicted vendor list.

1.7 Lobbyist Contingency Fees

a) In accordance with Section 2-11.1(s) of the Code, after May 16, 2003, no person may, in whole or in part, pay, give or agree to pay or give a contingency fee to another person. No person may, in whole or in part, receive or agree to receive a contingency fee.
b) A contingency fee is a fee, bonus, commission or non-monetary benefit as compensation which is dependent on or in any way contingent upon the passage, defeat, or modification of: 1) any ordinance, resolution, action or decision of the County Commission; 2) any action, decision or recommendation of the County Mayor or any County board or committee; or 3) any action, decision or recommendation of any County personnel during the time period of the entire decision-making process regarding such action, decision or recommendation which foreseeably will be heard or reviewed by the County Commission or a County board or committee.

1.8 Collusion

In accordance with Section 2-8.1.1 of the Code, where two (2) or more related parties, as defined herein, each submit a Proposal for any contract, such Proposals shall be presumed to be collusive. The foregoing presumption may be rebutted by the presentation of evidence as to the extent of ownership, control and management of such related parties in preparation and submittal of such Proposals. Related parties shall mean Proposer, the principals, corporate officers, and managers of the Proposer; or the spouse, domestic partner, parents, stepparents, siblings, children or stepchildren of a Proposer or the principals, corporate officers and managers thereof which have a direct or indirect ownership interest in another Proposer for the same contract or in which a parent company or the principals thereof of one Proposer have a direct or indirect ownership in another Proposer for the same contract. Proposals found to be collusive shall be rejected. Proposers who have been found to have engaged in collusion may be considered non-responsible, and may be suspended or debarred, and any contract resulting from collusive bidding may be terminated for default.

1.9 Contracting with Entities of Foreign Countries of Concern Prohibited

By submitting a proposal or otherwise entering into, a contract under this Solicitation, the Proposer affirms that it is not in violation of Section 287.138, Florida Statutes (F.S.) titled Contracting with Entities of Foreign Countries of Concern Prohibited. Proposer further affirms that it is not giving a government of a foreign country of concern, as listed in Section 287.138, F.S., access to an individual's personal identifying information if: a) the Proposer is owned by a government of a foreign country of concern; b) the government of a foreign country of concern has a controlling interest in the Proposer; or c) the Proposer is organized under the laws of or has its principal place of business in a foreign country of concern as is set forth in Paragraphs 2(a)–(c) of Section 287.138, F.S.

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This affirmation by the Proposer shall be in the form attached to this Solicitation as **Contracting with Entities of Foreign Countries of Concern Prohibited Affidavit**.

1.10 Expedited Purchasing Program

Pursuant to Section 2-8.1.6 of the Code, the County created the Expedited Purchasing Program (EPP). Due to the expedited nature of County projects issued under the EPP, prospective Proposers should anticipate a shortened Solicitation timeline for submission of Proposals. Technical, professional and legal staff may be used to determine best value as set forth in the Solicitation documents without the need to utilize the formal Competitive Selection Committee process established by the County. The County Mayor's or designee's written recommendation to award a contract under the EPP shall be sufficient to commence the bid protest period and terminate the Cone of Silence. Any legislation contrary to the provisions of the EPP shall be deemed suspended or amended as necessary to give effect to the intent of this Program.

1.11 Purpose Driven Procurement Practices

The County is committed to responsible stewardship of resources. To the extent allowed by law, the County will continue to explore and pursue purpose driven procurement, development and business practices that: (a) are environmentally friendly; (b) foster and integrate local community benefits including, opportunities for local and small business participation, internships, job fairs, mentorship, vocational and technical training; (c) support safe and fair labor practices and ethical behavior, and (d) maximize fiscally responsible "high value, high impact" actions.

1.12 Kidnapping, Custody Offenses, Human Trafficking and Related Offenses Affidavit

By entering into, amending, or renewing a contract under this Solicitation, the Proposer affirms that it does not use coercion for labor or services and complies with the provisions of Section 787.06, Florida Statutes ("F.S."), "Human Trafficking. This attestation by the Proposer shall be in the form attached to this Solicitation as the **Kidnapping, Custody Offenses, Human Trafficking and Related Offenses Affidavit**.

2.0 SCOPE OF SERVICES

2.1 Background

Miami-Dade Parks, Recreation and Open Spaces (PROS) is one of the busiest and largest leisure service agencies in the United States. Each year, 25 million people use PROS's system to safely recreate, enjoy nature, become more physically fit, and to connect with neighbors, friends, and pets. The selected Proposer shall provide a safe, high quality and customer-oriented operation with well-maintained equipment and experienced staff, and offer diverse programs and services normally associated with the water sports industry. The selected Proposer shall operate the Concession and supervise/instruct its customers in a manner that keeps beach patrons safe and ensure that its customers adhere to strict guidelines as it pertains to the protection/preservation of the ecologically sensitive Nature Preserve/sand dunes, and that the selected Proposer fully conforms to the Crandon Park Master Plan ("CPMP"), as such plan may be amended from time to time.

2.2 Minimum Qualifications:

The selected Proposer shall, at the time of proposal due date, possess the following licenses and certifications:

a) Open Water Lifeguard Certification;
b) CPR/First Aid Certification;
c) International Kiteboarding Organization ("IKO") or the Professional Air Sports Association ("PASA") certification

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Note: All required certifications must be in place at the time of proposal due date,. The required certifications are a continuing obligation of the Selected Proposer throughout the duration of any agreement issued as a result of this solicitation. A copy of the required certifications must be provided in the Proposer's response to this solicitation.

2.3 Qualifications/Training

The Selected Proposer shall:

a) Employ and utilize IKO or PASA certified instructors.

b) Employ and utilize employees who will operate motorized boats (for assisting with rescues and other emergencies, as required) and they shall complete the following:
   i. PWC Vessel Training
   ii. Approved ATV Training
   iii. Safe Boating course (only applicable for boat operators)

c) Obtain approval for all employees who are designated to operate all-terrain vehicles (ATVs) or watercraft in connection with the Concession. The employees shall be subject to prior review and approval by both the Miami-Dade Fire Rescue ("MDFR") Lifeguard Chief and the Crandon Park Manager. No employee shall operate such equipment without receiving written authorization from both parties.

Note: All required certifications must be in place prior to the start of operations of the water sports Concession. The required certifications are a continuing obligation of the Selected Proposer throughout the duration of any agreement issued as a result of this RFP. A copy of the required certifications must be provided to PROS prior to the start of any watersports activities and kept current.

2.4 Shannon Melendi Act Requirements

The Selected Proposer shall conduct National Level 2 background checks on all owners, staff, and volunteers pursuant to Miami-Dade County Ordinance No. 08-07 and ensure the safety of the patrons of the Park by meeting the requirements of Chapter 26 "Miami-Dade County Park and Recreation Department Rules and Regulations, Article III, The Shannon Melendi Act".

2.5 Site Description Watersport Activities Crandon Park:

Operations at Crandon Park are to be based out of the North Concession Building located at the north end of the Crandon Park beach area and shall include the surrounding beach and water area ("Site"), see attached Site Maps in Exhibits A1, A2 and A3.

2.6 Kayak and Stand-up Paddleboard Activities

a) The kayak and stand-up paddleboard designated launching/landing area shall be located east of the North Concession Building, between Lifeguard Towers #2 and #3 and marked by buoys.

b) Rental customers for these activities shall be instructed to only enter/exit the water in this area and to stay clear of the swimming areas on either side of the launching/landing area. Kayak and paddle boarders will be instructed by the Beach Marshal to stay north of lifeguard tower 3, always maintain a minimum distance of 300 feet or 100 yards from the shoreline, and a maximum of 600 feet or 200 yards from shore.

c) Rental kayaks and stand-up paddleboards may not travel south of the launching/landing area, nor may they approach the shore anywhere along Crandon Beach other than the designated launching/landing area. Rental kayaks must stay clear of any group activity near the shore on field trips with the Nature Center.

d) The Beach Marshal shall restrict areas where patrons may go based on their ability to return safely to the designated launch area. A maximum of 15 stand-up paddleboards and 25 kayaks will be allowed on the water at any given time. These limitations

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may be reviewed by PROS at the request of the selected Proposer. The selected Proposer may seek approval in advance, from PROS, for a temporary increase in the number of allowable stand-up paddleboards and kayaks to accommodate special events.

2.7 Kiteboarding Activities

a) Kite boarders must possess a minimum of IKO and/or PASA Level 3 or above certification to kiteboard out of Crandon Park without an instructor.

b) Customers or patrons of kiteboarding activities must enter through the north beach entrance and shall pay the appropriate parking fees. Customers or patrons of kiteboarding activities must check in with Crandon Park Watersports Concessionaire.

c) Kite boarding activities shall be opened daily in accordance with this solicitation. Kiteboarding activity may not take place until a lifeguard is on duty in lifeguard towers 1, 2, or 3. Additionally, at all times, a Beach Marshal must be present before kiteboarders may enter the designated kiteboarding area and must always be present during all kiteboarding approved activities.

d) The selected Proposer shall require all members and daily kiteboarders to sign in before entering the designated kiteboarding area. The sign in/out sheet must include printed name, date, time in, time out, member number and description of the kite. A Beach Marshal must be present to sign in patrons and ensure policies and rules are followed.

e) All kiteboarding activities shall cease immediately upon the departure of lifeguards from their designated towers. Additionally, all kiteboarders must vacate the Park premises by sunset, in accordance with the general rules applicable to all park patrons.

f) Kiteboarding activities are strictly prohibited unless a designated Beach Marshal is present on-site. The Beach Marshal shall be responsible for registering participants and ensuring compliance with all applicable rules and regulations. No kiteboarder shall enter the designated kiteboarding area or engage in kiteboarding activities unless and until a Beach Marshal is present, and such presence shall be maintained throughout the duration of any authorized kiteboarding activity.

g) A maximum of twenty-five (25) kiteboarders shall be permitted in the water at any given time. This limitation may be reviewed by the PROS upon written request by the selected Proposer The selected Proposer may also request advance written approval from PROS for a temporary increase in this limit to accommodate special events.

h) The selected Proposer shall be solely responsible for monitoring and enforcing the maximum capacity limitation set forth in this solicitation. The selected Propose shall take all necessary steps to ensure that no additional individuals enter the water in violation of this provision.

i) No kiteboarding activity—including, but not limited to, the presence of kiteboarders, instructors, students, or kiteboarding equipment—shall occur on shore or within six hundred (600) feet from shore, or within nine hundred (900) feet of swimmers, boaters, paddleboards, kayaks, organized groups participating in Nature Center field trips, or EcoAdventures™ guided tours, in the area north of Lifeguard Tower #1. This area, known as Bear Cut Preserve, is a designated protected natural area. The Beach Marshal shall have the authority to restrict access to certain areas based on a patron's demonstrated ability to safely return to the designated launch zone.

2.8 Kiteboarding Entrance Procedures

a) The designated kiteboarding launch and landing area shall be limited to the area located north of the North Concession Building, specifically between Lifeguard Towers #1 and #2. All rental patrons and students receiving kiteboarding instruction shall be expressly directed to enter and exit the water exclusively within this designated area.

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b) Kiteboarders may navigate either north or south from the designated launch area; however, they shall maintain a minimum distance of six hundred (600) feet (equivalent to two hundred (200) yards) from the shoreline at all times, except when actively launching or returning to shore. The selected Proposer shall be responsible for the placement and maintenance of marker buoys to clearly delineate the six hundred (600) foot boundary and assist kiteboarders in maintaining the required distance.

c) North of Lifeguard Tower #1, the selected Proposer shall instruct kiteboarders to remain east of the line of distinctive sandbars. In this area, kiteboarders shall maintain a minimum distance of nine hundred (900) feet (equivalent to three hundred (300) yards) from all swimmers, boaters, paddleboarders, kayakers, and organized groups participating in Nature Center field trips or EcoAdventures™ guided tours.

d) In the interest of public safety and the protection of Crandon Park's natural areas, the selected Proposer shall enforce a zero-tolerance policy. Any kiteboarder, including instructors and students, found within the designated swimming area (south of Lifeguard Tower #2 on shore, within six hundred (600) feet from shore, or within nine hundred (900) feet of swimmers), or within the Bear Cut Nature Preserve (north of Lifeguard Tower #1 on shore, within six hundred (600) feet from shore, or within nine hundred (900) feet of swimmers), shall be directed by the selected Proposer to immediately vacate the area and shall be prohibited from further participation in kiteboarding activities for the remainder of that day.

2.9 Management and Staffing Requirements

a) On-Site Management Requirement:

The selected Proposer shall ensure that one (1) qualified Manager is present on-site during all hours of operation. The Manager must meet the qualifications set forth in this solicitation. Staffing levels shall not include instructors. Instructors, while engaged with students, shall serve exclusively in the capacity of instructors and shall not simultaneously perform the duties of Manager, Bear Cut Preserve/Swim Area Monitor, Check-In Staff Member, Concession Attendant, or Beach Marshal.

b) Minimum Staffing Requirements for Paddle Board and Kayak Activities:

i. Weekdays: Prior to the commencement of any paddle board or kayak rental activity on weekdays, the following minimum staffing levels shall be maintained:
One (1) interior Concession Attendant (the on-site Manager may fulfill this role of Concession Attendant in this case only); and
One (1) Beach Marshal stationed on the beach at the designated launch and return location.

ii. Weekends/Holidays - Prior to the commencement of any paddle board or kayak rental activity on weekends, the following minimum staffing levels shall be maintained:
The minimum staffing levels required to rent paddle boards and kayaks is one (1) interior Concession Attendant and one (1) Beach Marshal that is required to be located on the beach at the launch and returning location.

c) Minimum Staffing Requirements for Kiteboarding Activities:

i. Weekdays: Prior to the commencement of any kiteboarding activity on weekdays, the following minimum staffing levels shall be maintained:
Wind Speeds Exceeding 12 mph:
One (1) Beach Marshal stationed on the beach at the launch and return location; and
One (1) Concession Attendant.

Wind Speeds Between 19 mph and 24 mph:
One (1) Bear Cut Preserve/Swim Area Monitor;
One (1) Beach Marshal stationed on the beach at the launch and return location; and

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One (1) Concession Attendant.

Wind Speeds Between 25 mph and 29 mph:
One (1) Bear Cut Preserve/Swim Area Monitor;
One (1) Check-In Staff Member;
One (1) Beach Marshal stationed on the beach at the launch and return location; and
One (1) Concession Attendant.

ii. Weekends and Holidays: Prior to the commencement of any kiteboarding activity on weekdays, the following minimum staffing levels shall be maintained:
Wind Speeds Between 12 mph and 18 mph:
One (1) Beachfront Sign-In Staff Member;
One (1) Beach Marshal; and
One (1) Concession Attendant.

Wind Speeds Between 19 mph and 24 mph:
One (1) Bear Cut Preserve/Swim Area Monitor;
One (1) Beachfront Sign-In Staff Member;
One (1) Beach Marshal; and
One (1) Concession Attendant.

Wind Speeds Between 25 mph and 29 mph:
One (1) Bear Cut Preserve/Swim Area Monitor;
One (1) Check-In Staff Member;
One (1) Beach Marshal;
One (1) Concession Attendant; and
One (1) On-Water Monitor.

Note: Wind speeds referenced herein shall be based on readings from the Kite Surfing/University of Miami wind monitoring system or another source mutually agreed upon by the selected Proposer and PROS.

2.10 Operation and Quality of Services

a) The selected Proposer shall ensure that all patrons engaging in kiteboarding, or renting kayaks or stand-up paddle boards, possess the requisite skill level to safely operate the equipment, are knowledgeable in proper safety procedures, and are capable of returning to the designated launch and recovery areas without assistance.

b) The areas authorized for water sports activities are delineated in the attached maps, see Exhibit A-1 A-2 and A-3. These boundaries shall be strictly enforced. The selected Proposer shall implement and maintain a zero-tolerance policy for any individual who:
   i. Enters the Bear Cut Preserve;
   ii. Enters sand dunes or unauthorized beach areas;
   iii. Launches or lands outside of designated areas; or
   iv. Violates minimum distance requirements from the shoreline.

c) The selected Proposer shall not cite excessive or unfavorable wind conditions, insufficient training of patrons or staff, or inadequate staffing or equipment as justification for non-compliance. Strict adherence to this zero-tolerance policy shall require

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the Selected Proposer to maintain appropriate staffing levels and operational equipment, including but not limited to megaphones, 4x4 all-terrain vehicles (ATVs), and wave runners, to adequately supervise all patrons. In the event the selected Proposer is unable to provide supervision to the satisfaction of the Park Manager, the water sports concession shall be closed immediately.

d) All individual kiteboarders utilizing their own equipment within the designated kiteboarding area shall comply with the kiteboarding safety guidelines established by Crandon Park. The selected Proposer shall be responsible for enforcing these safety guidelines at all times. All kiteboarding instruction provided by the selected Proposer shall include comprehensive training to ensure that participants are familiar with Crandon Park's kiteboarding rules and regulations; understand the fundamental skills required for safe kiteboarding; and can demonstrate such skills to the satisfaction of the instructor. The selected Proposer shall maintain continuous supervision on the beach to monitor and ensure compliance with all applicable rules and regulations. The selected Proposer shall adhere to all requirements as it pertains to instruction requirements prior to engaging in kiteboarding activities at Crandon Park. Minimum supervision and staffing requirements shall be determined based on weather conditions. Additional and more specific requirements are set forth in the attached Agreement.

e) The selected Proposer shall require all individuals who rent kayaks or paddleboards, participate in kiteboarding activities as members or daily guests, rent kiteboarding equipment from the selected Proposer, and/or receive kiteboarding instruction from the selected Proposer, to sign and execute a waiver and full release of liability form ("Waiver") releasing Miami-Dade County, its agents, and employees from any and all claims, liabilities, or causes of action. The Waiver shall be prepared by the selected Proposer and approved in advance by PROS. The selected Proposer shall submit to the Crandon Park Office a complete and updated set of signed Waivers on a monthly basis. Each patron shall be required to sign a new Waiver on an annual basis. The selected Proposer shall retain all original Waivers in a secure location for the full term of any resultant Agreement. Upon expiration or earlier termination of the resultant Agreement, the selected Proposer shall deliver all such records to PROS at the Crandon Park Office.

f) The selected Proposer shall also require all individuals who rent kayaks or paddleboards, participate in kiteboarding activities as members or daily guests, rent kiteboarding equipment from the selected Proposer, and/or receive kiteboarding instruction from the selected Proposer, to sign a written acknowledgment of the Crandon Park Kiteboarding Rules. This acknowledgment shall include a map clearly identifying approved activity zones and prohibited areas. The rules and map shall be prepared by the selected Proposer and approved by PROS. The selected Proposer shall submit to the Crandon Park Office a complete and updated set of signed rule acknowledgments on a monthly basis. Each patron shall be required to sign a new acknowledgment form on an annual basis. The selected Proposer shall retain all original signed forms in a secure location for the full term of any resultant Agreement. Upon expiration or earlier termination of any resultant Agreement, the selected Proposer shall deliver all such records to PROS at the Crandon Park Office.

g) The selected Proposer shall require all kiteboarding members, instructors, students, and daily patrons to sign in prior to entering, and sign out upon exiting, the designated kiteboarding area located between Lifeguard Towers #1 and #2. The sign-in/out log shall include the following information: printed name, date, time in, time out, member number (if applicable), and a description of the kite used.

h) The selected Proposer shall operate the concession in a manner that prioritizes customer safety and satisfaction. The selected Proposer shall ensure that all staff are well-trained, professional, and capable of promptly addressing and resolving customer complaints.

i) The selected Proposer shall provide high-quality customer service and shall make reasonable adjustments to program and service offerings in response to customer demand. All hours of operation shall be subject to prior written approval by PROS.

