

DEVELOPMENT, MANAGEMENT, AND OPERATION OF HAULOVER PARK SUMMARY

Introduction

Miami-Dade Park and Recreation & Open Spaces (PROS) services approximately 25 million people per year, who use County parks, attend County events, and participate in County programs. PROS is one of the busiest and largest leisure service agencies in the United States and is the first park and recreation agency in the State of Florida to receive the Governor's Sterling Award (2009), which recognizes organizations and businesses in Florida that have successfully achieved performance excellence within their management and operations. For additional information on PROS, please visit their website at <http://www.miamidade.gov/parks>.

Haulover Park is a heritage park and a significant coastal beach park operated by Miami-Dade County. Historically, the Park has served, since the late 1940's, residents and visitors from the central and northern portions of the County seeking a natural tropical setting for swimming, fishing, picnicking, boating and other leisure activities. The Park is over one mile in length located between Sunny Isles to the north and spectacular Bal Harbour to the south and occupies land adjacent to both the Atlantic Ocean and Biscayne Bay, with the only ocean access (Haulover Cut) from downtown Miami's Government Cut to Port Everglades in Fort Lauderdale. Haulover Park is one of the most important and valuable assets in the County Park System, not only from a cultural heritage perspective, but also its comparable real estate value of \$xxx million.

Miami-Dade County (County), as represented by the Miami-Dade County Parks, Recreation, and Open Spaces Department (PROS), is soliciting proposals from qualified firms, corporations, joint ventures, partnerships, individuals, or other legal entities (Proposers) to design, develop, construct, and later assume management, programming, and operation of built Facilities at Haulover Park. Facilities may include restaurants, pier, beach and inter-coastal concessions, marina, boat ramps, parking garage, vehicular/pedestrian circulation, and other related amenities and infrastructure to support the proposed development within the Haulover Park area.

The selected Proposer, either as one entity or as an aggregate of entities, must have successful foodservice, fishing, beach, marina, boat ramp, and parking garage management, operations, and marketing experience; as well as successful experience in any additional proposed Element. The selected Proposer must also possess adequate financial capacity to manage, operate, and maintain each proposed Element year-round.

Though the County will maintain ownership of the land, retain an interest in all Elements and their operations, as well as derive financial remuneration from them, each Element will be privately managed. Therefore, each Proposer must take into account the long-range costs and responsibilities of managing, operating, and maintaining the Elements.

The County anticipates awarding an Agreement for up to fifty (50) years period for the turn-key development, management, and operation of all proposed Haulover Park Elements which includes, but may not be limited to, all design, permitting, platting, construction, construction management, operation, business planning, maintenance, management, etc., subject to County review and approval. The County, at its sole discretion, may renew the Agreement for up to two (2) additional (20) year periods.

County Intent and Objectives

The primary development objective for Haulover Park is to partner with a Contractor who shares a commitment to design excellence and possesses the capacity to finance and build truly beautiful park elements and facilities for public use. The design should be groundbreaking, transformational for the community and PROS, and sets new standards in the Park and Recreation industry. PROS is a national leader and what is built should be nothing less than extraordinary, applying design principles that are time tested in parks throughout the country that will endure as iconic, functional, and aesthetically pleasing for decades to come.

It is the County's intent to: 1) leverage existing General Obligation Bond (GOB) monies for essential park infrastructure by maximizing revenue and minimizing costs through a partnership model where the County and selected Proposer will share an agreed upon percentage of profits generated by the selected Proposer and 2) significantly expand the use, number, and diversity of activity and events taking place within Haulover Park in accordance with the approved General Plan.

Feedback Requested

PROS respectfully asks for any feedback, positive or negative, in order to ensure an open and competitive environment for the development of Haulover Park. Feedback can be sent to:

Jessica Tyrrell
Contracts Manager
Miami-Dade County Parks, Recreation, and Open Spaces
(E) tyrrell@miamidade.gov

Feedback is due: Close of business September 9, 2016

This document is a draft of a planned solicitation and is subject to change without notice.



**REQUEST FOR PROPOSALS (RFP) No. 00000
FOR
DEVELOPMENT, MANAGEMENT, AND OPERATION OF HAULOVER PARK**

PRE-PROPOSAL CONFERENCE AND SITE VISIT TO BE HELD:

_____, 2016 at __:00 AM (local time)
Haulover Park – Bill Bird Marina Dock Master's Building
10800 Collins Avenue, Multipurpose Room
Miami Beach, Florida 33154

ISSUED BY MIAMI-DADE COUNTY:

Internal Services Department, Procurement Management Services Division
for
Parks, Recreation, and Open Spaces Department

COUNTY CONTACT FOR THIS SOLICITATION:

xxx, Procurement Contracting Officer
111 NW 1st Street, Suite 1300, Miami, Florida 33128
Telephone: (305) 375-xxxx
E-mail: xxx@miamidade.gov

PROPOSAL RESPONSES DUE:

INSERT DATE AND TIME

IT IS THE POLICY OF MIAMI-DADE 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 BidSync until the date and time as indicated in this document. It is the sole responsibility of the Proposer to ensure its proposal reaches BidSync 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 BidSync. 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. All proposals received and time stamped through the County's third party partner, BidSync, prior to the proposal submittal deadline shall be accepted as timely submitted. The circumstances surrounding all proposals received and time stamped after the proposal submittal deadline will be evaluated by the procuring department in consultation with the County Attorney's Office to determine whether the proposal will be accepted as timely. Proposals will be opened promptly at the time and date specified. The responsibility for submitting a proposal on or before the stated time and date is solely and strictly the responsibility of the Proposer. The County will in no way be responsible for delays caused by technical difficulty or caused by any other occurrence. 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. For competitive bidding opportunities available, please visit the County's Internal Services Department website at: <http://www.miamidade.gov/procurement/>.

Requests for additional information or inquiries must be made in writing and submitted using the question/answer feature provided by BidSync at www.bidsync.com. The County will issue responses to inquiries and any changes to this Solicitation it deems necessary in written addenda issued prior to the proposal due date (see addendum section of **BidSync Site**). Proposers who obtain copies of this Solicitation from sources other than through BidSync risk the possibility of not receiving addenda and are solely responsible for those risks.

1.0 PROJECT OVERVIEW AND GENERAL TERMS AND CONDITIONS

1.1 Introduction

Miami-Dade Park and Recreation & Open Spaces (PROS) services approximately 25 million people per year, who use County parks, attend County events, and participate in County programs. PROS is one of the busiest and largest leisure service agencies in the United States and is the first park and recreation agency in the State of Florida to receive the Governor's Sterling Award (2009), which recognizes organizations and businesses in Florida that have successfully achieved performance excellence within their management and operations. For additional information on PROS, please visit their website at <http://www.miamidade.gov/parks>.

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Miami-Dade County (County), as represented by the Miami-Dade County Parks, Recreation, and Open Spaces Department (PROS), is soliciting proposals from qualified firms, corporations, joint ventures, partnerships, individuals, or other legal entities (Proposers) to design, develop, construct, and later assume management, programming, and operation of built Facilities at Haulover Park. Facilities may include restaurants, pier, beach and inter-coastal concessions, marina, boat ramps, parking garage, vehicular/pedestrian circulation, and other related amenities and infrastructure to support the proposed development within the Haulover Park area.

The selected Proposer, either as one entity or as an aggregate of entities, must have successful foodservice, fishing, beach, marina, boat ramp, and parking garage management, operations, and marketing experience; as well as successful experience in any additional proposed Element. The selected Proposer must also possess adequate financial capacity to manage, operate, and maintain each proposed Element year-round.

Though the County will maintain ownership of the land, retain an interest in all Elements and their operations, as well as derive financial remuneration from them, each Element will be privately managed. Therefore, each Proposer must take into account the long-range costs and responsibilities of managing, operating, and maintaining the Elements.