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j) All services offered and prices charged by the selected Proposer must be approved in advance by PROS. Any proposed modifications to services, types of concessions, or pricing shall be submitted in writing by the selected Proposer and shall not be implemented without prior written approval from PROS, which must be obtained at least thirty (30) days prior to the proposed effective date of such modifications.

k) The selected Proposer shall be solely responsible for all operating expenses associated with the day-to-day operation of the water sports concession, including but not limited to utility costs. The selected Proposer shall remit to the County a monthly payment of three hundred seventy-five dollars ($375.00) to cover utilities and trash removal. This fee is separate from and in addition to other provisions of payment or financial obligations covered in the resultant Agreement. Beginning at the end of the first contract year, and continuing annually through contract years two (2) through five (5), the monthly fee shall be adjusted upward by three percent (3%) over the total amount paid in the preceding contract year.

l) The selected Proposer shall install and maintain all required signage in accordance with the Crandon Park Master Plan and Article 7 of the Miami-Dade County Charter, and as approved by PROS. At a minimum, signage shall include: hours of operation, fee schedules, maps identifying permitted and prohibited areas, and required safety information.

m) Within fifteen (15) days of the issuance of the Notice to Proceed, the Selected Proposer shall submit to PROS an Operations Manual for review and approval. The selected Proposer shall maintain the approved manual throughout the term of any resultant Agreement.

n) The Operations Manual shall include a comprehensive emergency response plan and hurricane preparedness plan. These plans shall detail procedures for handling accidents and emergencies, and outline the steps the selected Proposer will take to secure the site in the event of a hurricane or other emergency.

o) The selected Proposer shall ensure that all employees are clearly identifiable as selected Proposer's personnel by wearing distinctive uniforms and name tags. Staff attire shall be clearly distinguishable from that of PROS employees.

p) The selected Proposer shall actively promote the Park's offerings and provide all concession services at the highest level of quality. All promotional materials, including flyers and advertisements for special events, shall include the Miami-Dade County or PROS logo. The selected Proposer shall submit all promotional materials to PROS for review and written approval prior to distribution.

q) The selected Proposer shall enforce strict compliance with all applicable federal, state, and local safety regulations governing water sports. This includes, but is not limited to, requiring all participants to wear U.S. Coast Guard-approved life jackets for all water sports activities, and requiring the use of chest protectors, break-away tethers, and helmets for kiteboarding. The selected Proposer shall make such safety equipment available for use at a rental fee approved by PROS.

r) The selected Proposer shall ensure that the water sports area remains in a safe, clean, and usable condition on a daily basis. This includes, but is not limited to: removal of debris from the shoreline and water sports area, inspection and maintenance of all equipment, upkeep of the Concession area, and regular trash collection and grounds maintenance. All such maintenance shall be performed at the Selected Proposer's sole expense.

s) The selected Proposer shall exercise due care in the use of all PROS property and facilities. The Selected Proposer shall, at its sole expense, repair any damage to PROS property or facilities caused by its operations.

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t) All equipment shall be stored on-site only in areas designated by PROS. The County shall not be liable for any loss or damage to the selected Proposer's equipment or supplies.

u) The selected Proposer may place up to twenty (20) chairs and two (2) PROS-approved tables east of the North Concession Stand for customer use. These items may not be rented and must be removed from the beach at the close of business each day. The selected Proposer shall be responsible for cleanup and trash removal from this area daily.

v) The selected Proposer may use a water trampoline on weekdays during summer camps, provided it is properly supervised and anchored in water of adequate depth per the manufacturer's recommendations at low tide. The trampoline must be removed and stored off the beach at the close of business each day. Additional use may be permitted with prior written approval from PROS.

w) The selected Proposer shall maintain an open and clear emergency access roadway in front of the North Concession Stand and between Lifeguard Towers #1 and #2. The Selected Proposer shall purchase and install orange cones to designate this area and shall be responsible for daily setup and monitoring to ensure the cones remain in place.

x) The selected Proposer may sell non-alcoholic sports beverages and prepackaged snacks at the permitted premises. No ice cream, cooking, or food preparation of any kind shall be permitted on-site. Additional food concession items may be offered only with prior written approval from PROS. The selected Proposer may also sell equipment and supplies directly related to approved activities, which currently include kiteboarding, paddleboarding, and kayaking. A list of items for sale must be submitted in advance for approval from PROS.

y) The selected Proposer shall utilize an electronic cash register for all transactions. The register must be capable of producing "Z" reports (daily sales totals), "X" reports (sales totals at any given time), dual tape or itemized transaction reports, and must print the date and time on both the journal tape and individual sales receipts.

z) The selected Proposer shall develop and implement a process for coordinating requests from the public or outside entities seeking to use the water sports area for competitions, tournaments, training, or similar purposes.

aa) The selected Proposer shall employ a qualified, full-time on-site Manager or designee who shall be available during normal business hours and on-call at all times for emergencies or matters related to the water sports area.

bb) The selected Proposer's working staff shall be afforded free parking in accordance with a bi-weekly schedule submitted in advance to the Park Manager. In addition to the two (2) vehicles permitted to park at the North Concession Stand, all other staff vehicles must be parked in the designated parking lot.

cc) The selected Proposer may provide additional services and charge associated fees only upon mutual agreement with PROS.

dd) PROS reserves the right to schedule special events that may preclude operation of the water sports area. PROS shall make reasonable efforts to notify the Selected Proposer at least two (2) weeks in advance of such events. PROS may also close the park due to inclement weather or other safety concerns.

ee) The selected Proposer shall install removable signage daily in accordance with the Crandon Park Master Plan and Article 7 of the Miami-Dade County Charter. Signage shall display activity guidelines, boundaries, and registration requirements. Informational signs shall also be placed at the North entrance tollbooth and Crandon Park Office to inform patrons of registration requirements and maximum rider limits. All signage shall be removed and stored at the close of business each day.

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ff) All activities and operations conducted by the selected Proposer shall comply with Chapter 26 of the Miami-Dade County Code (Park and Recreation Rules and Regulations), Article 7 of the Miami-Dade County Charter, and all other applicable laws, rules, and regulations.

2.11 Background Screening

In accordance with Miami-Dade County Ordinance No. 08-07, codified in Chapter 26, Article III of the Code of Ordinances, The Shannon Melendi Act, the selected Proposer shall ensure that all personnel and volunteers providing any service at the Concession or in connection with related activities are in full compliance with the requirements of the Act prior to the commencement of employment or volunteer service. This includes, but is not limited to, the completion of a nationwide criminal background check for all individuals whose primary duties require physical presence on park property owned or operated by Miami-Dade County. The selected Proposer shall maintain documentation of such compliance and make it available to PROS upon request.

2.12 Lifeguard Requirements

The selected Proposer shall strictly prohibit all water sports activities under its operation, including but not limited to kiteboarding by staff, members, or patrons; kiteboarding lessons; kayaking; paddleboarding; or any other PROS-approved water sport activity, unless a Miami-Dade Fire Rescue Certified Lifeguard is physically present and occupying Lifeguard Tower #1, Tower #2, and/or Tower #3, as applicable to the designated activity area.

2.13 Kiteboarding Instruction and Lesson Area Requirements

a) All kiteboarding lessons shall be conducted in the designated instructional area, located a minimum of three hundred (300) feet from shore, utilizing the sandbar that lies east of Lifeguard Tower #1 and extends to the northeast. Students may access the instructional area from the vicinity adjacent to Lifeguard Tower #1, proceeding east and northeast along the sandbar. Instruction shall be limited to the eastern edge of the sandbar, extending north and east. Under no circumstances shall students or instructors enter the Bear Cut Nature Preserve.

b) Kiteboarding lessons shall be conducted in accordance with the rules and hours set forth in this Scope of Services, with the following exception:

i. From Memorial Day weekend through the weekend prior to the start of Miami-Dade County Public Schools, and on Labor Day, including weekends and holidays during this period, only basic lessons may be offered. These lessons must be confined to the designated instructional area and shall not include the use of a board outside the area between Lifeguard Towers #1 and #2.

c) During summer weekends and holidays, instructors are strictly prohibited from riding a board while conducting lessons.

2.14 Hours of Operation

a) The selected Proposer shall operate the Concession daily at Crandon Park, weather permitting. Water sports activities, including kiteboarding, kayaking, and paddleboarding, shall only be conducted during the selected Proposer's regular hours of operation, and only when minimum staffing levels are met and Miami-Dade Fire Rescue Certified Lifeguards are present at the designated lifeguard towers.

b) With the exception of one (1) staff member and one (1) Manager, all patrons and staff must vacate Crandon Park by sunset. The selected Proposer shall be responsible for informing all customers of this requirement in advance of participation and for

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ceasing operations and recalling all patrons from the water in a timely manner to comply with the Park's closing time. The selected Proposer shall be fully responsible for all water sports activities conducted under its operation.

c) The selected Proposer shall display a distinctive color flag to indicate when the Concession is OPEN, and a different distinctive color flag to indicate when the Concession is CLOSED.

d) The specific hours of operation shall be as follows:

i. Summer:
Memorial Day weekend through Labor Day: Weekdays only (Monday through Friday) from 9:30 AM to 6:30 PM

ii. Fall
Day after Labor Day through Daylight Saving day: All days from 9:30 AM to 6:30 PM

iii. Winter
Daylight Saving day to one day before time change: All days from 9:30 AM to 4:30 PM

iv. Spring
Time change day to one day before Memorial Day: All days from 9:30 AM to 6:30 PM

e) The selected Proposer shall not offer kiteboarding or kiteboarding lessons to the public during weekends and holidays from Memorial Day weekend through the weekend prior to the start of Miami-Dade County Public Schools. This restriction also applies to Labor Day weekend. Additionally, no kiteboarding or kiteboarding lessons shall be offered on Easter Sunday or Mother's Day.

f) The Concession may be temporarily closed due to beach closures resulting from inclement weather, beach maintenance, or water quality concerns, as determined by PROS or other relevant authorities.

g) The selected Proposer may request to operate outside the standard hours listed above, subject to the following conditions:
v. Advance written approval from the Park Manager;
vi. A Miami-Dade County Lifeguard must be hired by the selected Proposer through the Miami-Dade Fire Department Special Events hiring process;
vii. Concession operations shall not begin earlier than one-half (½) hour after sunrise and shall not extend beyond one-half (½) hour before sunset.

2.15 Safety Closure of Kiteboarding, Kayaks, and Paddleboarding

a) The selected Proposer shall immediately cease the rental and operation of paddleboards and kayaks under any of the following hazardous conditions:
i. Sustained wind speeds of fourteen (14) miles per hour (mph) or greater;
ii. Unsafe wave conditions;
iii. Unsafe tidal or current conditions.

b) The selected Proposer shall immediately suspend all kiteboarding activities under the following conditions:
i. Sustained wind speeds in excess of thirty (30) knots (equivalent to thirty-four [34] mph);
ii. Wind conditions that prevent kiteboarders from maintaining the required minimum distance of six hundred (600) feet from the shoreline.

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c) The selected Proposer must obtain prior approval from the Park Manager before closing the Concession stand for any reason, including inclement weather or hazardous conditions. Upon closure, the selected Proposer shall post a clearly visible sign at the Crandon Park toll booth indicating that the Concession is closed and specifying the reason for the closure.

d) Closure of the Concession does not relieve the selected Proposer of its responsibility to provide adequate supervision of its designated area. A staff member must remain on-site during regular hours of operation to inform patrons that the Concession is closed and to ensure compliance with all safety and operational requirements.

2.16 Access and Use of Kayak Concession Building by the University of Miami

a) The selected Proposer shall have access to and use of the North Concession Building at Crandon Park as part of any resultant Agreement. The University of Miami ("University") has been authorized by PROS to conduct ongoing tidal research at Crandon Park, which includes the placement of testing equipment in a secured closet located within the North Concession Building.

b) The selected Proposer shall allow authorized University personnel access to the testing equipment during normal business hours. The Licensee shall not interfere with, tamper with, or otherwise disturb the University's equipment or restrict access to the area containing such equipment.

2.17 Crandon Park Master Plan Compliance

a) The selected Proposer shall review and at all times abide by the terms and conditions contained in the Crandon Park Master Plan. There shall be no logos, signs, banners, flags, balloons, vending machines or any other means of sales of promotion visible from outside of any structure, whether temporary or permanent. At the time of all events, temporary directional signs may be set up not sooner than the day before the event and these signs must be removed not later than the day after the last day of event. Such signs shall not include the names of sponsors. No logos shall be used on these signs. Signs shall not be placed in such a manner that they obscure any permanent signs, and in no case should they be nailed or otherwise fastened to any tree or existing sign. Signs shall not include electrical lighting, reflectors or any moving parts. The temporary directional signs shall be placed below the regular sign.

b) All forms of advertising, promotion, or merchandising, whether visual, verbal, audio, or sensory, are prohibited on exterior surfaces, interior windows visible from outside, vehicles parked near the water sports concession, or any other area within Crandon Park. This includes, but is not limited to, promotional umbrellas, banners, balloons, vending machines, merchandise awnings, and bench advertising.

c) No overnight storage of vehicles or trailers shall be permitted within Crandon Park without prior written approval from PROS.

d) All promotional materials, broadcasts, flyers, or other advertising prepared by the Licensee for kiteboarding, paddleboarding, or kayaking at Crandon Park shall clearly identify the location as "Crandon Park, Miami, Florida."

2.18 Payment Provisions and Gross Receipts

Payment provisions shall be governed by the terms and conditions set forth in the resultant Agreement, as well as any other applicable provisions. All paid activities conducted at the Concession or otherwise utilizing Crandon Park, regardless of how arranged (including via internet or other methods), shall be included in the calculation of Gross Receipts as defined in resultant Agreement

2.18 Responsibilities of PROS

PROS shall provide the selected Proposer with two (2) reserved parking spaces for selected Proposer's vehicles at the North Concession Stand; free park entry for working staff members; functional and operable shutters and doors at the time the Notice

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to Proceed is issued. The selected Proposer shall be responsible for maintaining the building following inspection. Any proposed modifications to the building must be submitted in writing and approved in advance by PROS.

3.0 RESPONSE REQUIREMENTS

3.1 Submittal Requirements

In response to this Solicitation, Proposer should **complete and return the entire Proposal Submission Package**. Proposers should carefully follow the format and instructions outlined therein. All documents and information must be fully completed and signed as required and submitted in the manner described. Nothing in this RFP shall in any way be utilized to request documentation relating to or authorizing consideration of a Proposer's social, political, or ideological interests when determining if the Proposer is a responsible vendor or give a preference to a Proposer based on the Proposer's social, political, or ideological interests.

The Proposal shall be written in sufficient detail to permit the County to conduct a meaningful evaluation of the proposed services. However, overly elaborate Proposals are not requested or desired.

Proposers are encouraged to access the links below to assist with submission of responses to the Solicitation.
Recorded eSupplier Workshop
https://www.miamidade.gov/global/news-item.page?Mduid_news=news1652724628268780
Password: q37%t+pG

Submit a Bid Job Aid
https://www.miamidade.gov/technology/library/informs/job-aid/submit-a-bid.pdf

4.0 EVALUATION PROCESS

4.1 Review of Proposals for Responsiveness

Each Proposal will be reviewed to determine if the Proposal is responsive to the submission requirements outlined in this Solicitation. A responsive Proposal is one which follows the requirements of this Solicitation, includes all documentation, is submitted in the format outlined in this Solicitation, is of timely submission, and has the appropriate signatures as required on each document. Failure to comply with these requirements may result in the Proposal being deemed non-responsive.

4.2 Evaluation Criteria

Proposals will be evaluated by a Review Team which will evaluate and rank Proposals on criteria listed below. The Review Team will be comprised of executives, professionals and subject matter experts within the County or from private or non-profit sectors, other governmental/quasi-governmental organizations, and retired executives with the appropriate experience and/or knowledge, striving to ensure that the Review Team is balanced with regard to both ethnicity and gender. The criteria are itemized with their respective weights for a maximum total of one hundred (100) points per Review Team Member.

Technical Criteria	Points
1. Proposer's relevant experience, qualifications, and past performance	20

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2.	Relevant experience and qualifications of key personnel, including key personnel of Subcontractors, that will be assigned to this project, and experience and qualifications of Subcontractors	20
3.	Proposer's approach to providing the Services requested in this Solicitation	20
4.	Financial Capacity	15
	Revenue Criteria	**Points**
5.	Minimum Annual Guarantee and Percentage of Gross Revenues	25

Any Proposer, whether a Joint Venture or otherwise, may proffer the experience or qualifications of its corporate parent, sister, or subsidiary (collectively "an Affiliated Company"). However, given the unique nature of individual corporate relationships, Proposers seeking to rely on the experience or qualifications of an affiliated company are advised that the Competitive Selection Committee (or Review Team) shall have the discretion to determine what weight, if any, it wishes to give such proffered experience or qualification on a case-by-case basis. Review Team may base such decision on the particulars of the relationship between the Proposer and the Affiliated Company, as evidenced by the information and documentation provided in the Proposer Information Section, during Oral Presentations, or otherwise presented at the request of the Review Team.

Additionally, pursuant to County Resolution No. R-321-23, the Review Team shall be provided with adverse findings or substantiated allegations within the past seven (7) years of the proposal submittal date (collectively "Reports") of the Miami-Dade Office of the Inspector General ("OIG") and/or the Miami-Dade County Commission on Ethics and Public Trust ("COE") regarding any Proposer and their proposed subcontractor(s) under deliberation by the Review Team to be considered in accordance with the evaluation of each applicable criteria identified in the Solicitation. In the event the OIG and/or COE issues Reports after the Review Team has scored and ranked the Proposers, the County Mayor or County Mayor's designee may re-empanel the Review Team to consider if such Reports would change the rankings. If the Review Team determines that Reports would change the rankings of the Proposer(s) identified in the Reports, then the Review Team shall re-score the Proposer(s) identified in the Report solely based on the impact the information identified in the Report would have on the scoring of the Proposer(s) in accordance with the applicable criteria identified in the Solicitation, re-rank the Proposers, and submit a written justification for the revised rankings to the County Mayor or County Mayor's designee. Upon review of such re-ranking and the justification, the County Mayor or County Mayor's designee may accept or reject the revised rankings. The County Mayor shall, in any recommendation to the Board of County Commissioners, either attach all Reports issued by the OIG and/or the COE or provide a description of such Reports and a link to where such Reports may be viewed.

4.3 Oral Presentations

After evaluation of the Proposals on the criteria indicated above (Technical and Price), rating and ranking, the Review Team may choose to conduct an oral presentation with the Proposer(s) which the Review Team deems to warrant further consideration. In making this determination, the Review Team should consider whether a recommendation can be reached without oral presentations or whether there is a need for, or would be a benefit to, holding oral presentations. For instance, oral presentations may be needed to assist the Review Team to make its recommendation and/or to differentiate among the Proposer(s) remaining in consideration due to, among other factors, scores in clusters and/or a close competition. Oral presentations may also be beneficial if clarity on the Proposal(s) is needed or an explanation of the Proposal(s) would be helpful to the process and in scoring, especially on large and/or complex projects, as determined by the Review Team. See "Lobbyist Registration Affidavit" regarding registering speakers in the Proposal for an oral presentation.

Pursuant to Resolution No. R-208-25, if the contract fiscal impact is expected to exceed $25,000,000 per year or $25,000,000 in any year, then oral presentations are required to be held with the three highest-ranked Proposers or all proposers if three or less proposals

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are received. If the scoring differential between the two highest-ranked proposers exceeds ten percent (10%), then oral presentations shall be conducted at the option of the Competitive Selection Committee.

Unless otherwise advised by the County, oral presentations will only be used for the Proposer to present its Proposal and provide clarifications, if needed, and for the Competitive Selection Committee (or Review Team) to ask questions. Proposals cannot be materially changed through oral presentations. Upon completion of the oral presentation(s), if any, the Review Team will re-evaluate, re-rate and re-rank the Proposals from the Proposer(s) invited to oral presentations based upon the written documents, and in consideration of any clarity gained from the oral presentation.

4.4 Selection Factor

This Solicitation includes a selection factor for Miami-Dade County Certified Small Business Enterprises (SBE's) as follows. A SBE is entitled to receive an additional ten percent (10%) of the total technical evaluation points on the technical portion of such Proposer's Proposal. Pursuant to Sections 2-8.1.1.1.1 and 2-8.1.1.1.2 of the Code, Proposer shall have all the necessary licenses, permits, registrations and certifications, to include SBE certification, to perform a commercially useful function in the provision of the type of goods and/or services required by this Solicitation. For certification information, contact Small Business Development at (305) 375-3111, visit http://www.miamidade.gov/smallbusiness/ or, e-mail your inquiries directly to: Sbdcert@miamidade.gov.

The SBE must be certified by Proposal submission deadline, at contract award, and for the duration of the Contract to remain eligible for the preference. Firms that graduate from the SBE Program during the Contract term may remain on the Contract.

Any entity may enter into a Joint Venture with a Small Business Enterprise firm for the purposes of creating a Proposer to submit a Proposal in response to this Solicitation and receiving an SBE Selection Factor. Joint ventures will be considered as one entity by the County during the evaluation of the Proposal in response to this Solicitation. Joint ventures must be pre-approved by Small Business Development and meet the criteria as established in Implementing Order 3-41 and Sections 2-8.1.1.1.1 and 2-8.1.1.1.2 of the Code for the purposes of receiving an SBE Selection Factor pursuant to this Section.

Whenever there are two best ranked Proposals that are substantially equal and only one of the two so ranked Proposals is submitted by a Proposer entitled to a selection factor, the selection factor shall be the deciding factor for award.

4.5 Local Certified Veteran Business Enterprise Preference

This Solicitation includes a preference for Miami-Dade County Local Certified Veteran Business Enterprises in accordance with Section 2-8.5.1 of the Code. "Local Certified Veteran Business Enterprise" or "VBE" is a firm that is (a) a local business pursuant to Section 2-8.5 of the Code and (b) prior to Proposal or bid submittal is certified by the State of Florida Department of Management Services as a veteran business enterprise pursuant to Section 295.187 of the Florida Statutes. A VBE that submits a Proposal in response to this Solicitation is entitled to receive an additional five percent of the evaluation points scored on the technical portion of such vendor's Proposal. If a Miami-Dade County Certified Small Business Enterprise (SBE) measure is being applied to this Solicitation, a VBE which also qualifies for the SBE measure shall not receive the veteran's preference provided in this section and shall be limited to the applicable SBE preference. At the time of Proposal submission, the firm must affirm in writing its compliance with the certification requirements of Section 295.187 of the Florida Statutes and submit this affirmation and a copy of the actual certification along with the Submittal Form.

4.6 Revenue Evaluation

The revenue Proposal will be evaluated subjectively in combination with the technical Proposal, including an evaluation of how well it matches Proposer's understanding of the County's needs described in this Solicitation, the Proposer's assumptions, and the value of the proposed services. The revenue evaluation is used as part of the evaluation process to determine the highest ranked Proposer. The County reserves the right to negotiate the final terms, conditions and revenue of the Contract as may be in the best interest of the County.

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4.7 Local Preference

The evaluation of competitive Solicitations is subject to Section 2-8.5 of the Code, which, except where contrary to federal or state law, or any other funding source requirements, provides that preference be given to local businesses. If, following the completion of final rankings by the Competitive Selection Committee (or Review Team) a non-local Proposer is the highest ranked responsive and responsible Proposer, and the ranking of a responsive and responsible local Proposer is within 5% of the ranking obtained by said non-local Proposer, then the highest ranked local Proposer shall have the opportunity to proceed to negotiations and the Competitive Selection Committee (or Review Team) will recommend that a contract be negotiated with said local Proposer.

4.8 Negotiations

The Competitive Selection Committee (or Review Team) will evaluate, score and rank Proposals, and submit the results of the evaluation to the County Mayor or designee with its recommendation. The County Mayor or designee will determine with which Proposer(s) the County shall negotiate, if any, through the approval of the Competitive Selection Committee (or Review Team) Coordinator Report which will be shared through electronic means with all Proposers. The County Mayor or designee, at their sole discretion, may direct negotiations with the highest ranked Proposer, by taking into consideration Local Preference to determine whether to direct negotiations with the highest ranked local Proposer recommended by the Competitive Selection Committee (or Review Team) pursuant to the Local Preference Section above, if any, **and/or** may request a better offer. In any event the County engages in negotiations with a Proposer and/or requests a better offer, the discussions may include price and conditions attendant to price.

Notwithstanding the foregoing, if the County and said Proposer cannot reach agreement on a contract, the County reserves the right to terminate negotiations and may, at the County Mayor's or designee's discretion, begin negotiations with the next highest ranked Proposer. This process may continue until a contract acceptable to the County has been executed or all Proposals are rejected. No Proposer shall have any rights against the County arising from such negotiations or termination thereof.

Any Proposer recommended for negotiations shall complete a Non-Collusion Affidavit, in accordance with Section 2-8.1.1 of the Code. (If a Proposer fails to submit the required Non-Collusion Affidavit, said Proposer shall be ineligible for award). Attendees actively participating in negotiation with Miami-Dade County shall be listed on the Lobbyist Registration Affidavit or registered as a lobbyist with the Clerk of the Board. For more information, please use the following link to access the County's Clerk of the Board Lobbyist Online Registration and Information System: https://www.miamidade.gov/Apps/COB/LobbyistOnline/Home.aspx

Any Proposer recommended for negotiations may be required to provide to the County:

a) Its most recent certified business financial statements as of a date not earlier than the end of the Proposer's preceding official tax accounting period, together with a statement in writing, signed by a duly authorized representative, stating that the present financial condition is materially the same as that shown on the balance sheet and income statement submitted, or with an explanation for a material change in the financial condition. A copy of the most recent business income tax return will be accepted if certified financial statements are unavailable.

b) Information concerning any prior or pending litigation, either civil or criminal, involving a governmental agency or which may affect the performance of the services to be rendered herein, in which the Proposer, any of its employees or subcontractors is or has been involved within the last three years.

c) Disclosure of any lawsuits which include allegations of discrimination in the last ten years prior to date of Solicitation, the disposition of such lawsuits, or statement that there are NO such lawsuits, in accord with Resolution No. R-828-19.

4.9 Contract Award

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Any proposed contract, resulting from this Solicitation, will be submitted to the County Mayor or designee. All Proposers will be notified in writing of the decision of the County Mayor or designee with respect to contract award. The Contract award, if any, shall be made to the Proposer whose Proposal shall be deemed by the County to be in the best interest of the County. Notwithstanding the rights of protest listed below, the County's decision of whether to make the award and to which Proposer shall be final.

4.10 Written Objections to Selection Committee Ranking/Scoring and Rights of Protest

A recommendation for contract award may be protested by a Proposer in accordance with the procedures contained in Sections 2-8.3 and 2-8.4 of the Code, as amended, and as established in Implementing Order No. 3-21, as amended. Any question, issue, objection or disagreement concerning the rankings, scoring or recommendations of the Competitive Selection Committee (or Review Team) shall be deemed waived by the Protestor and shall be rejected as a basis of a bid protest, unless it is brought by the Proposer to the attention of the Procurement Contracting Officer. Proposers must notify the Procurement Contracting Officer in writing with a copy to the Clerk of the Board within five (5) work days of receipt of notification of the Competitive Selection Committee (or Review Team) Coordinator Report referenced in Section 4.8 above. The written objection shall state with particularity the basis of the objection and with sufficient information to allow the County's procurement professionals to consider, evaluate and address the issues raised in the objection promptly.

5.0 TERMS AND CONDITIONS

The County's **draft form of agreement** is attached. Proposers should review the document in its **ENTIRETY.** The terms and conditions summarized below are of special note and can be found in their entirety in the agreement:

a) Supplier/Vendor Registration

Prior to being recommended for award, the Proposer shall complete a Miami-Dade County Supplier/Vendor Registration Package. For online Supplier/Vendor registration, visit the **Supplier Portal**: https://supplier.miamidade.gov.

b) Insurance Requirements

The Contractor shall furnish to the County, Strategic Procurement Department, prior to the commencement of any work under any agreement, Certificates of Insurance which indicate insurance coverage has been obtained that meets the stated requirements.

c) Inspector General Reviews

In accordance with Section 2-1076 of the Code, the Office of the Inspector General may, on a random basis, perform audits on all County contracts, throughout the duration of said contracts, except as otherwise indicated. The cost of the audit, if applicable, shall be one quarter (1/4) of one (1) percent of the total Contract amount and the cost shall be included in any proposed price. The audit cost will be deducted by the County from progress payments to the Contractor, if applicable.

6.0 ATTACHMENTS

Draft Form of Agreement
Proposal Submission Package, including:

- Proposer Information Section
- Web Forms – Submittal Form, Subcontracting Form, Contracting with Entities of Foreign Countries of Concern Prohibited Affidavit, Kidnapping, Custody Offenses, Human Trafficking and Related Offenses Affidavit, Lobbyist Registration Affidavit,
- Form 1 – Revenue Proposal Schedule
- Exhibit A-1
- Exhibit A-2

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- Exhibit A-3
- Crandon Park Master Plan

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PROPOSER INFORMATION

Nothing in this Solicitation shall in any way be utilized to request documentation relating to or authorizing consideration of a proposer's social, political, or ideological interests when determining if the proposer is a responsible vendor or give a preference to a proposer based on the proposer's social, political, or ideological interests.

Minimum Qualification Requirements

1. Provide documentation that demonstrates Proposer's ability to satisfy all the minimum qualification requirements. Proposers who do not meet the minimum qualification requirements or who fail to provide supporting documentation may be deemed non-responsive. The Proposer shall, at the time of proposal due date, possess the following licenses and certifications as a minimum qualification requirements for this Solicitation:

   Open Water Lifeguard Certification;

   CPR/First Aid Certification;

   International Kiteboarding Organization ("IKO") or the Professional Air Sports Association ("PASA") certification

Proposer's Experience and Past Performance

2. Describe the Proposer's past performance and experience and state the number of years that the Proposer has been in existence, the current number of employees, and the primary markets served.

3. Describe your firm's experience over the past five (5) years in managing and operating diverse water sports programs, including but not limited to kiteboarding, paddleboarding, and related activities.

4. Provide a detailed description of the Proposer's Knowledge of business operations and the legal requirements associated with this type of operation.

5. Provide examples of your experience in the design, permitting, and operation of water sports facilities or designated water sports areas.

6. Provide a detailed description of three (3) comparable contracts (similar in scope of services to those requested herein) which the Proposer has either ongoing or completed within the past three (3) years. In lieu of the comparable contracts from the Proposer, the County will consider the contractual experience from Proposer's proposed Subcontractor or proposed key personnel, in accordance with Resolution No. 1122-21.

   The description should identify for each project: (i) client, (ii) description of work, (iii) total dollar value of the contract, (iv) dates covering the term of the contract, (v) client contact person and phone number, (vi) statement of whether Proposer/key personnel/Subcontractor was the prime contractor or subcontractor, and (vii) the results of the project. Where possible, list and describe those projects performed for government clients or similar size private entities (excluding any work performed for the County).

7. List all contracts which the Proposer has performed for Miami-Dade County. The County will review all contracts the Proposer has performed for the County in accordance with Section 2-8.1(g) of the Miami-Dade County Code, which requires that "a Bidder's or

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Proposer's past performance on County Contracts be considered in the selection of Consultants and Contractors for future County Contracts." As such, the Proposer must list and describe all work performed for Miami-Dade County and include for each project: (i) name of the County Department which administers or administered the contract, (ii) description of work, (iii) total dollar value of the contract, (iv) dates covering the term of the contract, (v) County contact person and phone number, (vi) statement of whether Proposer was the prime contractor or subcontractor, and (vii) the results of the project.

8. List and describe all bankruptcy petitions (voluntary or involuntary) which has been filed by or against the Proposer, its parent or subsidiaries, predecessor organization(s), or any wholly-owned subsidiary during the past three (3) years. Include in the description the disposition of each such petition.

Key Personnel and Subcontractors Performing Services

9. Identify all key personnel. Provide an organization chart showing all key personnel, including their titles, to be assigned to this project. This chart must clearly identify the Proposer's employees and those of the subcontractors or subconsultants and shall include the functions to be performed by the key personnel. All key personnel includes all partners, managers, seniors and other professional staff that will perform work and/or services in this project.

10. Identify Subcontractors, if any. List the names and addresses of all first tier subcontractors, and describe the extent of work to be performed by each first tier subcontractor. Describe the experience, qualifications and other vital information, including relevant experience on previous similar projects, of the Subcontractors who will be assigned to this project.

11. Describe the experience, qualifications and other vital information, including relevant experience on previous similar projects, of all key personnel, including those of Subcontractors, who will be assigned to this project. Please include: (i) names; (ii) titles; (iii) roles/functions to be performed; and (iv) copies of applicable certifications/accreditations. Address relevant experience, qualifications and other vital information on previous similar contracts, that qualifies the key personnel to perform the services as specified in Appendix A – Scope of Services. Provide resumes, if available, with job descriptions including any key personnel of subcontractors who will be assigned to this contract.

    Note: After proposal submission, but prior to the award of any contract issued as a result of this Solicitation, the Proposer has a continuing obligation to advise the County of any changes, intended or otherwise, to the key personnel identified in its proposal.

Proposed Approach to Providing the Services

12. Describe Proposer's specific project plan and procedures to be used in providing the services in the Scope of Services (see Section 2.0).

13. Describe Proposer's approach to project organization and management, including the responsibilities of Proposer's management and staff personnel that will perform work in this project.

14. Provide a project schedule identifying specific key tasks and duration.

15. Describe your ability to obtain and maintain all necessary licenses, permits, and approvals required to operate a water sports area in compliance with applicable laws and regulations.

Financial Capacity

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16. Demonstrate your organization's financial capacity to develop the proposed site and sustain ongoing operations. Include relevant financial statements or other supporting documentation.

Exceptions:

17. Identify if Proposer has taken any exception to the terms of this Solicitation. If so, indicate what alternative is being offered and the cost implications of the exception(s).

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FORM 1 – PROPOSED REVENUE SCHEDULE

The Proposer shall state its Minimum Guarantee Monthly Rent **and** Percentage of Gross Revenues on this Form 1-Proposed Revenue Schedule in the manner stated herein, without exception or any conditions. The Proposer shall fill in the applicable blanks on this form and make no other marks.

Minimum Guarantee Monthly Rent (GMR) The Proposer shall state the GMR for providing all services as stated in the Scope of Services, attached herein, pursuant to the contract.
GMR Annum Escalator: The GMR shall be escalated by a minimum of 3% above the prior year's MAG, pursuant to the contract.

	Year 1	Year 2	Year 3	Year 4	Year 5
Minimum Guaranteed Monthly Rent (No less than $5,000)					

AND

Percentage of Monthly Gross Receipts
The Proposer shall state the Percentage of Gross Receipts for providing all services as stated in the Scope of Services, attached herein.