The County anticipates awarding an Agreement for up to fifty (50) years period for the turn-key development, management, and operation of all proposed Haulover Park Elements which includes, but may not be limited to, all design, permitting, platting, construction, construction management, operation, business planning, maintenance, management, etc., subject to County review and approval. The County, at its sole discretion, may renew the Agreement for up to two (2) additional (20) year periods.

The anticipated schedule for this Solicitation is as follows:

Solicitation Issued:	TBD
Pre-Proposal Conference:	See front cover for date, time, and place. Attendance is recommended but not mandatory. If you need a sign language interpreter or materials in accessible format for this event, please call the PROS ADA Coordinator at (305) 755-7848 or email mary.palacios@miamidade.gov at least five (5) days in advance.
Deadline for Receipt of Questions:	TBD
Proposal Due Date:	See front cover for date and time.
Evaluation Process:	TBD
Projected Award Date:	TBD

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:

1. The word "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".
2. The word "County" to mean Miami-Dade County, a political subdivision of the State of Florida.
3. The words "Date of Beneficial Occupancy" to mean the date after which Haulover Park Elements are complete and Certificate of Occupancy is issued.
4. The words "Development Team" to mean the group of persons who develop and construct the Haulover Park Elements, to include the principal(s) submitting the Proposal, if the County enters into a development and operations agreement for the Site.
5. The word "Elements" to mean discreet components to be developed by selected Proposer as further described in Section 2.6, Project Elements and as shown on Attachment B – General Plan, Revised.
6. The words "Gross Revenue" to mean all revenues generated by the selected Proposer and authorized third-party entities arising out of or relating to the provision of all activities or items for which a price, charge, trade/barter or fee is imposed, as well as all revenues or other consideration charged for or received by the selected Proposer, as herein defined, for all services rendered, all sales made, and all transactions engaged in under the authority of this Agreement from any source whatsoever and whether such activities were on the Site or off-Site. Gross Revenues further includes, but is not limited to, those revenues received from the rights paid to Proposer for the use or licensing of all media, the sales of all media, from ticket sales, from sponsorship sales, tournament parking, concession revenues, retail revenues, advertising space and/or services, hospitality sales, merchandise (including without limitation retail, wholesale, direct response, mail order, internet or otherwise). All third-party contracts shall be in writing and on market terms. If such conditions are not on market terms and/or have resulted in a direct or indirect tangible economic benefit to Proposer, then the actual market value of the economic benefit provided shall be included in Gross Revenue. The only revenues and other considerations which may be excluded from Gross Revenues are taxes imposed by law and paid by a customer and directly payable by selected Proposer to a taxing authority, credit card processing fees, and pass-through or reimbursable expenses paid by third parties through the selected Proposer to another third-party.
7. The words "Management/Operations Team" to mean the group of persons managing and operating the array of Elements and other essential tasks within Haulover Park, to include the principal(s) submitting the Proposal, if the County enters into subsequent development and operations agreement for the Site.
8. The word "Proposal" to mean the properly signed and completed written submission in response to this solicitation by a Proposer for the Services, and as amended or modified through negotiations.
9. The word "Proposer" to mean the person, firm, entity or organization, as stated on the Proposal Submittal Form, submitting a response to this Solicitation, to include development and management and operations teams, to be used interchangeably.
10. The words "Scope of Services" to mean Section 2.0 of this Solicitation, which details the work to be performed by the Contractor.
11. The words "Site" to mean the portion of Haulover Park depicted in Attachment A – Location Map for proposed Elements.
12. The word "Solicitation" to mean this Request for Proposals (RFP) document and all associated addenda and attachments.
13. The word "Subcontractor" or "Subconsultant" 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.
14. 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

The County may, at its sole and absolute discretion, reject any and all or parts of any or all responses; accept parts of any and all responses; further negotiate project scope and fees; postpone or cancel at any time this Solicitation process; or waive any irregularities in this Solicitation or in the responses 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. No exception shall be taken where the Solicitation specifically states that exceptions may not be taken. Further, no exception shall be allowed that, in the County's sole discretion, constitutes a material deviation from the requirements of the Solicitation. Proposals taking such exceptions may, in the County's sole discretion, be deemed nonresponsive. The County reserves the right to request and evaluate additional information from any respondent regarding respondent's responsibility after the submission deadline as the County deems necessary.

The submittal of a proposal by a Proposer 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. Proposals shall be irrevocable until contract award unless the 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 or upon the expiration of 180 calendar days after the opening of proposals.

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, popularly known as the "Public Record Law." The Proposer shall not submit any information in response to this Solicitation which the Proposer considers to be a trade secret, proprietary or confidential. The submission of any information to the County in connection with this Solicitation shall be deemed conclusively to be a waiver of any trade secret or other protection, which would otherwise be available to Proposer. In the event that the Proposer submits information to the County in violation of this restriction, either inadvertently or intentionally, and clearly identifies that information in the proposal as protected or confidential, the County may, in its sole discretion, either (a) communicate with the Proposer in writing in an effort to obtain the Proposer's written withdrawal of the confidentiality restriction or (b) endeavor to redact and return that information to the Proposer as quickly as possible, and if appropriate, evaluate the balance of the proposal. Under no circumstances shall the County request the withdrawal of the confidentiality restriction if such communication would in the County's sole discretion give to such Proposer a competitive advantage over other proposers. The redaction or return of information pursuant to this clause may render a proposal non-responsive.

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 ordinance, resolution and/or administrative order cited in this Solicitation, the Proposer must contact the Clerk of the Board at (305) 375-5126.

1.4 Aspirational Policy Regarding Diversity

Pursuant to Resolution No. R-1106-15 Miami-Dade County vendors are encouraged to utilize a diverse workforce that is reflective of the racial, gender and ethnic diversity of Miami-Dade County and employ locally-based small firms and employees from the communities where work is being performed in their performance of work for the County. This policy shall not be a condition of contracting with the County, nor will it be a factor in the evaluation of solicitations unless permitted by law.

1.5 Cone of Silence

Pursuant to Section 2-11.1(t) of the Miami-Dade County Code, as amended, a "Cone of Silence" is imposed upon each RFP after advertisement and terminates at the time a written recommendation is issued. The Cone of Silence prohibits any communication regarding RFPs 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** the County's professional staff including, but not limited to, the County Mayor and the County Mayor's staff; 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 Services Section, the responsible Procurement Contracting Officer, 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 during any duly noticed public meeting;
- recorded contract negotiations and contract negotiation strategy sessions; or
- communications in writing at any time with any county employees, official or member of the Board of County Commissioners unless specifically prohibited by the applicable RFP 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 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 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 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.

1.6 Communication with Competitive Selection Committee Members

Proposers are hereby notified that direct communication, written or otherwise, to Competitive Selection Committee members or the Competitive Selection Committee as a whole are expressly prohibited. Any oral communications with Competitive Selection Committee members other than as provided in Section 2-11.1 of the Miami-Dade County Code are prohibited.

1.7 Public Entity Crimes

Pursuant to Paragraph 2(a) of Section 287.133, 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 for Category Two for a period of thirty-six (36) months from the date of being placed on the convicted vendor list.

1.8 Lobbyist Contingency Fees

- a) In accordance with Section 2-11.1(s) of the Code of Miami-Dade County, 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.

1.9 Collusion

In accordance with Section 2-8.1.1 of the Code of Miami-Dade County, 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 or the principals 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 interest 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.

1.10 Contract Measures

Pursuant to Sections 10-33.02 and 2-10.4.01 of the Code of Miami Dade County (Code) which governs the procurement of Construction, Design, Architecture and Engineering Services, all privately funded design and/or construction with a total value over \$200,000 must comply with the Code which governs the County's Small Business Enterprise (SBE) Programs. The selected Proposer shall submit or cause to be submitted the Design and Construction packages to the Small Business Development Division of the Internal Services Department (SBD/ISD) prior to advertisement and or award for review and determination of the appropriate small business program measures. All packages must be advertised and awarded with the applicable small business measures in accordance with the requirements of the above mentioned Code sections.