	Year 1	Year 2	Year 3	Year 4	Year 5
Percentage of Gross Receipts (No less than 15% of Monthly Gross Receipts)	_____%	_____%	_____%	_____%	_____%

Notes:

1. The selected Proposer shall pay the proposed Minimum Guaranteed Monthly Rent of no less than $5,000.00
2. The selected Proposer shall pay the proposed Percentage of Gross Revenue of no less than 15% of the selected Proposer's Monthly Gross Revenue.
3. All Minimum monthly Guarantee payments shall be received by the County from the selected Proposer on or before the tenth day of the month, without billing.
4. All Gross Revenue payments shall be received by the County from the selected Proposer on or before the tenth day of the month, without billing.

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5. Proposers who do not submit Proposed Revenue in accordance with this Form 1, or who qualify or place any conditions on Proposed Revenue Schedule may be deemed non-responsive.
6. Any proposed revenue payments indicated above are subject to further negotiation by the County with the selected Proposer, at the County's sole discretion.
7. The revenue structures stated above shall be guaranteed for the initial five-year contract term including any extensions thereof.
8. Should the County choose to exercise the option to renew period, the Minimum Guaranteed Monthly Rent payments and Percentage of Gross Revenue will be subject to further negotiation with the selected Proposer, as may be in the best interest of the County. The rate for the renewal term will be determined through negotiations and mutual agreement between the County and the Contractor. Negotiated rates shall begin with, and be no less than, the rate in effect during the final year of the preceding term, with adjustments based on the Consumer Price Index (CPI).

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(This is the form of agreement the County anticipates awarding to the selected Proposer.)

Contract Title OPERATION OF WATERSPORTS CONCESSION AT CRANDON PARK
Contract No. EVN0039676

THIS AGREEMENT for the provision of _____, made and entered into as of this _____ day of _____ by and between _____ , a corporation organized and existing under the laws of the State of _____, having its principal office at _____ (the "Contractor"), and Miami-Dade County, a political subdivision of the State of Florida, having its principal office at 111 NW 1st Street, Miami, Florida 33128 (the "County") (collectively, the "Parties").

WITNESSETH:

WHEREAS, the County owns Crandon Park, (the "Park") for the use by patrons, Concessionaires, employees, and visitors, and which facilities are administered for the County by its Director of the Park, Recreation and Open Space Department ("PROS"), or designee; and

WHEREAS, the Contractor has offered to provide services to operate a water sports concession, on a non-exclusive basis, that shall conform to the Scope of Services (Appendix A), Miami-Dade County's Request for Proposal ("RFP") No. EVN0039676 and all associated addenda and attachments, and the requirements of this Agreement; and

WHEREAS, the Contractor has submitted a written proposal dated _____ (the "Contractor's Proposal") which is incorporated herein by reference; and

WHEREAS, the County desires to procure from the Contractor services to operate a water sports concession for the County, in accordance with the terms and conditions of this Agreement;

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

ARTICLE 1. DEFINITIONS

The following words and expressions used in this Agreement shall be construed as follows, except when it is clear from the context that another meaning is intended:

a) The words "Article" or "Articles" to mean the terms and conditions delineated in this Agreement.

b) The word "Concessionaire" to mean an entity that is authorized by contract, permit, lease, or other legal instrument supported by mutual consideration to engage in the sale of consumer goods (beverages, food, etc.), and services. In this case it is concessionaires who are authorized to sell on County property.

c) The words "Contract" or "Agreement" to mean collectively the (i) Articles, (ii) Scope of Services, (iii) Price Schedule, (iv) all other appendices and attachments hereto, and (v) all amendments issued hereto, and Contractor's Proposal.

d) The words "Contract Manager" to mean the Chief Procurement Officer, Strategic Procurement Department, or the duly authorized representative designated to manage the Contract.

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e) The word "Contractor" to mean _____ and its permitted successors.

f) The word "Days" to mean calendar days.

g) The word "Deliverables" to mean all documentation and any items of any nature submitted by the Contractor to the Project Manager for review and approval pursuant to the terms of this Agreement.

h) The words "Developed Works" to mean all rights, title, and interest in and to certain inventions, ideas, designs and methods, specifications and other documentation related thereto developed by the Contractor and its Subcontractors specifically for the County.

i) The words “Gross Receipts” or “Gross Revenues” to mean all monthly receipts collected by the Contractor from the sale of services or merchandise by the Contractor, concessionaires of Contractor and sub- contractor (s) of the Contractor, sold in, upon or from the concession, including sales as shall in good faith be credited by Contractor, its concessionaires, and sub-contractor in the regular course of its or their business to personnel employed at the time of sale at the concession, including sub-concession Agreements or contract employee payments to the Contractor; but shall not be deemed to mean or include the following: amounts credited by Contractor or its concessionaires or sub concessionaires for returned or defective merchandise; sales, excise and similar taxes; or the proceeds of sales of Contractor’s trade fixtures, operating equipment or other property used by Contractor or its concessionaires 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 Contractor, or its concessionaires, whichever of such events shall occur first.

j) The words “Joint Venture” to mean an association of two or more persons, partnerships, corporations, or other business entities under a contractual agreement to conduct a specific business enterprise for a specified period with both sharing profits and losses. The Joint Venture must be a legally formed entity prior to Proposal submission.

k) The words “Notice to Proceed” to mean a letter issued by the County’s PROS Department advising the Contractor that it may begin operation of the Concession.

l) j) The words “Notice to Proceed Date” to mean the date identified in the Notice to Proceed, as the start date of operation of the Concession

m) The word “Park” to mean located at Crandon Park located at 6747 Crandon Boulevard, Miami, Florida, 33149 located between pristine Bear Cut Preserve and a world renowned swimming/sunbathing beach.

n) The words "Project Manager" to mean the County Mayor or the duly authorized representative designated to manage the Project.

o) The word “Responsible Proposer” shall refer to a Proposer that has the capability in all respects to fully perform the contract requirements and the integrity and reliability that will assure good faith performance.

p) The words “Responsive Proposer” shall refer to a Proposer that has submitted a Proposal that conforms in all material aspects to the Solicitation.

q) The words "Scope of Services" to mean the document appended hereto as Appendix A, which details the Work to be performed

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by the Contractor.

r) The words "Service" or "Services" to mean the provision of the development and operation of water sports concession services in accordance with the Scope of Services.

s) The word "Subcontractor" or "Subconsultant" to mean any person, entity, firm, or corporation, other than the employees of the Contractor, who furnishes labor and/or materials, in connection with the Work, whether directly or indirectly, on behalf and/or under the direction of the Contractor and whether or not in privity of Contract with the Contractor.

t) The words "Watersports Concession" or "Concession" to mean operation providing for watersports activities as detailed in Appendix A.

u) The word "Work" to mean all matters and things required to be done by the Contractor in accordance with the provisions of this Contract.

ARTICLE 2. ORDER OF PRECEDENCE

If there is a conflict between or among the provisions of this Agreement, the order of precedence is as follows: 1) Articles 1 through 80, 2) Appendix A, 3) Appendix B, and 4) Miami-Dade County's RFP No. EVN0039676 and any associated addenda and attachments thereof, and 5) the Contractor's Proposal.

ARTICLE 3. RULES OF INTERPRETATION

a) References to a specified Article, section or schedule shall be construed as reference to that specified Article, or section of, or schedule to this Agreement unless otherwise indicated.

b) Reference to any agreement or other instrument shall be deemed to include such agreement or other instrument as such agreement or other instrument may, from time to time, be modified, amended, supplemented, or restated in accordance with its terms.

c) The terms "hereof", "herein", "hereinafter", "hereby", "herewith", "hereto", and "hereunder" shall be deemed to refer to this Agreement.

d) The terms "directed", "required", "permitted", "ordered", "designated", "selected", "prescribed" or words of like import to mean respectively, the direction, requirement, permission, order, designation, selection or prescription of the Project Manager.

e) The terms "approved", acceptable", "satisfactory", "equal", "necessary", or words of like import to mean respectively, approved by, or acceptable or satisfactory to, equal or necessary in the opinion of the Project Manager.

f) The titles, headings, captions, and arrangements used in these Terms and Conditions are for convenience only and shall not be deemed to limit, amplify, or modify the terms of this Contract, nor affect the meaning thereof.

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ARTICLE 4. NATURE OF THE AGREEMENT

a) This Agreement incorporates and includes all prior negotiations, correspondence, conversations, agreements, and understandings applicable to the matters contained in this Agreement. The Parties agree that there are no commitments, agreements, or understandings concerning the subject matter of this Agreement that are not contained in this Agreement, and that this Agreement contains the entire agreement between the Parties as to all matters contained herein. Accordingly, it is agreed that no deviation from the terms hereof shall be predicated upon any prior representations or agreements, whether oral or written. It is further agreed that any oral representations or modifications concerning this Agreement shall be of no force or effect, and that this Agreement may be modified, altered, or amended only by a written amendment duly executed by the Parties hereto or their authorized representatives.

b) The Contractor shall provide the services set forth in the Scope of Services and render full and prompt cooperation with the County in all aspects of the Work performed hereunder.

c) The Contractor acknowledges that this Agreement requires the performance of all things necessary for or incidental to the effective and complete performance of all Work under this Contract. All things not expressly mentioned in this Agreement but necessary to carrying out its intent are required by this Agreement, and the Contractor shall perform the same as though they were specifically mentioned, described, and delineated.

d) The Contractor shall furnish all labor, materials, tools, supplies, and other items required to perform the Work necessary for the completion of this Contract. All Work shall be accomplished at the direction of and to the satisfaction of the Project Manager.

e) The Contractor acknowledges that the County shall make all policy decisions regarding the Scope of Services. The Contractor agrees to provide input on policy issues in the form of recommendations. The Contractor shall implement all changes in providing services hereunder as a result of a policy change implemented by the County. The Contractor agrees to act in an expeditious and fiscally sound manner in providing the County with input regarding the time and cost to implement said changes and in executing the activities required to implement said changes.

ARTICLE 5. CONTRACT TERM

The Contract shall become effective on the date identified on the first page of this Agreement, and shall continue through the last day of the sixtieth (60th) month, thereafter. The County, at its sole discretion, may renew this Contract for one, five-year option to renew. The County may extend this Contract for up to an additional one hundred-eighty (180) calendar days beyond the current Contract period and will notify the Contractor in writing of the extension. This Contract may be extended beyond the initial one hundred-eighty (180) calendar day extension period by mutual agreement between the County and the Contractor, upon approval by the Board of County Commissioners (the "Board").

ARTICLE 6. NOTICE REQUIREMENTS

All notices required or permitted under this Agreement shall be in writing and shall be deemed sufficiently served if delivered by: (i) Registered or Certified Mail, with return receipt requested; (ii) courier service personally; (iii) Federal Express Corporation or other nationally recognized carrier to be delivered overnight; or (iv) via facsimile or e-mail (if provided below) with delivery of hard copy pursuant to (i), (ii), or (iii) in this paragraph. The addresses for such notice are as follows:

(1) To the County

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a) to the Project Manager:

Miami-Dade County
Park and Recreation Department
275 N.W. 2nd Street, 5th Floor
Miami, Florida 33128
Attn: Cathrine Lara, PROS Business Specialist 3
Phone: (305) 755-7861
Email Cathrine.Lara@miamidade.gov

and

b) to the Contract Manager:

Miami-Dade County
Strategic Procurement Department
Attention: Chief Procurement Officer
111 NW 1st Street, Suite 1300
Miami, FL 33128-1974
Phone: (305) 375-4900
Email: cpo@miamidade.gov

(2) To the Contractor

Contractor Name
Attention:
Address:
Phone:
E-mail:

Either party may at any time designate a different address and/or contact person by giving notice as provided above to the other party. Such notices shall be deemed given upon receipt by the addressee
.

ARTICLE 7. REVENUE FOR SERVICES/AMOUNT OBLIGATED

The Contractor warrants that it has reviewed the County's requirements and has asked such questions and conducted such other inquiries as the Contractor deemed necessary in order to determine the revenue the Contractor will provide to the County under this Contract. The revenue under this Contract shall be in accordance with Appendix B.

All Work undertaken by the Contractor before County's approval of this Contract shall be at the Contractor's risk and expense.

ARTICLE 8. REVENUE

Revenue paid to the County shall remain firm and fixed for the term of the Contract, including any extension periods, pursuant to

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Appendix B; however, the Contractor may offer incentive discounts to the County at any time during the Contract term, including any extension thereof.

ARTICLE 9. METHOD AND TIMES OF PAYMENT

The Minimum Monthly Guarantee shall be payable monthly by the Contractor in U.S. funds, plus applicable state sales tax, as required by law, on the first day of each and every month without billing.

Within ten (10) calendar days of the first day of each month, Contractor shall provide the County the report for the Gross Revenue. Contractor shall pay the County by the tenth (10th) calendar day of each month the additional amount per Article 8 if the Percentage of Monthly Gross Revenue is greater than the Minimum Monthly Guarantee.

Contractor shall promptly furnish County, without charge, copies of any Gross Revenue, related support or backup documentation that the County may request. In the event Contractor discovers that any monthly Gross Revenue summary previously supplied to County was incomplete or inaccurate, Contractor shall as soon as practicable provide County with a corrected Gross Revenue summary for the subject month together with an explanation (and backup documentation in a form acceptable to County) of any changes or updates contained therein.

Payments and associated back-up documentation to include the Gross Revenue report shall be submitted electronically or in hard copy format by the Contractor to the County as follows:

- Hard copy format mailed to:
  Miami Dade County, Parks, Recreation and Open Spaces
  275 NW 2ND Street, 3rd, Floor
  Miami, Florida, 33128
  Attention: Finance Unit

The County may at any time designate a different address and/or contact person by giving written notice to the other party.

ARTICLE 10. INDEMNIFICATION AND INSURANCE

The Contractor shall indemnify, defend 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 Contractor or its employees, agents, servants, partners, principals or Subcontractors. The Contractor shall pay all claims and losses in connection therewith and shall investigate and defend all claims, suits or actions of any kind or nature in the name of the County, where applicable, including appellate proceedings, and shall pay all costs, judgments, and attorney's fees which may issue thereon. The Contractor expressly understands and agrees that any insurance protection required by this Agreement or otherwise provided by the Contractor shall in no way limit the responsibility to indemnify, keep and save harmless and defend the County or its officers, employees, agents, and instrumentalities as herein provided.

Upon County's notification, the Contractor shall furnish to the Strategic Procurement Department, certificate(s) of insurance that indicate that insurance coverage has been obtained, which meets the requirements as outlined below:

1.

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A. Worker's Compensation Insurance for all employees of the Contractor as required by Florida Statute, Chapter 440 including coverage under the U.S. Longshoremen and Harbor Workers' Act (USLH) and/or Jones Act, as applicable for any activities on or about navigable water.

B. Commercial General Liability / Marine Liability Insurance in an amount not less than $1,000,000 per occurrence, and $2,000,000 in the aggregate, not to exclude coverage for bodily injury, personal injury, water sports activities and participants, assault & battery, sexual abuse & molestation, property damage, damage to rented premises, and medical payments, **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 work, in an amount not less than $1,000,000 combined single limit per occurrence for bodily injury and property damage.

D. Umbrella Liability Insurance in an amount not less than $3,000,000 per occurrence, and $3,000,000 in the aggregate.

- **If Excess Liability Insurance is provided, must be follow form to the underlying Commercial General Liability insurance.**

E. Inland Marine Insurance on an "all-risk" basis in an amount not less than one hundred percent (100%) of the replacement value of all equipment, materials, and property of the contractor and/or in the contractor's care, custody and control.

F. Professional Liability Insurance in an amount not less than $1,000,000 per claim.

G. Protection and Indemnity Insurance for any vessels used in connection with the work, in the name of the vessel owner, in an amount not less than $1,000,000 per occurrence. **Miami-Dade County must be shown as an additional insured with respect to this coverage.**

All insurance policies required above shall be issued by companies authorized to do business under the laws of the State of Florida, with the following qualifications:

The company must be rated no less than "**A-**" as to management, and no less than "**Class VII**" as to financial strength, by Best's Insurance Guide, published by A.M. Best Company, Oldwick, New Jersey, or its equivalent, subject to the approval of the County 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 a member of the Florida Guaranty Fund.

The mailing address of Miami-Dade County as the certificate holder must appear on the certificate of insurance as follows:

Miami-Dade County
111 NW 1st Street

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Suite 2340
Miami, Florida 33128-1974

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

Award of this Contract is contingent upon the receipt of the insurance documents, as required, within ten (10) business days. If the certificate of insurance is received within the specified timeframe but not in the manner prescribed in this Agreement, the Contractor shall have an additional five (5) business days to submit a corrected certificate to the County. If the Contractor fails to submit the required insurance documents in the manner prescribed in this Agreement within fifteen (15) business days, the Contractor shall be in default of the contractual terms and conditions and award of the Contract may be rescinded, unless such timeframe for submission has been extended by the County.

The Contractor shall assure that the certificate of insurance required in conjunction with this section remain in full force for the term of the Contract, including any renewal or extension periods that may be exercised by the County. If the certificate of insurance is scheduled to expire during the term of the Contract, the Contractor shall submit new or renewed certificate of insurance to the County before such expiration. If expired certificate of insurance is/are not replaced or renewed to cover the Contract period, the County may suspend the Contract until the new or renewed certificate is/are received by the County in the manner prescribed herein. If such suspension exceeds thirty (30) calendar days, the County may, at its sole discretion, terminate the Contract for cause and the Contractor shall be responsible for all direct and indirect costs associated with such termination.

ARTICLE 11. LATE PAYMENT CHARGE

In the event that the Contractor fails to make any payments on time, by the due date, as required to be paid under the provisions of this Agreement, a late payment charge of 1.5% or $100.00 per month, whichever is greater, shall be assessed. The outstanding balance shall increase accordingly and interest shall accrue on the total balance, to include late payment penalties. The right of the County to require payment of such late payment charge and the obligation of the Contractor to pay same shall be in addition to and not in lieu of the County's rights to enforce other provisions herein, including termination of this Agreement, or to pursue other remedies provided by law.

ARTICLE 12. APPLICATION OF PAYMENTS

Payments 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 Monthly Fee, then the Percentage Fee. Any remaining balance in the payment will be applied to any other balance due.

ARTICLE 13. GROSS RECEIPTS

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a) Contractor's Certification of Receipts: Contractor shall submit to County, upon request, by the 1st of the month but no later than the 10th day following the end of each month, and by the 1st of the month but no later than the 10th day of the month following the expiration or earlier termination of the term of this Contract, a monthly gross sales report, backed by Florida Department of Revenue Sales Return Slip.

b) Contractor 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 Contractor's organization and certified to be true and correct, setting forth the amount of Gross Receipts during the preceding Contract Year, which statement shall also be duly certified by an independent Certified Public Accountant. The statement referred to herein shall be in such form and style and contain such details and breakdowns as County may reasonably determine or require.

Examination of Contractor's Books and Records: Such books and records as are necessary to determine the amount of any Percentage of Monthly Gross Receipts payable to County shall be subject to examination by County or its authorized representatives at reasonable times during Contractor's business hours, in such manner as not to interfere unreasonably with the conduct of Contractor's business. All information obtained by County or its authorized representatives from Contractor's books and records shall be kept confidential by County and all such representatives, except in connection with any mortgage or assignment of this Contract for financing purposes, or if subject to the requirements of Florida Public Records Act.
The acceptance by County of payments of Percentage of Monthly Gross Receipts or reports thereon shall be without prejudice and shall in no case constitute a waiver of County's right to examination of Contractor's books and records of its Gross Receipts.

c) Audit of Contractor's Business Affairs and Records: County shall have the right to cause, upon five (5) days' written notice to Contractor, 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. Contractor shall make all such records available for said examination at the County or at some other mutually agreeable location. If the result of such audit shall show that Contractor's statement of Gross Receipts for any period has been understated, Contractor shall pay County the amount due. If such understatement is three percent (3%) or more, Contractor 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 Contractor. The furnishing by Contractor of any grossly inaccurate statement shall constitute a breach of this Contract.

d) If Contractor fails to record, maintain, or make available sales supporting documentation as specified above, Contractor may be deemed by the County to be in default of this Contract.

ARTICLE 14. SALES TAX

The Contractor shall be liable to collect and remit all applicable Sales and Use Taxes directly to the appropriate authority.

ARTICLE 15. SECURITY DEPOSIT

Prior to the start of the Agreement, the Contractor shall furnish a security deposit in cash or cashier's check payable to the Board of County Commissioners, equal to three (3) months Guaranteed Monthly Rent or $_____ Redeemable at the end of the Agreement term except for such conditions pertinent thereto, additionally, if the County must draw upon any amount owed to the County for this Agreement, Contractor hereby agrees to restore the security to its original amount within seven (7) days of receiving notice by the County that the security was drawn upon. In the event the Contractor abandons its performance, the County will retain the security deposit. No interest on the security deposit will be owed to the Contractor.

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ARTICLE 16. GUARANTEED MONTHLY RENT

In consideration of the use of the Concession, Contractor does hereby covenant and agree to pay to the County without deduction or set off of any kind the sum of $_____ (plus tax) by the 1st of the month but no later than the 10th, in advance without invoice, per month as Guaranteed Monthly Rent. Payment of the Guaranteed Monthly Rent shall commence on the Notice to Proceed Date, which shall be addressed in the Notice to Proceed letter issued by the County. If the Notice to Proceed letter date is other than the 1st of the month, the amount due for the first month shall be pro-rated, as shall the last month of this Agreement, considering any extensions.

The Guaranteed Monthly Rent shall be adjusted upward at the end of each subsequent contract year (2-5) and shall be escalated based on 3% of the previous year's Gross Receipts, pursuant to the Agreement.

ARTICLE 17. PERCENTAGE OF MONTHLY GROSS RECEIPTS – PERCENTAGE FEE

In addition to the Guaranteed Monthly Rent, Contractor agrees to pay to the County, monthly, an amount equal to _____% (plus tax) of Monthly Gross Receipts hereinafter referred to as "Percentage Fee" within 10 days following the end of each month during the term of this Agreement.

ARTICLE 18. MANNER OF PERFORMANCE

a) The Contractor shall provide the Work described herein in a competent and professional manner satisfactory to the County in accordance with the terms and conditions of this Agreement. The County shall be entitled to a satisfactory performance of all Work described herein and to full and prompt cooperation by the Contractor in all aspects of the Work. At the request of the County, the Contractor shall promptly remove from the Project any Contractor's employee, Subcontractor, or any other person performing Work hereunder. The Contractor agrees that such removal of any of its employees does not require the termination or demotion of any employee by the Contractor.

b) The Contractor agrees to defend, hold harmless and indemnify the County and shall be liable and responsible for all claims, suits, actions, damages, and costs (including attorneys' fees and court costs) made against the County, occurring on account of, arising from or in connection with the removal and replacement of any Contractor's personnel performing Services hereunder at the behest of the County. Removal and replacement of any Contractor's personnel as used in this Article shall not require the termination and/or demotion of such Contractor's personnel.

c) The Contractor always agrees that it will employ, maintain, and assign to the performance of the Work a sufficient number of competent and qualified professionals and other personnel to meet the requirements to which reference is hereinafter made. The Contractor agrees to adjust its personnel staffing levels or to replace any of its personnel if so, directed upon reasonable request from the County, should the County make a determination, in its sole discretion, that said personnel staffing is inappropriate or that any individual is not performing in a manner consistent with the requirements for such a position.

d) The Contractor warrants and represents that its personnel have the proper skill, training, background, knowledge, experience, rights, authorizations, integrity, character, and licenses as necessary to perform the Work described herein, in a competent and professional manner.

e) The Contractor shall always cooperate with the County and coordinate its respective work efforts to maintain the progress most effectively and efficiently in performing the Work.

f) The Contractor shall comply with all provisions of all federal, state, and local laws, statutes, ordinances, and regulations that are

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applicable to the performance of this Agreement.

ARTICLE 19. COUNTY APPROVAL

The Contractor agrees that it will obtain prior written approval from the County in all of the following matters:

- **a)** Changes from originally approved specifications, pricing, activities, signage, and graphics.
- **b)** Aesthetics of the Concession.
- **c)** Any use of the County's facilities or Concession's name.
- **d)** Hours of Operation.
- **e)** Uniforms to be used by employees shall be consistent with or better than those normally used by professionally-operated Concessions.
- **f)** Should any of the above items be disapproved, Contractor may offer alternative solutions. The County reserves the right with stated just cause to require the Contractor to change within a stated time any and all items contained in this paragraph it deems in need of change, despite previous approval of same.

ARTICLE 20. SIGNS

The nature, size, shape, and installation of Contractor's business signs within the Concession or in, on, or adjacent to the Concession or The Park must first be approved in writing by County. Said signage must also be approved by all governmental authorities having jurisdiction and must conform to the requirements set forth in Article 7 of the Miami-Dade Home Rule Charter as well as the requirements of the Crandon Park Master Plan, as it may be amended from time to time. All signs shall be removed by the Contractor at the termination of the Agreement and any damage or unsightly condition caused to premises because of or due to said signs shall be satisfactorily corrected or repaired by the Contractor.

ARTICLE 21. ON-SITE MANAGER/DESIGNEE

Throughout the term of this Agreement, the Contractor shall employ a qualified full-time on-site Concession Manager or Designee having experience in the management of this type of operation, who shall be available during normal business hours and on-call at all times, and be delegated sufficient authority to ensure the competent performance and fulfillment of the responsibility of the Contractor under this Agreement and to accept service of all notices provided for herein.

ARTICLE 22. QUALITY OF CONTRACTOR'S SERVICE

The Contractor 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 Contractor shall control the conduct, demeanor, and appearance of its officers, members, employees, agents, representatives, and upon objection of the County concerning the conduct, demeanor or appearance of any such person, Contractor shall immediately take all necessary steps to correct the cause of such objection.

Contractor 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 this Agreement, with the exception of loss by fire or other casualty.

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Contractor shall furnish good, prompt, and efficient service, adequate to meet all reasonable demands therefore.

It is expressly understood and agreed that the 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 location. The Contractor agrees that a determination by the County will be accepted as final in evaluating whether its activities infringe on the rights of others and that Contractor will fully comply with any decisions on this matter.

ARTICLE 23. MONITORING SERVICES

The County shall have the right, without limitation, to monitor and test the quality of services of the Contractor, including, but not limited to personnel and the effectiveness of its cash-handling procedures, through the use of a shopping service, closed circuit TV, and other reasonable means.

ARTICLE 24. UTILITY SERVICES

Contractor shall not place any unacceptable load or burden on the capacity of the applicable building systems and utility lines of The Park as determined either by the public utility providing such service or by County in the exercise of reasonable judgment. Contractor shall make all repairs caused by Contractor's negligence.

ARTICLE 25. SERVICES/EQUIPMENT PROVIDED BY COUNTY

The County shall provide the following services, as existing services to the Contractor at the designated premises:

A. Electrical service
B. Water facilities
C. Sewage collection facilities
D. Waste collection services

The Contractor shall pay to the County a monthly fee of three hundred seventy-five dollars ($375.00) for the use of these facilities. This fee is separate from and in addition to other provisions of payment or financial obligations covered in this Agreement. Beginning at the end of the first contract year, and continuing annually through contract years two (2) through five (5), the monthly fee shall be adjusted upward by three percent (3%) over the total amount paid in the preceding contract year.

ARTICLE 26. EQUIPMENT AND SERVICE PROVIDED BY CONTRACTOR

The Contractor, at its sole cost, shall provide for the Concession:

A. Janitorial service within the Concession. The Contractor shall keep the Concession and equipment clean at all times. If the Concession and equipment are not kept clean in the opinion of the County, the Contractor will be so advised and if corrective action if not immediately taken, the County will cause the same to be cleaned and the Contractor shall assume responsibility and liability for such cleaning.

B. Maintenance service for equipment necessary for the operation of the Concession. The Contractor shall ensure monthly maintenance and necessary repairs are done for all applicable equipment.

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ARTICLE 27. EQUIPMENT INSTALLED BY CONTRACTOR

The Contractor shall furnish and install all furnishings, fixtures and equipment necessary for the operation of the Concession. All furnishings, fixtures, and equipment acquired for the Concession shall be of a high quality as good as or better than that found at similar facilities. The County shall be afforded the opportunity to review and approve all furnishings, fixtures, and equipment proposed for use in the Concession. The Contractor shall submit detailed descriptions, specifications, and/or samples to the County for approval prior to installation or use. No furnishings, fixtures, or equipment shall be installed or used without the County's prior approval.

Any equipment, furnishings, signage and advertising installed by the Contractor shall be in compliance with Article 7 of the Home Rule Charter and in keeping with the appropriate standards of decor at the Park. Following the installation of any additional equipment, furnishing and improvements which the County may approve from time to time, Contractor 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, or improvements was completed.

Contractor agrees that all new equipment, furnishings and improvements provided shall meet the requirements of all applicable building, fire, pollution and other related codes.

Contractor shall not alter or modify any portion of the Park, the Concession or the improvements constructed therein without first obtaining written approval from the County.

ARTICLE 28. SECURITY AND PROTECTION

The Contractor acknowledges and accepts full responsibility for the security and protection of its equipment, other personal property and money used in connection therewith. The County makes no warranties as to any obligation to provide security for the Concession, outside of standard security measures supplied by the County in general. Contractor may provide its own specialized security for the Concession, subject to the County's written approval.

ARTICLE 29. HURRICANE PREPAREDNESS

The Contractor shall follow the County's emergency evacuation and hurricane plan as set forth for the Concession.

ARTICLE 30. MAINTENANCE RESPONSIBILITIES OF CONTRACTOR, APPEARANCE OF FACILITY

Contractor shall, at its sole cost and expense, keep and maintain the Concession in a clean and good condition. The provision of janitorial services and all interior maintenance within the Concession are the sole and exclusive responsibility of the Contractor. Upon failure of the Contractor to maintain the Concession as required in this Paragraph, County may, after fifteen (15) days written notice to the Contractor, enter upon the Concession and perform all cleaning, maintenance and repairs which may be necessary and the cost thereof, plus 25% for administrative costs, shall constitute Percentage Fee(s), and shall be billed to and paid by the Contractor.

ARTICLE 31. CURTAILMENT OR INTERRUPTION OF SERVICE

The County reserves the right to interrupt, curtail or suspend the provision of any utility service to which Contractor may be entitled hereunder when necessary by reason of accident or emergency or for repairs, alterations, or improvements in the judgment of the County 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 prosecuted with reasonable diligence. The County shall

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in no respect be liable for any failure of the utility companies or governmental authorities to supply utility service to Contractor or for any limitation of supply resulting from governmental orders or directives. No diminution or abatement of payment or other charges, nor damages, shall be claimed by Contractor 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 Contractor's obligations hereunder be affected or reduced thereby.

ARTICLE 32. INSPECTION BY COUNTY

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

ARTICLE 33. RIGHT OF ENTRY

The County or any of its agents shall have the right to enter upon the Concession at all reasonable times, whether or not during normal business hours, to examine same and to make such repairs, alterations, replacements, or improvements in the Concession as the County deems necessary, but the County assumes no obligation to make repairs in the Concession 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 Contractor and that the County will diligently proceed therewith to completion. The County or the County's agents shall also have the right to enter upon the Concession at reasonable times to show them to actual or prospective mortgagees, tenants, or Contractors of the Concession. During the one hundred and eighty (l80) days prior to the expiration of the term of this Agreement, the County may show the Concession to prospective tenants. If, during the last ninety (90) days of the term of this Agreement, Contractor shall have removed all or substantially all of Contractor's property there from, the County may immediately enter, alter, renovate, and redecorate the Concession without elimination or abatement or fee or other compensation and such action shall have no effect upon this Agreement.

ARTICLE 34. PERMITS AND REGULATIONS

Contractor covenants and agrees that Contractor will obtain any and all necessary permits and approvals and that all uses of the property will be in conformance with all applicable laws.

ARTICLE 35. DAMAGE OR DESTRUCTION OF PROPERTY

In all events, Contractor shall repair all damages to the property caused by the Contractor, its employees, agents, contractors or sub-consultants. If the Concession is partially damaged, but not rendered unusable for the purposes of this Agreement, the same shall with due diligence be repaired by the Contractor from proceeds of the insurance coverage and/or at its own cost and expense and a pro-rata adjustment of the Guaranteed Monthly Rent payable hereunder for the period of the Contractor's business interruption, shall be made. If the damage shall be so extensive as to render such premises unusable for the purposes intended, but capable of being repaired within thirty (30) days, the damage shall be repaired with due diligence by the Contractor from the proceeds of the insurance coverage policy and/or at its own cost and expense, and for the period of Contractor's business interruption a pro-rata adjustment shall be made as to the Guaranteed Monthly Rent. In the event said premises are completely destroyed or so damaged that it will remain unusable for more than thirty (30) days, through no fault of the Contractor, its employee, agents, contractors or sub-consultants, the Contractor and the County shall be under no obligation to repair and reconstruct the premises, and adjustment of the Guaranteed Monthly 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

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matters for continuing the premises in a Agreement, the Contractor may reconstruct the premises at its own cost.

ARTICLE 36. REPAIRS, ALTERATIONS AND ADDITIONS BY THE COUNTY

The County, as its responsibility, and at its expense (except if the damage is caused by Contractor, its employees, agents, or independent Contractors), shall make all repairs and replacements, structural and otherwise, necessary, or desirable in order to keep in good order and repair the foundations, roofs and structural soundness of floors and walls of the Common Areas of the Park, excluding the Concession.

The County reserves the right to interrupt, curtail or suspend the provision of any utility service to which Contractor may be entitled hereunder when necessary by reason of accident or emergency or for repairs, alterations, or improvements in the judgment of County 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 prosecuted 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 Contractor or for any limitation of supply resulting from governmental orders or directives. No diminution or abatement of Fee or other charges, nor damages, shall be claimed by Contractor 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 Contractor's obligations hereunder be affected or reduced thereby

Except as provided herein in this Agreement, the County shall have the absolute right to make reasonable repairs, alterations, and additions to any structures and facilities, including the Concession under this Agreement, free from any and all liability to the Contractor 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 of the County and where not otherwise indemnified by the Contractor, 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 Contractor's operations of the Concession, for short term disruption of one week or less to Contractor's business where adequate accommodations can be made to minimize the inconvenience and injury to Contractor's business. If the Contractor's business is interrupted for more than one week, as a result of any of the foregoing, a pro rata adjustment of the Guaranteed Monthly Rent payable hereunder for the period of such interruption shall be made.

ARTICLE 37. DIMINUTION FOR COUNTY'S REPAIR

Except as elsewhere specifically provided in this Agreement, there shall be no allowance to Contractor for a diminution of rental value and no liability on the part of the County by reason of inconvenience, annoyance or interference with Contractor's business arising from the County or its agents making any repairs, replacements, alterations, decorations, additions or improvements in or to any portion of the Park, or in or to fixtures, appurtenances or equipment thereof, provided such work (except in case of emergency and to the extent practical) does not unreasonably interfere with Contractor's use of the Concession.

ARTICLE 38. PERFORMANCE OF OBLIGATIONS

Contractor covenants at all times to perform promptly all of the obligations of Contractor set forth in this Agreement.

ARTICLE 39. INGRESS AND EGRESS

Subject to rules and regulations, statutes and ordinances, and terms of this Agreement governing the use of the Concession, Contractor, 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 premises.

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ARTICLE 40. OWNERSHIP OF CONTRACTOR

The ownership of the Contractor is very important to the County. Therefore, the County reserves the right to terminate this Agreement at any time if more than 10% of the ownership of the Contractor has not been specifically approved by the County. The County shall reject any proposed new owner for any reason it believes is in the best interests of the public. Contractor agrees to provide on 24-hour notice to the County an accurate list of all owners of the Contractor, showing the percentage of ownership of each owner, and, any change of corporate name or corporate ownership. Contractors, for which stock is listed on a major stock exchange, may be wholly or partially exempted from the list requirement of this paragraph at the discretion of the County.

ARTICLE 41. PERSONNEL

The Contractor shall provide County with the name and telephone number of a management person of the Contractor who will be on call, at all times, for emergencies, or other matters related to the operations under this Agreement. The Contractor shall ensure that all its personnel performing services under this Agreement are courteous and cooperative and present a neat, clean, and professional appearance at all times. Failure of an employee to do so shall be grounds for the County to demand his or her removal from duties in the Concession. The Contractor shall ensure that all employees having public contact are able to understand and communicate in spoken English.

In the event the Contractor wishes to substitute personnel for the key personnel identified by the Contractor's Proposal, the Contractor must notify the County in writing and request written approval for the substitution at least ten (10) business days prior to effecting such substitution.