Proposer shall comply with the provisions of Miami-Dade County's Responsible Wages and Benefits Ordinances (Section 2-11.16 of the code of Miami-Dade County) wherein, all laborers and mechanics employed or working upon a project will be paid the full amount of wages and fringe benefits (or cash equivalent thereof) computed at rates not less than those contained in the wage determination in effect at the time the work is performed, regardless of any contractual relationship which may be alleged to exist between the contractor and such laborers and mechanics.

Proposals shall also include requirements of Section 2-11.7 of the Code of Miami-Dade County and Implementing Order No. 3-61, including the right of the County to access the Contractor's and subcontractors' records to verify compliance, in any contract, subcontract, or sublease, if applicable. Selected Proposer shall be responsible to the County for payment of compliance monitoring costs and any penalties found due. Proposers shall submit a completed copy of the Residents First Training and Employment Program Responsible Contractor/Subcontractor Affidavit Form (Form 2 - RFTE 1) with their proposal.

2.0 SCOPE OF SERVICES

2.1 General Information

Haulover Park, an approximately 269-acre property, is located at 10800 Collins Avenue, in Unincorporated Miami-Dade County. The Park property lies between the Atlantic Ocean on the east and Biscayne Bay on the west, Sunny Isles Beach on the north and Bal Harbor on the south; and serves northern Miami-Dade County, including Sunny Isles Beach, Bal Harbour, North Miami, North Miami Beach, Aventura and other municipal areas (Attachment A – Location Map).

The last five (5) years' annual yearly attendance for the Park, based on the number vehicles (estimated number of visitors per vehicle is 2.5) is as follows:

- FY 2013-2014 – 712,078 visitors
- FY 2012-2013 – 684,665 visitors
- FY 2011-2012 – 685,845 visitors
- FY 2010-2011 – 686,825 visitors
- FY 2009-2010 – 657,455 visitors

Included in the above numbers are the following:

- Clothing Optional Beach – FY 2013-2014 – 339,295 visitors

- Boat Ramp – FY 2013-2014
 - 24,238 visitors on weekends
 - 7,203 visitors on weekdays

The Park's amenities are as follows:

- 1) Haulover Beach is comprised of 177 acres of park land with 1.4 miles of beach front along the Atlantic Ocean
- 2) Bill Bird Marina is comprised of 950 linear feet of breakwater along the Intracoastal Waterway
- 3) The Marina has 147 boat slips
- 4) Six (6) public boat launch/retrieve ramps
- 5) One (1) fuel dock
- 6) Nine (9) public restrooms
- 7) Four (4) shelters/pavilions located in the Park
- 8) 2,460 parking spaces parking spaces shared by marina, boat ramp, concessions, and beach goers
- 9) Two (2) proposed restaurant sites
- 10) One (1) dry rack boat storage facility
- 11) One (1) concession facilities at the dry rack boat storage facility
- 12) Fifteen (15) Commercial fishing/charter boats
- 13) One (1) Miami-Dade County Fire Department Station
- 14) One (1) Bait & tackle store at the marina
- 15) One (1) mobile concession vendor on the beach
- 16) 21,900 linear feet of pedestrian walk/promenade
- 17) One (1) dog park and dog beach program area

The majority of the existing amenities listed above are currently operated by PROS. However, there are a number that are currently being operated by third party Contractor's. Those are as follows:

Short term:

- 1) One (1) mobile concession vendor on the beach
- 2) Bicycle rental vendor
- 3) Food truck event vendor
- 4) Kite store vendor
- 5) Kids beach soccer vendor (pending)
- 6) Tree trimming / coconut removal vendor (pending)

Long term:

- 1) One (1) Fuel dock
- 2) One (1) Dry rack boat storage facility
- 3) One (1) Sundries concession at the dry boat storage facility
- 4) One (1) Bait & tackle store at the marina
- 5) One (1) Drift fishing boat fleet

The County is limited to providing the Site as-is, where-is, without further contribution except as stated in Section 2.8 – General Obligation Bond Funding.

It is the responsibility of each Proposer before submitting a proposal, to:

- 1) Examine every component of this Solicitation, plans, environmental assessment and other associated information (which may not be provided by the County), as well as the draft agreement documents included in this Solicitation thoroughly and notify the County of all conflicts, errors or discrepancies in the documents that may affect submission of a Proposal, prior to deadline for receipt of questions stipulated in Section 1.1.
- 2) Visit the Site to become familiar with conditions that may affect costs, progress, performance, and/or furnishing of the Work.

- 3) Take into account federal, state and local laws, regulations, permits, and ordinances that may affect costs, progress, performance, and/or furnishing of the Work.

Further information regarding PROS and Haulover Park can be found at the following website: <http://www.miamidade.gov/parks/haulover.asp>.

2.2 Project/Site Location and Description

Haulover Park is a 269-acre property (approximately) located at 10800 Collins Avenue, Miami, Florida 33154, as shown in Attachment A – Location Map. The Board of County Commissioners (BCC) approved a revised General Plan for Haulover Park in 2012, as provided in Attachment B – General Plan. To further explore community interest and involvement in this development project, PROS held a series of public meetings in 2015 with user groups, community residents, and the development community. Based on those meetings and research of comparable facilities, PROS seeks to fully develop the General Plan key Project Elements as further described in Section 2.6 – Project Elements. To continue the build out of the General Plan, proposers shall include the following Elements: Pier and Oceanfront Restaurant on Southernmost Beach Side Element, Beach Concessions Element, Parking Garage Element, Bill Bird Marina Restaurant Element, Amphitheater and Intracoastal Concessions Element, Public Restrooms Element, and optional Elements including Bill Bird Marina Element and Haulover Park Boat Ramps Element. Proposers shall generally comply with the General Plan Elements and Element Locations. Proposals with substantial deviations from the General Plan may require that the BCC approve an update to the General Plan for Haulover Park, prior to execution of any Agreement resulting from this Solicitation.

2.3 Existing Site Conditions

The Site and any existing Elements are offered “as-is, where-is” by the County for the development, operation, and management of Haulover Park. The Site may or may not be currently served by water, sanitary sewer, electric, telephone, and other Utilities. Plans showing any known underground Utility installations are attached as Attachment C – Existing Utility Location. Utility information provided by PROS is not guaranteed for completeness or accuracy and shall be used as informational purposes only. Proposers must undertake their own due diligence of the Site and shall be solely responsible for all connection fees, design, construction, permitting, and installation costs associated with the development of the Scope of Services. Proposers shall, at its sole expense, address as part of their Proposal any inconsistency or needs between the existing condition and the conditions needed for proposed use.

Preliminary reviews of the Pier and Oceanfront Restaurant on Southernmost Beach Side Element (Section 2.6 – Project Elements, subsection 2.6.1) shows most of the land is currently in Flood Zone “Coast A”. All structures constructed at this Element location must therefore conform to the applicable “Coastal A – Category II or III” Flood Zone requirements, depending on the size of the Restaurant, as set forth by County and the Federal Emergency Management Administration.

2.4 County Intent and Objectives

The primary development objective for Haulover Park is to partner with a Contractor who shares a commitment to design excellence and possesses the capacity to finance and build truly beautiful park elements and facilities for public use. The design should be groundbreaking, transformational for the community and PROS, and sets new standards in the Park and Recreation industry. PROS is a national leader and what is built should be nothing less than extraordinary, applying design principles that are time tested in parks throughout the country that will endure as iconic, functional, and aesthetically pleasing for decades to come.

It is the County’s intent to: 1) leverage existing General Obligation Bond (GOB) monies for essential park infrastructure by maximizing revenue and minimizing costs through a partnership model where the County and selected Proposer will share an agreed upon percentage of profits generated by the selected Proposer and 2) significantly expand the use, number, and diversity of activity and events taking place within Haulover Park in accordance with the approved General Plan.