ARTICLE 42. EMPLOYEES OF THE CONTRACTOR

All employees of the Contractor shall be, at all times, employees of the Contractor under its sole direction and not employees or agents of the County. The Contractor shall supply competent employees. Miami-Dade County may require the Contractor to remove an employee it deems careless, incompetent, insubordinate or otherwise objectionable and whose continued employment on County property is not in the best interest of the County. Each employee shall have and wear proper identification.

ARTICLE 43. INDEPENDENT CONTRACTOR RELATIONSHIP

The Contractor is, and shall be, in the performance of all Work and activities under this Agreement, an independent contractor, and not an employee, agent or servant of the County. All persons engaged in any of the Work performed or Services provided pursuant to this Agreement shall always, and in all places, be subject to the Contractor's sole direction, supervision, and control. The Contractor shall exercise control over the means and manner in which it and its employees perform the Work, and in all respects the Contractor's relationship and the relationship of its employees to the County shall be that of an independent contractor and not as employees and agents of the County.

The Contractor does not have the power or authority to bind the County in any promise, agreement, or representation other than specifically provided for in this Agreement.

ARTICLE 44. DISPUTE RESOLUTION PROCEDURE

a) The Contractor hereby acknowledges that the Project Manager will determine in the first instance all questions of any nature whatsoever arising out of, under, or in connection with, or in any way related to or on account of, this Agreement including

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without limitations: questions as to the value, acceptability and fitness of the Services; questions as to either party's fulfillment of its obligations under the Contract; negligence, fraud or misrepresentation before or subsequent to acceptance of the Contractor's Proposal; questions as to the interpretation of the Scope of Services; and claims for damages, compensation and losses.

b) The Contractor shall be bound by all determinations or orders and shall promptly comply with every order of the Project Manager, including the withdrawal or modification of any previous order and regardless of whether the Contractor agrees with the Project Manager's determination or order. Where orders are given orally, they will be issued in writing by the Project Manager as soon thereafter as is practicable.

c) The Contractor must, in the final instance, seek to resolve every difference concerning the Agreement with the Project Manager. In the event that the Contractor and the Project Manager are unable to resolve their difference, the Contractor may initiate a dispute in accordance with the procedures set forth in this Article. **Exhaustion of these procedures shall be a condition precedent to any lawsuit permitted hereunder.**

d) In the event of such dispute, the Parties authorize the County Mayor or designee, who may not be the Project Manager or anyone associated with this Project, acting personally, to decide all questions arising out of, under, or in connection with, or in any way related to or on account of the Agreement (including but not limited to claims in the nature of breach of contract, fraud or misrepresentation arising either before or subsequent to execution hereof) and the decision of each with respect to matters within the County Mayor's purview as set forth above shall be conclusive, final and binding on the Parties. Any such dispute shall be brought, if at all, before the County Mayor within ten (10) days of the occurrence, event or act out of which the dispute arises.

e) The County Mayor may base this decision on such assistance as may be desirable, including advice of experts, but in any event shall base the decision on an independent and objective determination of whether Contractor's performance or any Deliverable meets the requirements of this Agreement and any specifications with respect thereto set forth herein. The effect of any decision shall not be impaired or waived by any negotiations or settlements or offers made in connection with the dispute, whether or not the County Mayor participated therein, or by any prior decision of others, which prior decision shall be deemed subject to review, or by any termination or cancellation of the Agreement. All such disputes shall be submitted in writing by the Contractor to the County Mayor for a decision, together with all evidence and other pertinent information regarding such questions, in order that a fair and impartial decision may be made. Whenever the County Mayor is entitled to exercise discretion or judgement or to make a determination or form an opinion pursuant to the provisions of this Article, such action shall be fair and impartial when exercised or taken. The County Mayor, as appropriate, shall render a decision in writing and deliver a copy of the same to the Contractor. Except as such remedies may be limited or waived elsewhere in the Agreement, Contractor reserves the right to pursue any remedies available under law after exhausting the provisions of this Article.

f) This Article will survive the termination or expiration of this Agreement.

ARTICLE 45. MUTUAL OBLIGATIONS

a) This Agreement, including attachments and appendices to the Agreement, shall constitute the entire Agreement between the Parties with respect hereto and supersedes all previous communications and representations or agreements, whether written or oral, with respect to the subject matter hereto unless acknowledged in writing by the duly authorized representatives of the Parties.

b) Nothing in this Agreement shall be construed for the benefit, intended or otherwise, of any third party that is not a parent or subsidiary of a party or otherwise related (by virtue of ownership control or statutory control) to a party.

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c) In those situations where this Agreement imposes an indemnity obligation on the Contractor, the County may, at its expense, elect to participate in the defense if the County should so choose. Furthermore, the County may at its own expense defend or settle any such claims if the Contractor fails to diligently defend such claims, and thereafter seek indemnity for such defense or settlement costs from the Contractor.

ARTICLE 46. QUALITY ASSURANCE/QUALITY ASSURANCE RECORD KEEPING

The Contractor shall maintain, and shall require that its Subcontractors and suppliers maintain, complete and accurate records to substantiate compliance with the requirements set forth in the Agreement. The Contractor and its Subcontractors and suppliers shall retain such records, and all other documents relevant to the Work furnished under this Agreement for a period of three (3) years from the expiration date of this Agreement and any extension thereof.

ARTICLE 47. AUDITS

The County, or its duly authorized representatives and governmental agencies, shall until the expiration of three (3) years after the expiration of this Agreement and any extension thereof, have access to and the right to examine and reproduce any of the Contractor's books, documents, papers and records and of its Subcontractors and suppliers which apply to all matters of the County. Such records shall subsequently conform to Generally Accepted Accounting Principles requirements, as applicable, and shall only address those transactions related to this Agreement.

Pursuant to Section 2-481 of the Code, the Contractor will grant access to the Commission Auditor to all financial and performance related records, property, and equipment purchased in whole or in part with government funds within five (5) business days of the Commission Auditor's request. The Contractor agrees to maintain an accounting system that provides accounting records that are supported with adequate documentation, and adequate procedures for determining the allowability and allocability of costs.

ARTICLE 48. SUBSTITUTION OF PERSONNEL

In the event the Contractor needs to substitute personnel for the key personnel identified by the Contractor's Proposal, the Contractor must notify the County in writing and request written approval for the substitution at least ten (10) business days prior to effecting such substitution. However, such substitution shall not become effective until the County has approved said substitution.

ARTICLE 49. CONSENT OF THE COUNTY REQURIED FOR ASSIGNMENT

The Contractor shall not assign, transfer, convey or otherwise dispose of this Agreement, including its rights, title, or interest in or to the same or any part thereof without the prior written consent of the County.

ARTICLE 50. SUBCONTRACTUAL RELATIONS

a) If the Contractor causes any part of this Agreement to be performed by a Subcontractor, the provisions of this Contract will apply to such Subcontractor and its officers, agents and employees in all respects as if it and they were employees of the Contractor; and the Contractor will not be in any manner thereby discharged from its obligations and liabilities hereunder, but will be liable hereunder for all acts, omissions, and negligence of the Subcontractor, its officers, agents, and employees, as if they were employees of the Contractor. The Services performed by the Subcontractor will be subject to the provisions hereof as if performed directly by the Contractor.

b) The Contractor, before making any subcontract for any portion of the Work, will state in writing to the County the name of the

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proposed Subcontractor, the portion of the Work which the Subcontractor is to do, the place of business of such Subcontractor, and such other information as the County may require. The County will have the right to require the Contractor not to award any subcontract to a person, firm or corporation disapproved by the County.

c) Before entering into any subcontract hereunder, the Contractor will inform the Subcontractor fully and completely of all provisions and requirements of this Agreement relating either directly or indirectly to the Work to be performed. Such Work performed by such Subcontractor will strictly comply with the requirements of this Contract.

d) In order to qualify as a Subcontractor satisfactory to the County, in addition to the other requirements herein provided, the Subcontractor must be prepared to prove to the satisfaction of the County that it has the necessary facilities, skill and experience, and ample financial resources to perform the Work in a satisfactory manner. To be considered skilled and experienced, the Subcontractor must show to the satisfaction of the County that it has satisfactorily performed Work of the same general type which is required to be performed under this Agreement.

e) The County shall have the right to withdraw its consent to a subcontract if it appears to the County that the Subcontractor will delay, prevent, or otherwise impair the performance of the Contractor's obligations under this Agreement. All Subcontractors are required to protect the confidentiality of the County's proprietary and confidential information. Contractor shall furnish to the County copies of all subcontracts between Contractor and Subcontractors and suppliers hereunder. Within each such subcontract, there shall be a clause for the benefit of the County in the event the County finds the Contractor in breach of this Contract, permitting the County to request completion by the Subcontractor of its performance obligations under the subcontract. The clause shall include an option for the County to pay the Subcontractor directly for the performance by such Subcontractor. Notwithstanding, the foregoing shall neither convey nor imply any obligation or liability on the part of the County to any Subcontractor hereunder as more fully described herein.

ARTICLE 51. ASSUMPTION, PARAMETERS, PROJECTIONS, ESTIMATES AND EXPLANATIONS

The Contractor understands and agrees that any assumptions, parameters, projections, estimates, and explanations presented by the County were provided to the Contractor for evaluation purposes only. However, since these assumptions, parameters, projections, estimates, and explanations represent predictions of future events the County makes no representations or guarantees; and the County shall not be responsible for the accuracy of the assumptions presented; and the County shall not be responsible for conclusions to be drawn therefrom; and any assumptions, parameters, projections, estimates and explanations shall not form the basis of any claim by the Contractor. The Contractor accepts all risk associated with using this information.

ARTICLE 52. SEVERABILITY

If this Agreement contains any provision found to be unlawful, the same shall be deemed to be of no effect and shall be deemed stricken from this Agreement without affecting the binding force of this Agreement as it shall remain after omitting such provision.

ARTICLE 53. TERMINATION AND SUSPENSION OF WORK

a) This Agreement may be terminated for cause by the County for reasons including, but not limited to, (i) the Contractor commits an Event of Default (as defined below in ARTICLE 24) and fails to cure said Event of Default (as delineated below in ARTICLE 25), or (ii) Contractor attempts to meet its contractual obligations to the County through fraud, misrepresentation, or material misstatement.

b) This Agreement may also be terminated for convenience by the County. Termination for convenience is effective on the termination date stated in the written notice provided by the County.

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c) If County terminates this Agreement for cause under ARTICLE 23(a) above, the County may, in its sole discretion, also terminate or cancel any other contract(s) that such individual or corporation or other entity has with the County and that such individual, corporation or other entity shall pay all direct or indirect costs associated with such termination or cancellation, including attorneys' fees.

d) The foregoing notwithstanding, if the Contractor attempts to meet its contractual obligations with the County through fraud, misrepresentation, or material misstatement, the Contractor may be debarred from County contracting in accordance with the County debarment procedures. The Contractor may be subject to debarment for failure to perform and all other reasons set forth in Section 10-38 of the Code.

e) In the event that the County exercises its right to terminate this Agreement, the Contractor shall, upon receipt of such notice, unless otherwise directed by the County:

i. stop Work on the date specified in the notice (the "Effective Termination Date");

ii. take such action as may be necessary for the protection and preservation of the County's materials and property;

iii. cancel orders;

iv. assign to the County and deliver to any location designated by the County any non-cancelable orders for Deliverables that are not capable of use except in the performance of this Agreement and has been specifically developed for the sole purpose of this Agreement and not incorporated in the Services;

v. take no action which will increase the amounts payable by the County under this Agreement; and

vi. reimburse the County a proration of the fees paid annually based on the remaining months of the term per the compensation listed in Appendix B.

f) In the event that the County exercises its right to terminate this Agreement, the Contractor will be compensated as stated in the payment Articles herein for the:

i. portion of the Services completed in accordance with the Agreement up to the Effective Termination Date; and

ii. non-cancelable Deliverables that are not capable of use except in the performance of this Agreement and has been specifically developed for the sole purpose of this Agreement, but not incorporated in the Services.

g) All compensation pursuant to this Article are subject to audit.

h) In the event the Contractor fails to cure an Event of Default timely, the County may terminate this Agreement, and the County or its designated representatives may immediately take possession of all applicable equipment, materials, products, documentation, reports, and data.

ARTICLE 54. EVENT OF DEFAULT

a) An Event of Default is a material breach of this Agreement by the Contractor, and includes but is not limited to the following:

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i. the Contractor has not delivered Deliverables and/or Services on a timely basis;

ii. the Contractor has refused or failed to supply enough properly skilled staff personnel;

iii. the Contractor has failed to make prompt payment to Subcontractors or suppliers for any Services;

iv. the Contractor has become insolvent (other than as interdicted by the bankruptcy laws), or has assigned the proceeds received for the benefit of the Contractor's creditors, or the Contractor has taken advantage of any insolvency statute or debtor/creditor law or if the Contractor's affairs have been put in the hands of a receiver;

v. the Contractor has failed to obtain the approval of the County where required by this Agreement;

vi. the Contractor has failed to provide "adequate assurances" as required under subsection b below;

vii. the Contractor has failed in the representation of any warranties stated herein; or

viii. the Contractor fails to comply with ARTICLE 39.

b) When, in the opinion of the County, reasonable grounds for uncertainty exist with respect to the Contractor's ability to perform the Work or any portion thereof, the County may request that the Contractor, within the timeframe set forth in the County's request, provide adequate assurances to the County, in writing, of the Contractor's ability to perform in accordance with the terms of this Agreement. Until the County receives such assurances, the County may request an adjustment to the compensation received by the Contractor for portions of the Work which the Contractor has not performed. In the event that the Contractor fails to provide to the County the requested assurances within the prescribed timeframe, the County may:

i. treat such failure as a repudiation and/or material breach of this Agreement; and

ii. resort to any remedy for breach provided herein or at law, including but not limited to, taking over the performance of the Work or any part thereof either by itself or through others.

ARTICLE 55. NOTICE OF DEFAULT - OPPORTUNITY TO CURE

If an Event of Default occurs in the determination of the County, the County shall notify the Contractor (the "Default Notice"), specifying the basis for such default, and advising the Contractor that such default must be cured immediately, or this Agreement with the County may be terminated. Notwithstanding, the County may, in its sole discretion, allow the Contractor to rectify the default to the County's reasonable satisfaction within a thirty (30) day period. The County may grant an additional period of such duration as the County shall deem appropriate without waiver of any of the County's rights hereunder, so long as the Contractor has commenced curing such default and is effectuating a cure with diligence and continuity during such thirty (30) day period or any other period which the County prescribes. The Default Notice shall specify the date the Contractor shall discontinue the Work upon the Effective Termination Date.

ARTICLE 56. REMEDIES IN THE EVENT OF DEFAULT

If an Event of Default occurs, whether or not the County elects to terminate this Agreement as a result thereof, the Contractor shall be liable for all damages resulting from the default, including but not limited to:

a) lost revenues;

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b) the difference between the cost associated with procuring Services hereunder and the amount actually expended by the County for re-procurement of Services, including procurement and administrative costs; and

c) such other direct damages.

The Contractor shall also remain liable for any liabilities and claims related to the Contractor's default. The County may also bring any suit or proceeding for specific performance or for an injunction.

ARTICLE 57. PATENT AND COPYRIGHT INDEMNIFICATION

a) The Contractor shall not infringe on any copyrights, trademarks, service marks, trade secrets, patent rights, other intellectual property rights or any other third-party proprietary rights in the performance of the Work.

b) The Contractor warrants that all Deliverables furnished hereunder, including but not limited to equipment, programs, documentation, software, analyses, applications, methods, ways, processes, and the like, do not infringe upon or violate any copyrights, trademarks, service marks, trade secrets, patent rights, other intellectual property rights or any other third party proprietary rights.

c) The Contractor shall be liable and responsible for any and all claims made against the County for infringement of patents, copyrights, service marks, trade secrets or any other third party proprietary rights, by the use or supplying of any programs, documentation, software, analyses, applications, methods, ways, processes, and the like, in the course of performance or completion of, or in any way connected with, the Work, or the County's continued use of the Deliverables furnished hereunder. Accordingly, the Contractor at its own expense, including the payment of attorney's fees, shall indemnify, and hold harmless the County and defend any action brought against the County with respect to any claim, demand, cause of action, debt, or liability.

d) In the event any Deliverable or anything provided to the County hereunder, or portion thereof is held to constitute an infringement and its use is or may be enjoined, the Contractor shall have the obligation to, at the County's option to (i) modify, or require that the applicable Subcontractor or supplier modify, the alleged infringing item(s) at its own expense, without impairing in any respect the functionality or performance of the item(s), or (ii) procure for the County, at the Contractor's expense, the rights provided under this Agreement to use the item(s).

e) The Contractor shall be solely responsible for determining and informing the County whether a prospective supplier or Subcontractor is a party to any litigation involving patent or copyright infringement, service mark, trademark, violation, or proprietary rights claims or is subject to any injunction which may prohibit it from providing any Deliverable hereunder. The Contractor shall enter into agreements with all suppliers and Subcontractors at the Contractor's own risk. The County may reject any Deliverable that it believes to be the subject of any such litigation or injunction, or if, in the County's judgment, use thereof would delay the Work or be unlawful.

ARTICLE 58. CONFIDENTIALITY

a) All Developed Works and other materials, data, transactions of all forms, financial information, documentation, inventions, designs and methods obtained from the County in connection with the Services performed under this Agreement, made or developed by the Contractor or its Subcontractors in the course of the performance of such Services, or the results of such Services, or for which the County holds the proprietary rights, constitute Confidential Information and may not, without the prior written consent of the County, be used by the Contractor or its employees, agents, Subcontractors or suppliers for any purpose other than for the benefit of the County, unless required by law. In addition to the foregoing, all County employee information and County financial information shall be considered Confidential Information and shall be subject to all the requirements stated

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herein. Neither the Contractor nor its employees, agents, Subcontractors, or suppliers may sell, transfer, publish, disclose, display, license or otherwise make available to others any part of such Confidential Information without the prior written consent of the County. Additionally, the Contractor expressly agrees to be bound by and to defend, indemnify and hold harmless the County, and their officers and employees from the breach of any federal, state, or local law in regard to the privacy of individuals.

b) The Contractor shall advise each of its employees, agents, Subcontractors, and suppliers who may be exposed to such Confidential Information of their obligation to keep such information confidential and shall promptly advise the County in writing if it learns of any unauthorized use or disclosure of the Confidential Information by any of its employees or agents, or Subcontractor's or supplier's employees, present or former. In addition, the Contractor agrees to cooperate fully and provide any assistance necessary to ensure the confidentiality of the Confidential Information.

c) In the event of a breach of this Article damages may not be an adequate remedy and the County shall be entitled to injunctive relief to restrain any such breach or threatened breach. Unless otherwise requested by the County, upon the completion of the Services performed hereunder, the Contractor shall immediately turn over to the County all such Confidential Information existing in tangible form, and no copies thereof shall be retained by the Contractor or its employees, agents, Subcontractors, or suppliers without the prior written consent of the County. A certificate evidencing compliance with this provision and signed by an officer of the Contractor shall accompany such materials.