2.5 County Requirements

Haulover Park is a publicly owned County park which shall operate and remain open to the public during hours consistent with public demand. While there are no limitations on hours of operation, Services shall be performed in

accordance with any applicable laws, including federal laws and regulations, State of Florida laws and regulations, and County ordinances and regulations. There shall be no property entrance fee, but there may be parking and rental charges as necessary. The County seeks to ensure and retain public access and use, but it does not preclude the selected Proposer from scheduling special events that do not eliminate public access to other areas while reserved uses take place. The County will not permit the selected Proposer to offer exclusive use of a proposed Element to the exclusion of public use and access. Notwithstanding the occasional special events, all use of the remainder of the Park shall not be exclusive and unreasonably restricted to public access.

The County anticipates the development of Haulover Park Elements to be fiscally sustainable for the selected Proposer and require no capital or operational support from the County over what is specified in the solicitation. All proposed Elements are to be planned, designed, permitted and constructed, operated and maintained at the Proposer's sole expense. The County shall retain ownership of all real property and all developments thereon.

2.6 Project Elements

In accordance with the approved General Plan and any applicable laws, including federal laws and regulations, State of Florida laws and regulations, and County ordinances and regulations, the County is seeking development and subsequent management, maintenance, and operation services at Haulover Park with objectives that meet economic, aesthetic, and environmental essentials, in addition to adding value to the public. PROS believes these objectives are achievable with a fiscally responsible and aesthetically comprehensive development of the Park. Each of the following Elements/Services for development, management, maintenance, and operation is listed in no particular order of priority:

2.6.1 Pier and Oceanfront Restaurant on Southernmost Beach Side Element

The Pier Restaurant location is comprised of: a) a one (1) acre restaurant site located in the southeasternmost point of the Park, immediately adjacent to the Atlantic Ocean beach to the east and the Bakers Inlet to the south (Attachment E – Pier and Beachfront Locations); b) more than 880 linear foot space to construct jetty/pier for viewing and recreational fishing; and c) four (4) acre beach recreation area upon which programs, events, and concessions should be made available as options to patrons. Outside of the Pier Restaurant location, but required for its operation, is associated beach activity area, paved parking, vehicular circulation and pedestrian connectivity.

This location formerly supported the old Lighthouse Restaurant that successfully operated in the Park until the early 1970's. On this location, the selected Proposer shall plan, design, construct, operate, manage, and maintain: 1) a turn-key casual waterfront Restaurant; 2) a turn-key recreation Fishing Pier; 3) optional beach recreational activity area; and 4) vehicular and pedestrian circulation, all designed for day and evening use.

The beachfront Restaurant shall be designed to enhance the Haulover Park experience, while providing a venue where daytime park and beach patrons can combine with evening social and event visitors. The design, atmosphere, and type of restaurant desired by the County is a Streamline Moderne architectural style building that generally conforms to architecture and landscape architectural features within the Haulover Park Design Guidelines (Attachment D – Haulover Park Design Guidelines) that serves beach goers, boaters, surfers, fishermen, and other park users with indoor and outdoor food service, retail and related outdoor areas that take advantage of the natural resources and cultural heritage experience of the Park. The Restaurant design should specifically incorporate sound reducing features that limit or diminish sound from impacting adjacent residential areas to the south.

Proposer shall develop the Pier Restaurant Element taking into consideration the following requirements and any other relevant information contained or not-contained within this Solicitation. Proposers are not authorized to provide or include modifications to the area within which the Restaurant/Pier/Parking areas are located. Any exceptions to this Element may deem a Proposer non-responsive.

Restaurant/Retail Facility. In order to complete General Plan requirements, the Restaurant shall be constructed at the intersection of the Promenade and proposed pier/jetty.

- 1) The entire Pier Restaurant Element premises shall not exceed one (1) acre (43,560 square feet) in size,

- inclusive of all indoor/outdoor food and beverage service, related retail, open recreational area, back of house support, adjacent upland portion of Pier and perimeter buffer.
- 2) Since this area is a named exception to Article 7 of the Miami-Dade County Code, the footprint for any indoor, enclosed air conditioned portion of the Pier Restaurant may not exceed a footprint of 9,000 total square feet, inclusive of entry, kitchen, indoor dining, ancillary retail, storage, offices and other air-conditioned support spaces.
 - 3) Any additional outdoor covered/uncovered spaces for non-enclosed food, beverage, recreation and restaurant space may not exceed a 16,000 square foot footprint. The outdoor spaces should specifically include recreational activities tied to beach, fishing, boating and surf use that creates a seamless transition between upland and beach use.
 - 4) The remaining upland portion of the Pier, perimeter buffer and any back of house areas shall not exceed the balance of 43,560 square feet footprint of permissible spaces.

Restrictions to the Restaurant area do not limit its design to one story, however, any single or multi-level layout must minimize noise and light disturbances to adjacent residential areas. Furthermore, the design and operation of all spaces shall be sea turtle compliant (Florida's Marine Turtle Protection Act 379.2431, FS and associated guidelines).

It is expected that the Restaurant Element may include live entertainment, however, sound levels shall be kept at levels that do not disturb surrounding businesses and neighbors. At no time may the Restaurant Element be operated as a nightclub and all outside music must be reduced by 11:00PM such that complaints are not received from residents south of the property. The County in its sole and absolute discretion shall determine whether the Restaurant is being used as a nightclub.

It is expected that the Restaurant Element will be promoted through marketing and other social media. PROS will not permit the utilization of outside surfaces of the Restaurant Element for the purposes of commercial advertising for non-site related activities (other than building and free-standing signage otherwise provided in the negotiated Agreement and attachments thereto) unless otherwise deemed acceptable by PROS.

The Restaurant Element staff shall, during their work hours, be distinctively uniformed so as to be distinguishable as the Restaurant Element staff and not as employees of the County.

Pier. In order to complete General Plan requirements, the Pier must be materially related to the construction and operation of the Pier Restaurant. Subsequent to every phase of completed construction, the respective development, operation, management and day-to-day maintenance are the responsibility of the selected developer, all supported by fees and charges for admission and use. The Pier entrance (Attachment F – Pier Development, Phase 1) must be planned, designed and constructed as part of the initial Restaurant development and publicly accessed from the same parking area (Attachment H – Parking Improvements).

The entirety of the main Pier (Attachment F – Pier Development, Phases 2 and 3), extending from the seawall, cannot exceed approximately 19,000+ square feet along its approximately 880+ linear feet length. The majority of costs associated with Phase 2 and 3 of Pier construction will likely be funded through State sources. However, the County makes no guarantees that such public funding will be fully available.

In Phase 1, the Proposer, as a condition of the negotiated, executed Agreement with the County, is immediately responsible for developing the approximately 290 linear foot at-grade horizontal portion of the Pier extending from the Restaurant parking area to the seawall (the beginning point of the future reconstructed jetty/pier). This portion of the Pier shall be open and accessible to all Park visitors and freely allow circulation around and through the Pier Restaurant premises. Phase 1 shall be completed at the same time as the Restaurant. In Phase 2, funding permitting, the County, State and its municipal partner (Village of Bal Harbour) will be responsible for funding and constructing the main section of the Pier on what will be a reconstructed jetty. In Phase 3, the structure will be extended from the end of the reconstructed jetty to the end of the Pier.

Parking. The Proposer shall provide for all public parking needed by the Location for restaurant, retail and/or fishing pier uses at service levels and capacities to comply with the County Code, and to comply with the approved General Plan (Attachment H – Parking Improvements).

The selected Proposer must make improvements to existing paved parking area as well as potentially converting other paved parking lot(s) into a parking area suitable to support day and evening use of the restaurant and pier areas. This includes upgrading paving, lighting, circulation, drainage, and landscaping needed to conform to the General Plan to satisfactorily retain the 250 existing parking spaces without reducing existing beach access, as well as adding new parking areas for the new restaurant and pier use, as determined by Code.