ARTICLE 59. PROPRIETARY INFORMATION

As a political subdivision of the State of Florida, Miami-Dade County is subject to the stipulations of the public records laws of the State of Florida (the "Public Records Law").

The Contractor acknowledges that all computer software in the County's possession may constitute or contain information or materials which the County has agreed to protect as proprietary information from disclosure or unauthorized use and may also constitute or contain information or materials which the County has developed at its own expense, the disclosure of which could harm the County's proprietary interest therein.

During the term of the Contract, the Contractor will not use directly or indirectly for itself or for others, or publish or disclose to any third party, or remove from the County's property, any computer programs, data compilations, or other software which the County has developed, has used, or is using, is holding for use, or which are otherwise in the possession of the County (the "Computer Software"). All third-party license agreements must also be honored by the Contractor and its employees, except as authorized by the County and, if the Computer Software has been leased or purchased by the County, all hired party license agreements must also be honored by the contractors' employees with the approval of the lessor or Contractors thereof. This includes mainframe, minis, telecommunications, personal computers, and all information technology software.

The Contractor will report to the County any information discovered or which is disclosed to the Contractor which may relate to the improper use, publication, disclosure, or removal from the County's property of any information technology software and hardware and will take such steps as are within the Contractor's authority to prevent improper use, disclosure, or removal.

ARTICLE 60. PROPRIETARY RIGHTS

a) The Contractor hereby acknowledges and agrees that the County retains all rights, title and interests in and to all materials, data, documentation and copies thereof furnished by the County to the Contractor hereunder or furnished by the Contractor to the County and/or created by the Contractor for delivery to the County, even if unfinished or in process, as a result of the Services the Contractor performs in connection with this Agreement, including all copyright and other proprietary rights therein, which the

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Contractor as well as its employees, agents, Subcontractors and suppliers may use only in connection with the performance of Services under this Agreement. The Contractor shall not, without the prior written consent of the County, use such documentation on any other project in which the Contractor or its employees, agents, Subcontractors, or suppliers are or may become engaged. Submission or distribution by the Contractor to meet official regulatory requirements or for other purposes in connection with the performance of Services under this Agreement shall not be construed as publication in derogation of the County's copyrights or other proprietary rights.

b) All Developed Works shall become the property of the County.

c) Accordingly, neither the Contractor nor its employees, agents, Subcontractors, or suppliers shall have any proprietary interest in such Developed Works. The Developed Works may not be utilized, reproduced, or distributed by or on behalf of the Contractor, or any employee, agent, Subcontractor or supplier thereof, without the prior written consent of the County, except as required for the Contractor's performance hereunder.

d) Except as otherwise provided in subsections a, b, and c above, or elsewhere herein, the Contractor and its Subcontractors and suppliers hereunder shall retain all proprietary rights in and to all Licensed Software provided hereunder, that have not been customized to satisfy the performance criteria set forth in the Scope of Services. Notwithstanding the foregoing, the Contractor hereby grants, and shall require that its Subcontractors and suppliers grant, if the County so desires, a perpetual, irrevocable and unrestricted right and license to use, duplicate, disclose and/or permit any other person(s) or entity(ies) to use all such Licensed Software and the associated specifications, technical data and other Documentation for the operations of the County or entities controlling, controlled by, under common control with, or affiliated with the County, or organizations which may hereafter be formed by or become affiliated with the County. Such license specifically includes, but is not limited to, the right of the County to use and/or disclose, in whole or in part, the technical documentation and Licensed Software, including source code provided hereunder, to any person or entity outside the County for such person's or entity's use in furnishing any and/or all of the Deliverables provided hereunder exclusively for the County or entities controlling, controlled by, under common control with, or affiliated with the County, or organizations which may hereafter be formed by or become affiliated with the County. No such License Software, specifications, data, documentation, or related information shall be deemed to have been given in confidence and any statement or legend to the contrary shall be void and of no effect.

ARTICLE 61. SUPPLIER/VENDOR REGISTRATION/CONFLICT OF INTEREST

a) Supplier/Vendor Registration
The Contractor shall be a registered vendor with the County – Strategic Procurement Department, for the duration of this Agreement. In becoming a registered vendor with Miami-Dade County, the vendor's Federal Employer Identification Number (FEIN) must be provided, via submission of Form W-9 and 147c Letter, as required by the Internal Revenue Service (IRS). If no FEIN exists, the Social Security Number of the owner must be provided as the legal entity identifier. This number becomes Contractor's "County Vendor Number." To comply with Section 119.071(5) of the Florida Statutes relating to the collection of an individual's Social Security Number, be aware that the County requests the Social Security Number for the following purposes:

- **Identification of individual account records**
- **Payments to individual/Contractor for goods and services provided to Miami-Dade County**
- **Tax reporting purposes**
- **Provision of unique identifier in the vendor database used for searching and sorting departmental records**

The Contractor confirms its commitment to comply with the vendor registration requirements and the associated affidavits

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available in **INFORMS** at https://supplier.miamidade.gov.

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b) Conflict of Interest and Code of Ethics
Sections 2-11.1 (c) and (d) of the Code require that any County official, agency/board member or employee, or any member of his or her immediate family who, through a firm, corporation, partnership or business entity, has a financial interest, direct or indirect, with Miami-Dade County or any person or agency acting for Miami-Dade County, competing or applying for a contract, must first obtain and submit a written conflict of interest opinion from the County's Ethics Commission prior to the official, agency/board member or employee, or his or her immediate family member entering into any contract or transacting any business with Miami-Dade County or any person or agency acting for Miami-Dade County. Any such contract or business transaction entered in violation of these subsections, as amended, shall be rendered voidable. All County officials, autonomous personnel, quasi-judicial personnel, advisory personnel, and employees wishing to do business with the County are hereby advised they must comply with the applicable provisions of Section 2-11.1 of the Conflict of Interest and Code of Ethics Ordinance.

ARTICLE 62. INSPECTOR GENERAL REVIEWS

Independent Private Sector Inspector General Reviews
Pursuant to Miami-Dade County Administrative Order No. 3-20, the County has the right to retain the services of an Independent Private Sector Inspector General (the "IPSIG"), whenever the County deems it appropriate to do so. Upon written notice from the County, the Contractor shall make available to the IPSIG retained by the County, all requested records and documentation pertaining to this Agreement for inspection and reproduction. The County shall be responsible for the payment of these IPSIG services, and under no circumstance shall the Contractor's prices and any changes thereto approved by the County, be inclusive of any charges relating to these IPSIG services. The terms of this provision apply to the Contractor, its officers, agents, employees, Subcontractors, and assignees. Nothing contained in this provision shall impair any independent right of the County to conduct an audit or investigate the operations, activities, and performance of the Contractor in connection with this Agreement. The terms of this Article shall not impose any liability on the County by the Contractor or any third party.

Miami-Dade County Inspector General Review
According to Section 2-1076 of the Code, Miami-Dade County has established the Office of the Inspector General which may, on a random basis, perform audits on all County contracts, throughout the duration of said contracts. The cost of the audit for this Contract shall be one quarter of one percent (0.25%) of the total Contract amount which cost shall be included in the total Contract amount. The audit cost will be deducted by the County from progress payments to the Contractor. The audit cost shall also be included in all change orders and all Contract renewals and extensions.

Exception: The above application of one quarter of one percent (0.25%) fee assessment shall not apply to the following contracts: (a) IPSIG contracts; (b) contracts for legal services; (c) contracts for financial advisory services; (d) auditing contracts; (e) facility rentals and lease agreements; (f) concessions and other rental agreements; (g) insurance contracts; (h) revenue-generating contracts; (i) contracts where an IPSIG is assigned at the time the contract is approved by the Board; (j) professional service agreements under $1,000; (k) management agreements; (l) small purchase orders as defined in Miami-Dade County Implementing Order No. 3-38; (m) federal, state and local government-funded grants; and (n) interlocal agreements. ***Notwithstanding the foregoing, the Miami-Dade County Board of County Commissioners may***

authorize the inclusion of the fee assessment of one quarter of one percent (0.25%) in any exempted contract at the time of award.

Nothing contained above shall in any way limit the powers of the Inspector General to perform audits on all County contracts including, but not limited to, those contracts specifically exempted above. The Miami-Dade County Inspector General is authorized and empowered to review past, present, and proposed County and Trust contracts, transactions, accounts, records, and programs. In addition, the Inspector General has the power to subpoena witnesses, administer oaths, require the production of records, and monitor existing projects and programs. Monitoring of an existing project or program may include a report concerning whether the project is on time, within budget and in conformance with plans, specifications, and applicable law. The Inspector General is empowered to analyze the necessity of and reasonableness of proposed change orders to the Contract. The Inspector General is empowered to retain the services of IPSIGs to audit, investigate, monitor, oversee, inspect, and review operations, activities, performance and procurement process, including but not limited to project design, specifications, proposal submittals, activities of the Contractor, its officers, agents and employees, lobbyists, County staff and elected officials to ensure compliance with contract specifications and to detect fraud and corruption.

Upon written notice to the Contractor from the Inspector General or IPSIG retained by the Inspector General, the Contractor shall make all requested records and documents available to the Inspector General or IPSIG for inspection and copying. The Inspector General and IPSIG shall have the right to inspect and copy all documents and records in the Contractor's possession, custody or control which, in the Inspector General's or IPSIG's sole judgment, pertain to performance of the Contract, including, but not limited to original estimate files, change order estimate files, worksheets, proposals and agreements from and with successful and unsuccessful Subcontractors and suppliers, all project-related correspondence, memoranda, instructions, financial documents, construction documents, proposal and contract documents, back-charge documents, all documents and records which involve cash, trade or volume discounts, insurance proceeds, rebates, or dividends received, payroll and personnel records, and supporting documentation for the aforesaid documents and records.

ARTICLE 63. FEDERAL, STATE, AND LOCAL COMPLIANCE REQUIREMENTS

As applicable, Contractor shall comply, subject to applicable professional standards, with the provisions of all applicable federal, state and the County orders, statutes, ordinances, rules and regulations which may pertain to the Services required under this Agreement, including, but not limited to:

a) Miami-Dade County Small Business Enterprises Development Participation Provisions.

b) The Clean Air Act of 1955, as amended, (42 U.S.C. §§ 7401-7671q.) and the Federal Water Pollution Control Act (33 U.S.C. §§ 1251-1387), as amended.

c) The Davis-Bacon Act, as amended(40 U.S.C. §3141-3144 and 3146-3148) as supplemented by the Department of Labor regulations (29 C.F.R. Part 5).

d) The Copeland "Anti-Kickback" Act (40 U.S.C. § 3145) as supplemented by the Department of Labor regulations (29 C.F.R. Part 2).

e) Section 2-11.1 of the Code of Miami-Dade County, "Conflict of Interest and Code of Ethics Ordinance".

f) Section 10-38 of the Code of Miami-Dade County, "Debarment of Contractors from County Work".

g) Section 11A-60 - 11A-67 of the Code of Miami-Dade County, "Domestic Leave".

h) Section 21-255 of the Code of Miami-Dade County prohibiting the presentation, maintenance, or prosecution of false or fraudulent claims against Miami-Dade County.

i) The Equal Pay Act of 1963, as amended (29 U.S.C. § 206(d)).

j) The prohibitions against discrimination on the basis of age under the Age Discrimination Act of 1975 (42 U.S.C. §§ 6101-07) and regulations issued pursuant thereto (24 C.F.R. Part 146).

k) Section 448.07 of the Florida Statutes "Wage Rate Discrimination Based on Sex Prohibited".

l) Chapter 11A of the Code of Miami-Dade County (§ 11A-1 *et seq.*) "Discrimination".

m) Chapter 22 of the Code of Miami-Dade County (§ 22-1 *et seq.*) "Wage Theft".

n) Any other laws prohibiting wage rate discrimination based on sex.

o) Chapter 8A, Article XIX, of the Code of Miami-Dade County (§ 8A-400 *et seq.*) "Business Regulations".

p) Byrd Anti-Lobbying Amendment (31 U.S.C. § 1352).

q) Executive Order 12549 "Debarment and Suspension", which stipulates that no contract(s) are “to be awarded at any tier or to any party which is debarred or suspended or is otherwise excluded from or ineligible for participation in Federal assistance programs”.

Pursuant to Resolution No. R-1072-17, by entering into this Contract, the Contractor is certifying that the Contractor is in compliance with, and will continue to comply with, the provisions of items "i" through "n" above.

The Contractor shall hold all licenses and/or certifications, obtain and pay for all permits and/or inspections, and comply with all laws, ordinances, regulations and building code requirements applicable to the work required herein. Damages, penalties, and/or fines imposed on the County or Contractor for failure to obtain and maintain required licenses, certifications, permits and/or inspections shall be borne by the Contractor. The Project Manager shall verify the certification(s), license(s), and permit(s) for the Contractor prior to authorizing Work and as needed.

Notwithstanding any other provision of this Agreement, Contractor shall not be required pursuant to this Agreement to take any action or abstain from taking any action if such action or abstention would, in the good faith determination of the Contractor, constitute a violation of any law or regulation to which Contractor is subject, including but not limited to laws and regulations requiring that Contractor conduct its operations in a safe and sound manner.

ARTICLE 64. NONDISCRIMINATION

During the performance of this Contract, Contractor agrees to not discriminate unlawfully against any employee or applicant for employment on the basis of race, color, religion, ancestry, national origin, sex, pregnancy, age, disability, marital status, familial status, status as victim of domestic violence, dating violence or stalking, or veteran status, and on housing related contracts the source of income.
By entering into this Contract, the Contractor attests that it is not in violation of the Americans with Disabilities Act of 1990 (and related Acts) or Miami-Dade County Resolution No. R-385-95. If the Contractor or any owner, subsidiary or other firm affiliated with or related to the Contractor is found by the responsible enforcement agency or the County to be in violation of the Act or the Resolution, such violation shall render this Contract void. This Contract shall be void if the Contractor submits a false affidavit pursuant to this Resolution or the Contractor violates the Act or the Resolution during the term of this Contract, even if the Contractor was not in violation at the time it submitted its affidavit.

ARTICLE 65. CONFLICT OF INTEREST

The Contractor represents that:

a) No officer, director, employee, agent, or other consultant of the County or a member of the immediate family or household of the aforesaid has directly or indirectly received or been promised any form of benefit, payment, or compensation, whether tangible or intangible, in connection with the award of this Agreement.

b) There are no undisclosed persons or entities interested with the Contractor in this Agreement. This Agreement is entered into by the Contractor without any connection with any other entity or person making a proposal for the same purpose, and without collusion, fraud or conflict of interest. No elected or appointed officer or official, director, employee, agent, or other consultant of the County, or of the State of Florida (including elected and appointed members of the legislative and executive branches of government), or a member of the immediate family or household of any of the aforesaid:

   i) is interested on behalf of or through the Contractor directly or indirectly in any manner whatsoever in the execution or the performance of this Agreement, or in the Services, Deliverables or Work, to which this Agreement relates or in any portion of the revenues; or

   ii) is an employee, agent, advisor, or consultant to the Contractor or to the best of the Contractor's knowledge any Subcontractor or supplier to the Contractor.

c) Neither the Contractor nor any officer, director, employee, agency, parent, subsidiary, or affiliate of the Contractor shall have an interest which is in conflict with the Contractor's faithful performance of its obligation under this Agreement; provided that the County, in its sole discretion, may consent in writing to such a relationship, provided the Contractor provides the County with a written notice, in advance, which identifies all the individuals and entities involved and sets forth in detail the nature of the relationship and why it is in the County's best interest to consent to such relationship.

d) The provisions of this Article are supplemental to, not in lieu of, all applicable laws with respect to conflict of interest. In the event there is a difference between the standards applicable under this

Agreement and those provided by statute, the stricter standard shall apply.

e) In the event Contractor has no prior knowledge of a conflict of interest as set forth above and acquires information which may indicate that there may be an actual or apparent violation of any of the above, Contractor shall promptly bring such information to the attention of the Project Manager. Contractor shall thereafter cooperate with the County's review and investigation of such information and comply with the instructions Contractor receives from the Project Manager regarding remedying the situation.

ARTICLE 66. PRESS RELEASE OR OTHER PUBLIC COMMUNICATION

Under no circumstances shall the Contractor without the express written consent of the County:

a) Issue or permit to be issued any press release, advertisement or literature of any kind which refers to the County, or the Work being performed hereunder, unless the Contractor first obtains the written approval of the County. Such approval may be withheld if for any reason the County believes that the publication of such information would be harmful to the public interest or is in any way undesirable; and

b) Communicate in any way with any contractor, department, board, agency, commission or other organization or any person whether governmental or private in connection with the Work to be performed hereunder except upon prior written approval and instruction of the County; and

c) Except as may be required by law, the Contractor and its employees, agents, Subcontractors, and suppliers will not represent, directly or indirectly, that any Work, Deliverables or Services provided by the Contractor or such parties has been approved or endorsed by the County.

ARTICLE 67. BANKRUPTCY

The County may terminate this Contract, if, during the term of any contract the Contractor has with the County, the Contractor becomes involved as a debtor in a bankruptcy proceeding, or becomes involved in a reorganization, dissolution, or liquidation proceeding, or if a trustee or receiver is appointed over all or a substantial portion of the property of the Contractor under federal bankruptcy law or any state insolvency law.

ARTICLE 68. GOVERNING LAW

This Contract, including appendices, and all matters relating to this Contract (whether in contract, statute, tort (such as negligence), or otherwise) shall be governed by, and construed in accordance with, the laws of the State of Florida. Venue shall be in Miami-Dade County.

ARTICLE 69. INTEREST OF MEMBERS, OFFICERS OR EMPLOYEES AND FORMER MEMBERS, OFFICERS OR EMPLOYEES

No member, officer, or employee of the County, no member of the governing body of the locality in which the Project is situated, no member of the governing body in which the Project was activated, and no other public official of such locality or localities who exercises any functions or responsibilities with respect to the Project, shall, during his or her tenure, or for one year thereafter, have any interest, direct or indirect, in this Contract or the proceeds thereof.

ARTICLE 70. FORCE MAJEURE

Under applicable law, force majeure shall refer to an act of nature (such as, but not limited to, a hurricane, flood, and/or earthquake), war, terrorism, riot, sovereign conduct, strikes, lockouts, fires, epidemics and/or pandemic, adverse governmental conditions or conduct of third parties.

Neither the County nor the Contractor shall be held liable or responsible to the counterparty nor be deemed to have defaulted under or breached this Contract for failure or delay in performing any obligation under this Contract when such failure or delay is caused by an act of Force Majeure. Within twenty-four (24) hours of the occurrence of an act of Force Majeure, the affected party shall notify the counterparty of the act by sending an e-mail message to the Project Manager of the other party. In addition, the affected party shall provide to the counterparty within seven days of determining the cause of the Force Majeure, a written explanation via e-mail concerning the circumstances that caused the act of Force Majeure and the overall impacts to the Contract. Upon receipt of the written explanation, the parties shall mutually agree to any contractual modifications as necessary to continue the Contract with minimal impact to County operations. The County maintains the right to terminate the Contract for convenience or obtain the goods and/or services through a separate contract, taking over the performance of the Work or any part thereof either by itself or through others.

ARTICLE 71. FIRST SOURCE HIRING REFERRAL PROGRAM

Pursuant to Section 2-2113 of the Code, for all contracts for goods and services, the Contractor, prior to hiring to fill each vacancy arising under a County contract shall (1) first notify Career Source South Florida ("CSSF"), the designated Referral Agency, of the vacancy and list the vacancy with CSSF according to the Code, and (2) make good faith efforts as determined by the County to fill a minimum of fifty percent (50%) of its employment needs under the County contract through the CSSF. If no suitable candidates can be employed after a Referral Period of three to five days, the Contractor is free to fill its vacancies from other sources. Contractor will be required to provide quarterly reports to the CSSF indicating the name and number of employees hired in the previous quarter, or why referred candidates were rejected. Sanctions for non-compliance shall include, but not be limited to: (i) suspension of Contract until Contractor performs obligations, if appropriate; (ii) default and/or termination; and (iii) payment of $1,500/employee, or the value of the wages that would have been earned given the noncompliance, whichever is less. Registration procedures and additional information regarding the First Source Hiring Referral Program are available at https://iapps.careersourcesfl.com/firstsource/.

ARTICLE 72. PUBLIC RECORDS AND CONTRACTS FOR SERVICES PERFORMED ON BEHALF OF MIAMI-DADE COUNTY

The Contractor shall comply with the Public Records Laws, including but not limited to, (1) keeping and maintaining all public records that ordinarily and necessarily would be required by the County in order to perform the service; (2) providing the public with access to public records on the same terms and conditions that the County would provide the records and at a cost that does not exceed the cost provided in Chapter 119, Florida Statutes, or as otherwise provided by law; (3) ensuring that public records that are exempt or confidential and exempt from public records disclosure requirements are not disclosed except as authorized by law; and (4) meeting all requirements for retaining public records and transferring, at no cost, to the County

all public records in possession of the Contractor upon termination of the Contract and destroying any duplicate public records that are exempt or confidential and exempt from public records disclosure requirements upon such transfer. In addition, all records stored electronically must be provided to the County in a format that is compatible with the information technology systems of the County. Failure to meet any of these provisions or to comply with Florida's Public Records Laws as applicable shall be a material breach of this Agreement and shall be enforced in accordance with the terms and conditions of the Agreement.

IF THE CONTRACTOR HAS QUESTIONS REGARDING THE APPLICATION OF CHAPTER 119, FLORIDA STATUTES, TO THE CONTRACTOR'S DUTY TO PROVIDE PUBLIC RECORDS RELATING TO THIS CONTRACT, CONTACT THE CUSTODIAN OF PUBLIC RECORDS AT (305) 375-5773, ISD-VSS@MIAMIDADE.GOV, 111 NW 1st STREET, SUITE 1300, MIAMI, FLORIDA 33128.

ARTICLE 73. VERIFICATION OF EMPLOYMENT ELIGIBILITY (E-VERIFY)

By entering into this Contract, the Contractor and its Subcontractors are jointly and severally obligated to comply with the provisions of Section 448.095, Florida Statutes, as amended, titled "Employment Eligibility." The Contractor affirms that (a) it has registered and uses the U.S. Department of Homeland Security's E-Verify system to verify the work authorization status of all new employees of the Contractor; (b) it has required all Subcontractors to this Contract to register and use the E-Verify system to verify the work authorization status of all new employees of the Subcontractor; (c) it has an affidavit from all Subcontractors to this Contract attesting that the Subcontractor does not employ, contract with, or subcontract with, unauthorized aliens; and (d) it shall maintain copies of any such affidavits for duration of the Contract. Registration information is available at: (http://www.uscis.gov/e-verify)

If the County has a good faith belief that Contractor has knowingly violated Section 448.09(1), Florida Statutes, then the County shall terminate this contract in accordance with Section 448.095(5)(c), Florida Statutes. In the event of such termination the Contractor agrees and acknowledges that it may not be awarded a public contract for at least one (1) year from the date of such termination and that Contractor shall be liable for any additional costs incurred by the County because of such termination.

In addition, if the County has a good faith belief that a Subcontractor has knowingly violated any provisions of Sections 448.09(1) or 448.095(5)(c), Florida Statutes, but Contractor has otherwise complied with its requirements under those statutes, then Contractor agrees that it shall terminate its contract with the Subcontractor upon receipt of notice from the County of such violation by Subcontractor in accordance with Section 448.095(5)(c), Florida Statutes.

Any challenge to termination under this provision must be filed in the Circuit or County Court by the County, Contractor, or Subcontractor no later than twenty (20) calendar days after the date of contract termination.

ARTICLE 74. PAYMENT CARD INDUSTRY DATA SECURITY REQUIREMENTS
(Use if applicable or delete if not applicable to the Work/Services)

The Contractor shall adhere to Payment Card Industry (PCI) Data Security requirements. Contractor is responsible for security of cardholder data in its possession. Such data can ONLY be used for the purpose of providing the services in this Agreement, providing fraud control services or for other uses specifically required by law.

The Contractor shall provide business continuity in the event of a major disruption, disaster or failure. Contractor will contact the County's Chief Security Officer immediately to advise of any breaches in security where card data has been compromised. In the event of a security intrusion, the Contractor shall provide, at no cost to the County, a PCI representative, or a PCI approved third party with full cooperation and access to conduct a thorough security review. The review will validate compliance with the PCI Data Security Standard for protecting cardholder data.

The Contractor shall properly dispose of sensitive cardholder data when no longer needed and shall treat all cardholder data as confidential, including after the expiration of this Agreement. Contractor shall provide the County's PCI Compliance Officer, Finance Department at (305) 375-5245, documentation showing PCI Data Security certification has been achieved. Contractor shall advise the County's PCI Compliance Officer of all failures to comply with the PCI Data Security Requirements. Failures include but are not limited to system scans and self-assessment questionnaires and if requested provide a timeline for corrective action.

ARTICLE 75. PAYMENT CARD INDUSTRY DATA SECURITY COMPLIANCE

The Contractor shall comply with the Payment Card Industry Data Security Standards in effect throughout the term of this agreement. If at any time any of the components, including but not limited to the Contractor's system, equipment, hardware, software, or policies, becomes non-PCI compliant, the Contractor is responsible for all costs related to upgrading the system so that PCI compliance is maintained throughout the term of the agreement.

a. The Contractor confirms its knowledge of and commitment to comply by providing the following proof that the Contractor's devices/applications/processes meet current, published, PCI compliance requirements:

    1. The Contractor's current annual PCI Compliance certification, if applicable. The County has right to audit Contractor compliance by requesting copies of the Contractor's PCI compliance certifications at any time.

    2. During an installation or a major system upgrade, the Contractor must provide implementation manuals and detailed diagram(s) that show all cardholder data flows across MDC/s systems and networks, the internet, and the processor network.

b. Provide Security Matrix for new systems (Attachment XX- Information Technology Security Matrix). The Contractor shall resubmit the aforementioned passing, updated, completed, and signed PCI compliance documents annually to the County. Furthermore, the Contractor shall update its solution, when required, to remain compliant with all changes to the PCI standards and requirements by the implementation dates mandated by the PCI Security Council and remediate any critical security vulnerabilities within thirty (30) days of identification.

c. Contractor with third-party payment solutions shall provide the following upon County Department request in accordance with PCI requirement 12.9.2:

    1. PCI DSS compliance status information for any service the third-party Contractor performs on behalf of the department (PCI Req# 12.8.4).

2. Documentation indicating which PCI DSS requirements are the responsibility of the Contractor, and which are the responsibility of the County Department, including any shared responsibilities (PCI Req# 12.8.5).

d. Sensitive Authentication data and Primary Account number shall not be stored by the Contractor's application at any point, even if masked. Any other Card holder data should not be stored by the Contractor's application unless it is absolutely needed for County's operations.

e. POS (Point of Sale) must be routed directly to Miami-Dade County's merchant provider and must be Europay, Mastercard and Visa (EMV) compliant. All POS devices must be capable of accepting NFC (near field communications) payment methods such as Google Wallet, Apple Pay, or Samsung Wallet.

f. For payment processing applications, proof of validation must be countersigned by the PCI Council. Documentation to be submitted is as follows:

1. AOC for the application - Attestation of Compliance
2. Most current AOV – Attestation of Validation (when applicable)

g. Cashiering Application systems that utilize MDC network for payment processing must be a validated PCI Point-to-Point Encryption (P2PE) solution and transactions routed through our approved County merchant processor. The County's approved P2PE solution is Elavon's PCI Safe T P2PE Link Protect services. Confirmation of validated P2PE solution shall be provided as found on the PCI Council's P2PE Solutions website.

https://listings.pcisecuritystandards.org/assessors_and_solutions/point_to_point_encryption_solutions?agree=true

Prior to production going live, the P2PE Instruction Manual shall be provided as found on PCI website.

https://www.pcisecuritystandards.org/documents/P2PE_v3.0_PIM_Template.docx?agreement=true&time=1645920000555.

h. Internet transactions and all other applications must be routed through Miami-Dade County's Internal Payment Gateway (Payment Card).

i. Exceptions to any of these requirements shall require written justification by the Department Director **prior to** purchase of software/hardware, including a cost/benefit analysis, and require written approval by both the Miami Dade County Finance Director.

j. Transactions processed through the Miami-Dade County Internal Payment Gateway are prohibited from accepting / processing PIN numbers for security reasons. Miami-Dade County provides two basic services that allow the Contractor's application to interact with its Payment Gateways:

1. Web-based Credit Card Transaction Service
2. Recurring Payment Service (for monthly or yearly recurring payments). This service will allow merchants to develop recurring credit card payments on behalf of their payers. This is a SOAP

Web Service, and Miami-Dade County will provide the service WSDL and the necessary documentation. The Recurring Payment Service is PCI-compliant, and all the sensitive credit card data is stored offsite in the County's clearinghouse.

There are three different ways that a merchant customer can handle the Credit Card transaction processing:

a. Option #1:

The Contractor's application interfaces directly with Miami-Dade County's Payment Gateway via a RESTful web-service. Miami-Dade County will provide the XML schemas to all basic services: web payment processing, void, refund, and recurring payments. Miami-Dade County will also provide all the necessary URLs for these services, as well as documentation detailing fields and response codes. All services will respond with the same XML receipt.

This solution will require the Contractor's application to fully interact with Miami-Dade County's Payment Gateway, reacting to processing and system errors. Even though this solution requires more development and integration from the Contractor, it will offer the greatest flexibility and customization level. This option also requires for the Contractor's application to be hosted on a server inside the County's managed network, since Miami-Dade County's Payment Gateway is not accessible from the Internet. If the application is outside of the County's Managed network, Miami-Dade County can develop a Payment Module Application (option #2) that will service the Contractor's application.

b. Option #2:

The Contractor's application will utilize a Payment Module Web Application developed and maintained by Miami-Dade County. This solution can be a standard web application, a mobile web application, or both. A link will be provided on the Contractor's application that sends payers to the Payment Module Application. For example, once the payer has selected the items to purchase (from the Contractor's application), there would be a "Pay Now" button that will redirect the payer to the Miami-Dade County Payment Module via HTTPs post, carrying all the necessary data to begin the payment process (User ID, Amount, etc.). This requires only minor development effort on the Contractor's side. The Contractor will agree on custom fields to be passed to the Miami-Dade County Payment Module via HTTP protocol over TLS 1.2 or higher (only secure connections are accepted; SSL protocol is not accepted). In turn, the Miami-Dade County Payment Module will collect the payment information and process the transaction via the Miami-Dade County Internal Payment Gateway. Results will be posted back (post back URL is provided by the client application) to the Contractor's application. This solution will not require the Contractor's application to be hosted in the County's managed network. The Miami-Dade County Payment Module handles all processing and system errors, simplifying the integration effort on the Contractor's side.

c. Option #3:

If the Contractor's solution cannot interface directly with Miami-Dade County's Payment Gateway, provided the solution is compliant with the current version of the PCI Data Security Standards (PCI

DSS 4.0.1 or later), the Contractor must provide independent validation of its compliance, including but not limited to attestation of compliance, vulnerability assessments, and penetration testing results from a qualified security assessor (QSA) for review and approval. This evidence must demonstrate that the Contractor's solution meets all relevant PCI DSS requirements for secure cardholder data environments (CDEs) and maintains appropriate security controls and monitoring mechanisms.

For approval, the Contractor must submit a detailed technical architecture, including data flow diagrams showing all interactions with Miami-Dade County systems and a comprehensive description of the security measures in place to protect cardholder data by the Contractor and any sub-contractors included in the process. This documentation will be reviewed by the Miami-Dade County PCI Committee, which must approve the solution before submitting for County Senior Management's final authorization along with a memorandum and cost benefit analysis from the County Department requesting this solution.

This option requires the Contractor to ensure the secure transmission and storage of cardholder data in accordance with PCI DSS requirements and is an alternative for solutions that must operate independently of the County's managed network. As part of the approval process, the Contractor (and sub-contractors) must agree to periodic compliance audits and to provide ongoing assurance of PCI DSS adherence.

ARTICLE 76. SHANNON MELENDI ACT

The Contractor shall comply with Miami-Dade County Ordinance No. 08-07, Chapter 26, "Miami-Dade County Park and Recreation Department Rules and Regulations, Article III, The Shannon Melendi Act". The Contractor shall ensure that all management, staff, and volunteers:

- Have had nationwide criminal background checks conducted by a Professional Background Screener.
- Have been screened through the Florida Department of Law Enforcement Sexual Predator/Offender Database, and a check of the National Sex Offender Public Registry.
- Have been verified as being United States Citizens or having legal immigrant status employment.
- Complete an affidavit affirming that no Services or volunteer duties will be performed on Park property owned or operated by Miami-Dade County in violation of this Ordinance and that an arrest will be reported to the Contractor within forty-eight (48) hours of such arrest.
- Wear picture identification at all times while on County property and when in direct contact with patrons and the general public.
- Retain all records demonstrating compliance with the background screening required herein for not less than three (3) years beyond the end of the contract term. The Contractor shall provide the County with access to these records annually, or at the request of the County.

ARTICLE 77. KIDNAPPING, CUSTODY OFFENSES, HUMAN TRAFFICKING AND RELATED OFFENSES AFFIDAVIT

By entering into, amending, or renewing this Contract, including, without limitation, a grant agreement or economic incentive program payment agreement (all referred to as the "Contract"), as applicable, the Contractor is obligated to comply with the provisions of Section 787.06, Florida Statutes ("F.S."), "Human Trafficking," as amended, which is deemed as being incorporated by reference in this Contract. All definitions and requirements from Section 787.06, F.S., apply to this Contract.

This compliance includes the Contractor providing an affidavit that it does not use coercion for labor or services. This attestation by the Contractor shall be in the form attached to the Solicitation as the Kidnapping, Custody Offenses, Human Trafficking and Related Offenses Affidavit (the "Affidavit") and must be executed by the Contractor and provided to the County when entering, amending, or renewing this Contract.

This Contract shall be void if the Contractor submits a false Affidavit pursuant to Section 787.06, F.S., or the Contractor violates Section 787.06, F.S., during the term of this Contract, even if the Contractor was not in violation at the time it submitted its Affidavit.

ARTICLE 78. ELIMINATING THE DISTRIBUTION OF SINGLE-USE PLASTICS AND POLYSTYRENE ITEMS TO CONSUMERS ON COUNTY PROPERTY

By entering into this contract, the Contractor is precluded from distributing single-use plastics and polystyrene items to consumers in such forms including, but not limited to, straws, containers, utensils, beverage bottles, stirrers, and bags, in accordance with County Resolution No. R-1030-24. Prepackaged foods such as ready-to-eat meals and snack packs are excepted from this preclusion.

ARTICLE 79. SURVIVAL

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.

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This a draft solicitation for a future competitive contract Miami-Dade County anticipates entering into.
Solicitation is subject to change without notice.
This is not an advertisement.

IN WITNESS WHEREOF, the Parties have executed this Agreement effective as of the date identified on the first page of this Agreement.

Contractor	Miami-Dade County
By: _____ (Signature)	By: _____ (Signature) for Daniella Levine Cava
Name: _____	Name: _____
Title: _____	Title: Mayor
Date: _____	Date: _____
Attest: _____ Corporate Secretary or Officer	Attest: Juan Fernandez-Barquin Clerk of the Court and Comptroller
	By: _____ (Deputy Clerk Signature)
	Print Name: _____
	Approved as to form and legal sufficiency
	_____ Assistant County Attorney

DRAFT

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APPENDIX A – SCOPE OF SERVICES

TO BE NEGOTIATED

DRAFT

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APPENDIX B – PRICE SCHEDULE

TO BE NEGOTIATED

DRAFT