- 1) Land required for public Pier and Restaurant parking shall be provided at no cost by the County and parking improvements by the Proposer will not result in any increase to proposed lease fees or real estate taxes.
- 2) All parking revenues from all parking areas, except for valet revenues, shall continue to be managed by the County and monies shall accrue solely to the County. In all parking areas, improved or not by the selected Proposer, the County will maintain ownership and property control, inclusive of retaining the existing parking toll.
- 3) The selected Proposer will have non-exclusive access to all parking areas, except where the County deems necessary for the selected Proposer to have exclusive control over certain parking areas for valet and employee parking.
- 4) Following improvement by the selected Proposer, all costs of maintenance for any shared on-site parking facilities, will be borne by the County. The County will include language addressing the improvements, shared access and parking and exclusive use of certain areas attached to and incorporated by reference in the negotiated Agreement.

Vehicular and Pedestrian Circulation. In order to complete General Plan requirements in the vicinity of the Pier Restaurant Element, the County will require the Proposer to make improvements to related vehicular and pedestrian circulation within and adjacent to the parking area. Vehicular circulation will address improvements to roadway traffic flow and the provision of additional parallel parking along the Park access road immediately in the vicinity of the Pier Restaurant Element. Pedestrian circulation will address the improvement of the Promenade immediately adjacent to the Pier Restaurant, and the installation of sidewalks and crossing areas from the roadway to the Pier and Pier Restaurant area through to the Promenade.

2.6.2 Beach Concessions Element

The Beach Location (Attachment G – Beach Activity Area) for the Beach Concessions Element is comprised of a six (6) acre beach recreation area adjacent to the Atlantic Ocean upon which programs, events, and concession opportunities should be located. The Beach Location is strategically located between Sunny Isles to the north and Bal Harbour to the south. Outside of the location, but required for its operation are associated beach activity areas, paved parking, vehicular circulation, picnic shelters/pavilions and pedestrian connectivity.

The Location is considered one of the oceanfront jewels of Miami-Dade County. Included in the six (6) acre area are one and a half (1-1/2) miles of pristine Atlantic Ocean beachfront; public restrooms, pedestrian tunnels for public parking access, pedestrian promenade for walking, cycling, etc., shelters for picnicking, and other typical beach amenities.

The northern half mile of beachfront serves as one of the world's most popular clothing optional beaches. Haulover Park Beach is consistently listed in the top ten (10) beaches for nudists and attracts a large following year-round.

Proposers shall establish unified beach concessions along the Atlantic Ocean side of the Park, including food, beverages, sundries, and rental opportunities to enhance the beach goers experience and extend stay time, maximize waterfront recreational use to increase visitation, promote cross-recreational usage, promote use

of public areas by enhancing the safety and security of patrons, and create a unified activity area for beach goers.

The selected Proposer shall operate and manage concession activities associated at the Beach Location for the Beach Concessions Element. The Beach area is governed by a lease agreement with the State of Florida from the high tide mark to the erosion control line. The County expects to have this lease agreement approved and in place prior to execution of this contract.

No permanent construction on the Beach is specifically requested or permitted through this Solicitation, however, if the selected Proposer includes new concession facilities in its Proposal, they will be solely responsible for all design, permitting, and construction costs associated with the proposed concession facilities. While the selected Proposer will have no exclusivity related to public access within the Beach area, Proposers will enjoy exclusive rights to provide to Park visitors the following items: Rental umbrellas, chairs/lounges and cabanas may be broadly provided by Proposers within the prescribed Beach Concession Element to Park visitors. Proposers will be required to provide all equipment with a minimum schedule of operation approved by the Department. All equipment is to be available for public use during the day and removed from the beach during the evening. No portion of the Beach may be excluded from public access, nor any area concentrated with rental equipment so as to prevent access and use. The exact number of beach rental equipment and the exact location of its placement is subject to negotiation with the County.

Concession sales providing food, drink and beach related sundries may be provided by Proposers within the Beach Concession area to Park visitors. Selected Proposer will be limited to mobile concession units during approved hours of operation and be responsible for the safe operation, maintenance and janitorial cleanup of the areas served. All concession sales supplies and equipment must be stored away from the maintained portion of the beach in a location approved by the County.

Beach activity programming and events may be provided by Proposers within the prescribed area to beach visitors. Proposers will be limited to events of a size and nature that are complimentary to the capacity and theme of the Park. All programs and events must be, without exception, open to the public and respective of sensitive areas and hours of operation.

2.6.3 Parking Garage Element

The selected Proposer shall develop, operate, and manage a parking garage structure to help meet the current and projected parking needs of the Park. The County is seeking a proposal that demonstrates creativity addressing compatibility with the surrounding natural environment, quality design, and quality materials in construction, as well as a garage structure that honors the significance of the heritage park in which it lies. It is estimated that the parking garage shall accommodate approximately 900 parked vehicles within a 3-story structure. Vehicles parked within the garage structure shall not be visible from the surrounding park areas and the structure shall be screened by a liner building containing a minimum depth of twenty (20) feet of habitable space on the ground floor along all frontages. Lining the parking garage will provide more opportunities for usable space for County functions or programs, and enhancing the architectural details and structure at the human scale shall create an inviting pedestrian experience for park visitors and contribute to the overall character of the Park. For all levels above the ground floor, the architectural features of the parking garage structure shall appear consistent and harmonious. Innovative design concepts including green walls and green roof terraces with multipurpose facilities shall be provided. The parking garage structure shall be seen as a great opportunity for design excellence that complements the vibrant park environment.

Certain valet and employee parking areas, for the exclusive use of employees and Restaurant(s) valet parking, may be segregated/coned off during hours of restaurant operation or through other means, to limit access except for valet and employees. Parking for patrons and invitees, shall at all times be available in non-exclusive parking areas. While admission to the Park remains free, the County already charges, and will continue to do so, for parking within the entirety of the parking area associated with the Park.

2.6.4 Bill Bird Marina Restaurant Element

The Bill Bird Marina is near spectacular fishing and artificial reefs and is part of the internationally known Haulover Cut with direct access to the ocean and Gulf Stream. The Marina has a dive boat operation, charter boat fishing fleet and is across the street from miles of beautiful sandy beaches, including the popular Haulover Beach. Bill Bird Marina is strategically located between Sunny Isles to the north and spectacular Bal Harbour to the south and has a yearly attendance of XXXXXX.

The Bill Bird Marina Restaurant Element site (Attachment I – Bill Bird Marina Restaurant and Public Restroom) is provided in as-is condition. The area allocated for development of the Restaurant is adjacent to the Bill Bird Marina Dock and Charter Boats.

The selected Proposer shall design, construct, manage, operate, and maintain a Restaurant at Bill Bird Marina within Haulover Park. The Bill Bird Marina Restaurant Element should enhance the Haulover Park experience while providing a venue where park patrons, area residents and visitors can dine. The design, atmosphere, and the type of restaurant contemplated is a family restaurant incorporating the Streamline Moderne Florida architecture style of the 1930's designed to maintain the essence of the unique South Florida character and reminiscent of the Art Deco era.

Along the Intracoastal Waterway and immediately adjacent to the proposed Restaurant is a Promenade that the selected Proposer shall activate in association with related Bill Bird Marina Restaurant activities. PROS' General Plan emphasizes the public use of a connected path (Promenade) to provide additional recreational opportunities to the visitors, increase waterfront views, extend stays and increase traffic to the revenue generating areas of the Park. It is the desire of PROS that the Promenade's connectivity to the beach-side be a part of the selected Proposer's plans.

The selected Proposer shall have access to the number of parking spaces required by Miami-Dade County Code in the adjacent parking lot for the use of the Bill Bird Marina Restaurant patrons. The adjacent parking lot is to be shared with the commercial fishing fleet and other contracted operators in the Bill Bird Marina. It is the selected Proposer's responsibility to modify, improve and/or augment at its expense the number of parking spaces in order to maintain the number of Miami-Dade County Code required spaces for its use, as well as those needed by the other users of that lot. Furthermore, the adjacent parking lot is offered in as-is condition.

It is expected that the Bill Bird Marina Restaurant Element may include live entertainment, however, sound levels shall be kept at levels that do not disturb surrounding businesses and neighbors. At no time may the Bill Bird Marina Restaurant Element be operated as a nightclub and all outside music must be reduced by 11:00PM such that complaints are not received from residents south of the property. The County in its sole and absolute discretion shall determine whether the Restaurant is being used as a nightclub.

It is expected that the Bill Bird Marina Restaurant Element will be promoted through marketing and other social media. PROS will not permit the utilization of outside surfaces of the Bill Bird Marina Restaurant Element for the purposes of commercial advertising for non-site related activities (other than building and free-standing signage otherwise provided in the negotiated Agreement and attachments thereto) unless otherwise deemed acceptable by PROS.

The Bill Bird Marina Restaurant Element staff shall, during their work hours, be distinctively uniformed so as to be distinguishable as the Restaurant Element staff and not as employees of the County.

2.6.5 Amphitheater and Intracoastal Concessions Element

The selected Proposer shall design, construct, manage, operate, and maintain an Amphitheater within Haulover Park. Selected Proposer shall also establish unified concessions along the Intracoastal side of the Park, including food, beverages, sundries and rental opportunities to enhance patron experience and extend stay time, maximize waterfront recreational use to increase visitation, promote cross-recreational usage, extend stay time and increase visitor enjoyment, promote use of public areas by enhancing the safety and security of patrons, and create a unified activity area for patrons.

2.6.6 Public Restrooms Element

Build a public restroom adjacent to the Bill Bird Restaurant...

2.6.7 Other Potential Elements

Several Elements are currently operated and maintained by PROS. In order for a Proposer to assume operation, management, and maintenance at these sites, additional expansion may be required. For further information, see each Element listed below.

2.6.7.1 Bill Bird Marina Element

The Marina is currently operated by PROS and includes 152 boat slips, 950 linear feet of breakwater, 15 commercial fishing/charter boats, a fuel dock and a bait & tackle store along the Intracoastal Waterway.

The site (Attachment J – Bill Bird Marina) is provided in as-is condition. Proposers may submit a proposal that includes a management plan for the Marina as long as an expansion of the Marina is included in their proposal. For a submittal including an expansion and operation of the Marina to be considered, the Proposer must demonstrate that an expansion is viable with respect to environmental and navigable regulations and challenges. The area allocated for expansion of the Marina must be adjacent to the Bill Bird Marina Dock and Charter Boats.

2.6.7.2 Haulover Park Boat Ramps Element

The Boat Ramps are near spectacular fishing and artificial reefs and is part of the internationally known Haulover Cut with direct access to the ocean and Gulf Stream within minutes of launching. It is located less than one (1) mile from the Haulover Cut and the popular sand bar.

The Boat Ramp Element is currently operated by PROS and includes six (6) ramps along the Intracoastal Waterway. The site (Attachment K – Boat Ramps) is provided in as-is condition. The selected Proposer may submit a proposal that includes a management plan for the Boat Ramp as long as improvements of the Boat Ramp and parking lot is included in their proposal.

2.7 Sustainable Buildings Program

In accordance with Miami-Dade County Ordinance 07-65, The Sustainable Buildings Program, sustainable development building measures shall be incorporated into the design, construction, renovation and maintenance of County facilities. Therefore, the Proposer shall incorporate sustainable development building measures into the design, construction, operations, and maintenance of the proposed Facilities. Features of the latest version of the Leadership in Energy and Environmental Design (LEED) for New Construction, minimum LEED Silver (LEED-NC), shall be the minimum acceptable certification for proposed Facilities. Selected Proposer shall seek and obtain a minimum of LEED Silver certification on built Facilities and provide all backup documentation to confirm compliance with this requirement. The selected Proposer is responsible for ensuring compliance with this County Ordinance. Selected Proposer shall also be required to assist the County with obtaining 179D Commercial Building Tax Deduction upon completion of development if applicable.

2.8 Personnel Requirements

Selected Proposer 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 selected Proposer shall ensure that all selected Proposer's management, staff and volunteers:

- 1) Have had nationwide criminal background checks conducted by a Professional Background Screener;
- 2) Have been screened through the Florida Department of Law Enforcement Sexual Predator/Offender Database, and a check of the National Sex Offender Public Registry;
- 3) Have been verified as being United States Citizens or having legal immigrant status employment; and
- 4) Wear picture identification at all times while on County property and when in direct contact with patrons and the general public.

- 5) Retain all records demonstrating compliance with the background screening required herein for not less than three years beyond the end of the contract term. The selected Proposer shall provide the County with access to these records annually, or at the request of the County.

2.9 General Obligation Bond Funding

The County anticipates contributing approximately \$10,000,000 in General Obligation Bond (GOB) Program funds to the entire Site development. Based on the Fiscal Year 2015-16 Adopted Budget, funding may be available pursuant to the following schedule, subject to negotiations:

- | | |
|--------------|-------------|
| • FY 2016-17 | \$0 |
| • FY 2017-18 | \$4,800,000 |
| • FY 2018-19 | \$5,200,000 |

Proposer should note that the use of GOB funds cannot be used for design services or any other professional services covered by Section 287.055 of the Florida Statutes. GOB funding will only be provided on a reimbursement basis and will be the last funding source made available on the project once all of the proposed private investment has been exhausted.

2.10 Required Qualifications of Development Team

The Development Team shall have:

- 1) Architect(s) licensed and registered in the State of Florida as required by Chapter 481, Part I of the Florida Statutes, Architecture.
- 2) Landscape Architect(s), licensed and registered in the State of Florida as required by Chapter 481, Part II, Landscape Architecture, of the Florida Statutes.
- 3) General Contractors...
- 4) Engineers...

The selected Proposer shall maintain these required qualifications of the Development Team during the development phase of the project.

2.11 Preferred Experience of Development Team

It is preferred that the Development Team have:

- 1) Architect(s) with at least ten (10) years' experience in design and renovation services similar in size and scope of those requested in this Solicitation.
- 2) Landscape Architect(s) with at least ten (10) years' experience in design and renovation services similar in size and scope of those requested in this Solicitation.
- 3) At least five (5) years of experience in design and construction of restaurants, marinas, parking structures, or other comparable facilities of equal size and complexity.

2.12 Preferred Experience of Management/Operations Team

The County is seeking a Management/Operations Team that is experienced in the management and successful operation of entertainment areas, marinas, lodging venues or other comparable destinations of equal size and complexity. The Management/Operations Team as a whole, should have the requisite expertise in the operation of restaurant, marina, pier, and parking facilities, in addition to financial and management capability to operate Haulover Park as identified in this solicitation.

2.13 Subcontractor(s) and Subconsultant(s)

The subcontractor(s) to the Proposer, if any, may be one firm possessing all the required expertise or may be several individuals or firms, which when combined, possess all the required expertise. Subcontractor teams may also include professional planning and design consultants and sub-consultants, financial and marketing sub-consultants, and operation and management consultant(s). Subcontractors or general contractors may submit their qualifications for more than one Development Team, however, the Proposer and other permanent Management/Operational Team staff

(team members required beyond the construction phase, as in principals, operations and management personnel) of the Project shall only submit their names in one Proposal submission and shall not be part of any other submission in any capacity.

2.14 Financial Capability

The selected Proposer shall secure all necessary financing for the completion and maintenance of the Haulover Park Elements throughout the life of the Agreement. The selected Proposer shall acquire and submit a term sheet and a letter of intent (or a commitment letter) from a lender indicating its willingness to lend an amount necessary for construction financing of the Project, or other documents that detail all sources of capital, operations, and maintenance funds dedicated to the Project indicating that the selected Proposer has sufficient financing to complete the Project.

Should the selected Proposer fail, for any reason whatsoever, to secure or maintain adequate financing for the Haulover Park development as approved by the County, as amended or described in the proposal submitted in response to this Solicitation, the County shall be free to seek another Proposer for the Project, and in doing so, terminate the Agreement. In this instance, in addition to other damages the County may have and seek to recover against the selected Proposer, the selected Proposer shall be responsible to pay the County an administrative fee. Such administrative fee shall include, but may not be limited to, re-procurement costs identified by the County.

Proposer's proposals shall evidence the firm's financial ability, understanding and wherewithal to carry out the Project scope. The County may, at any time, request additional information regarding the Proposer financial capability Proposal. Under no circumstances will a Proposer be allowed to place a lien on County property and all proposed financing mechanisms shall not assume any liens on County property.

2.15 Project Management Fee

The County will assign a PROS Capital Project Manager (CPM) to the Project to expedite its design, permitting, and construction. The CPM will be paid 1.5% of the total development cost, not to exceed \$200,000 per year, from execution date of the agreement to date of Beneficial Occupancy. The fee is instituted on all PROS projects only during design, permitting, and construction phases to ensure compliance with County asset management and to reduce difficulties associated with capital improvement projects.

2.16 Taxes

It is the responsibility of the selected Proposer to determine any and all tax consequences which may arise due to placing the development on County-owned land. The County makes no representations or warranties as to the availability of any exemption or tax benefit, or to the Selected Proposer's ability to receive any such exemption or benefit. The selected Proposer shall be responsible for payment of any and all applicable taxes associated with its proposed Elements.

2.17 Schedule

The County anticipates the Project construction phase to be completed and the Date of Beneficial Occupancy to take place, as evidenced by an issued Certificate of Occupancy (CO), within xxxx (x) years of the date of execution of the Agreement. Attachment D - County Estimated Project Completion Timeline is attached for reference. An exact schedule of completion, including milestones and any possible penalties for failure to adhere to the schedule shall be subject to negotiation with the selected Proposer.

2.18 Additional Services/Locations

The County, at its sole discretion, may allow the selected Proposer to provide additional services and/or use additional or substitute space within the proposed Open Lawn Space, upon such terms as the parties may agree. Such additional services must follow the theme of the approved purpose of any agreement issued as a result of this solicitation. However, any right to additional services and space by selected Proposer are subordinate to the County's right to provide the additional service or use additional space itself and the County's right to contract with others.

2.19 Revenue Schedule

The County anticipates to be compensated for the use of the Site that the County is offering as part of this Solicitation. As such, Proposer shall provide revenues to the County in the form of: a) an Initial Rent, b) Land Rent/Minimum Guaranteed Rent; c) Percentage Rent/Percentage of Monthly Gross Revenues; and d) Miscellaneous Fees.

The County completed a fair market appraisal of the property, (zoned GU, Interim Zoning District; BU-2, Special Business District; IU-1, Industrial, Light Manufacturing), in 2016. Such appraisal valued the Haulover Park property at \$xxx million. As such, the County seeks a revenue structure from Proposers that best approximates or exceeds the total return amount to the County through the proposed combination of Minimum Annual Guaranteed Rent and Percentage of Monthly Gross Revenues, as described below.

- 1) Initial Rent. The selected Proposer shall pay the County an Initial Rent annually for the period between the Agreement Effective Date and the Date of Beneficial Occupancy or four years, whichever is sooner, at any or all of the respective improvement areas.
- 2) Land Rent: Minimum Annual Guaranteed Rent. After the Date of Beneficial Occupancy or four years, whichever is sooner, and through the termination date of the Agreement, the selected Proposer shall pay the County a Minimum Annual Guaranteed Rent on the first day of each month.
- 3) Percentage of Monthly Gross Revenue. In addition to the Guaranteed Monthly Rent, the selected Proposer shall pay the County on a monthly basis a Percentage of Gross Receipts, for revenue from the sale of all fees, goods and services provided at the location, as of Date of Beneficial Occupancy.
- 4) Miscellaneous Fees. The County anticipates the Haulover Park development to produce additional fees that will accrue to the selected Proposer in the form of corporate sponsorships, licenses, advertising revenues, etc.

3.0 RESPONSE REQUIREMENTS

3.1 Submittal Requirements

In response to this Solicitation, Proposer should **complete and return the entire Proposal Submission Package** which includes the Proposer Information Section, all Webforms/Affidavits, Form 1, Form 2, Form 3, and Form 4 in addition to any exhibits, attachments, etc. that the Proposer considers as part of its Proposal. 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.

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

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 Competitive Selection Committee which will evaluate and rank proposals on criteria listed below. The Competitive Selection Committee will be comprised of appropriate County personnel and members of the community, as deemed necessary, with the appropriate experience and/or knowledge, striving to ensure that the Competitive Selection Committee 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 Competitive Selection Committee member.

<u>Technical Criteria</u>	<u>Points</u>
1) Relevant experience and qualifications of development, management, and operations team(s), to include business development team performing programming and event management along with key personnel, inclusive of subcontractors, if any.	30
2) Approach to providing the services requested in this Solicitation, objectives, conceptual plan, development plan to include time frame, summary marketing/management plan to include number of proposed detailed events and marketing strategies, operation plan, and phasing guarantees, including how well the Proposal incorporates the components of the General Plan as described in the Solicitation.	40
 <u>Financial Capacity</u>	
3) Proposer's financial capability to providing the services requested in this Solicitation inclusive of their financial feasibility of the Project, order of magnitude cost estimate and pro forma.	20
 <u>Revenue Schedule</u>	
4) Proposer's total revenue to the County as identified on Form 1 – Revenue Proposal Schedule, in the form of total capital investment of Elements, initial rent, land rent, percentage rent and any miscellaneous monies derived from event parking, sponsorships, licenses, advertising revenue, etc.	10

4.3 Oral Presentations

Upon evaluation of the criteria indicated above, rating and ranking, the Competitive Selection Committee may choose to conduct an oral presentation with the Proposer(s) which the Competitive Selection Committee deems to warrant further consideration based on, among other considerations, scores in clusters and/or maintaining competition. (See Affidavit – “Lobbyist Registration for Oral Presentation” regarding registering speakers in the proposal for oral presentations.) Upon completion of the oral presentation(s), the Competitive Selection Committee will re-evaluate, re-rate and re-rank the proposals remaining in consideration based upon the written documents combined with the oral presentation.

4.4 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 of Miami-Dade County. “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 of Miami-Dade County 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 proposal submittal form.

4.5 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 to the County as may be in the best interest of the County.

4.6 Local Preference

The evaluation of competitive solicitations is subject to Section 2-8.5 of the Miami-Dade County 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 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 Competitive Selection Committee will recommend that a contract be negotiated with said local Proposer.

4.7 Negotiations

The Competitive Selection Committee 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, taking into consideration the Local Preference Section above. The County Mayor or designee, at their sole discretion, may direct negotiations with the highest ranked Proposer, negotiations with multiple Proposers, and/or may request best and final offers. In any event the County engages in negotiations with a single or multiple Proposers and/or requests best and final offers, the discussions may include price and conditions attendant to price.

Notwithstanding the foregoing, if the County and said Proposer(s) 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(s). 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 Collusion Affidavit, in accordance with Sections 2-8.1.1 of the Miami-Dade County Code. (If a Proposer fails to submit the required Collusion Affidavit, said Proposer shall be ineligible for award.)

4.8 Contract Award

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.

4.9 Rights of Protest

A recommendation for contract award or rejection of all proposals may be protested by a Proposer in accordance with the procedures contained in Sections 2-8.3 and 2-8.4 of the County Code, as amended, and as established in Implementing Order No. 3-21.

5.0 TERMS AND CONDITIONS

The anticipated form of agreement is attached. The terms and conditions summarized below are of special note and can be found in their entirety in the agreement:

a) Vendor Registration

Prior to being recommended for award, the Proposer shall complete a Miami-Dade County Vendor Registration Package. For online vendor registration, visit the Vendor Portal: <http://www.miamidade.gov/procurement/vendor-registration.asp>. Then, the recommended Proposer shall affirm that all information submitted with its Vendor Registration Package is current, complete and accurate at the time it submitted a response to the Solicitation by completing an Affirmation of Vendor Affidavit form as requested by the County.

b) Insurance Requirements

The Contractor shall furnish to the County, Internal Services Department, Procurement Management Services Division, 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

According to Section 2-1076 of the Code of Miami-Dade County, as amended by Ordinance No. 99-63, 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, except as otherwise indicated.

d) Art in Public Places Requirements

In compliance with the Art in Public Places program (APP), the selected Proposer shall set aside and transfer to APP a minimum contribution of 1.5% of the total costs of design and construction of the development for the commissioning of art work(s).

e) Residents First Training and Employment (RFTE) Program

This program is applicable to all Miami-Dade County construction contracts valued over \$1 million and requires Contractors/Subcontractors to adhere to the following:

- a. All persons employed on a project to perform construction shall have completed the OSHA 10-hour safety training.
- b. The Contractor will make its best reasonable effort to have 51% of all construction labor hours performed by Miami-Dade County residents.

f) PROS Capital Project Manager (CPM)

A Capital Project Manager (CPM) will be assigned by PROS to the Project to expedite the Project design, permitting, and construction. The CPM shall be paid 1.5% of the total development cost, not to exceed \$200,000 annually, which is instituted on all PROS projects only during design, permitting, and construction phases, to ensure compliance with County asset management and to reduce difficulties associated with capital improvement projects.

g) Shannon Melendi Act

Contractor shall conduct 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".

h) Responsible Wages and Benefits Ordinance 90-143

Developer shall comply with the provisions of Miami-Dade County's Responsible Wages and Benefits Ordinances (Section 2-11.16 of the code of Miami-Dade County) wherein, all laborers and mechanics employed or working upon a project will be paid the full amount of wages and fringe benefits (or cash equivalent thereof) computed at rates not less than those contained in the wage determination in effect at the time the work is performed, regardless of any contractual relationship which may be alleged to exist between the contractor and such laborers and mechanics.

i) Community Small Business Enterprise Program (CSBE)

Section 10-33.02 of the Miami-Dade Code AS AMENDED, and Ordinance 12-05.

j) Community Business Enterprise Program (CBE)

Section 2-10.4.01 of the Miami-Dade Code AS AMENDED, and Ordinance 12-05.

k) Small Business Enterprise Program (SBE)

Ordinance 05-29 and Administrative Order 3-41.

l) First Source Hiring Referral Program

Pursuant to Section 2-2113 of the Code of Miami-Dade County, 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 the South Florida Workforce

Investment Board (“SFWIB”), the designated Referral Agency, of the vacancy and list the vacancy with SFWIB 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 SFWIB. 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 SFWIB 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 FSHRP are available at <https://iapps.careersourcesfl.com/firstsource/>.

m) Sustainable Buildings Program

In accordance with Miami-Dade County Ordinance 07-65, The Sustainable Buildings Program, sustainable development building measures shall be incorporated into the design, construction, renovation and maintenance of County facilities. Therefore, the Proposer shall incorporate sustainable development building measures into the design, construction, operations, and maintenance of the proposed Facilities. Features of the latest version of the Leadership in Energy and Environmental Design (LEED) for New Construction, minimum LEED Silver (LEED-NC), shall be the minimum acceptable certification for proposed Facilities. Selected Proposer shall seek and obtain a minimum of LEED Silver certification on built Facilities and provide all backup documentation to confirm compliance with this requirement. The selected Proposer is responsible for ensuring compliance with this County Ordinance. Selected Proposer shall also be required to assist the County with obtaining 179D Commercial Building Tax Deduction upon completion of development if applicable.

6.0 ATTACHMENTS

Attachment A – Location Map
 Attachment B – General Plan, Revised
 Attachment C – Existing Utility Location
 Attachment D – Haulover Park Design Guidelines
 Attachment E – Pier and Beachfront Locations
 Attachment F – Pier Development
 Attachment G – Beach Activity Area
 Attachment H – Parking Improvements
 Attachment I – Bill Bird Marina Restaurant and Public Restroom
 Attachment J – Bill Bird Marina
 Attachment K – Boat Ramps
 Attachment L – County Estimated Project Completion Timeline
 Attachment M – Resolution No. R-997-12, Approval of Revised General Plan
 Attachment N – Resolution No. 12-SRDC-14, Shoreline Development Review Committee Determination
 Attachment O – Article 7 of the Home Rule Amendment and Charter
 Attachment P – Operations and Management Plan
 Draft Form of Agreement
 Web Forms – Proposal Submission Package Including: Proposal Submittal Form, Fair Subcontract Practices Affidavit, Subcontractor Listing, Lobbyist Registration Form, and Contractor Due Diligence Affidavit.
 Proposer Information Section*
 Form 1 – Revenue Proposal Schedule*
 Form 2 – RFTE Program Responsible Contractor/Subcontractor Affidavit Form (RFTE 1)
 Form 3 – PROS Shannon Melendi Affidavit
 Form 4 – Disability Nondiscrimination Affidavit

*Note – The Proposer Information Section and Form 1 have been posted to BidSync in the form of fillable Microsoft Word documents.

ATTACHMENT A – LOCATION MAP



ATTACHMENT B – GENERAL PLAN, REVISED

HAULOVER PARK GENERAL PLAN

General Plan Description:

As a Miami-Dade County Heritage Park, the general plan for Haulover Park combines the historic vision of the original William Lyman Phillips design with the modern needs of a growing and evolving population upon limited natural resources. Key elements of the design include improvements to circulation through and within the park for pedestrians and vehicles. Visitors will be able to safely walk, bike or drive to all of the park's amenities with special emphasis on access to the beach, marina, and open spaces.

- Legend**
- ① Beach
 - ② Open Lawn Space
 - ③ Fence
 - ④ Promenade
 - ⑤ Plant Wall / Pavilion
 - ⑥ Park Entrance
 - ⑦ Planting
 - ⑧ Restrooms
 - ⑨ Concessions
 - ⑩ Amphitheater / Performance Area
 - ⑪ Picnic Shelter
 - ⑫ Picnic Table
 - ⑬ Picnic Shelter
 - ⑭ Picnic Shelter
 - ⑮ Picnic Shelter
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ATTACHMENT C – EXISTING UTILITY LOCATION

DRAFT

ATTACHMENT D – HAULOVER PARK DESIGN GUIDELINES

HAULOVER PARK



DESIGN GUIDELINES

Prepared by Wallace, Roberts & Todd, LLC, Coral Gables for
MIAMI-DADE PARK AND RECREATION
May 2002

HAULOVER PARK

DESIGN GUIDELINES

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Prepared by Wallace, Roberts & Todd, LLC, Coral Gables for
MIAMI-DADE PARK AND RECREATION
May 2002

Purpose and Intent

The purpose of these guidelines is to define a common design language for all future development in Haulover Park that will create a signature image for the park. The guidelines identify characteristics that are to be incorporated into the design of all future hardscape and architectural features within the park.

It is the intent of these design guidelines to define a versatile set of design features that can be applied to a variety of building types and hardscape elements. The guidelines emphasize simplicity and the creative use of inexpensive materials and construction techniques.

The design features outlined are derived from the Streamline Moderne style of Art Deco architecture that is common along the Atlantic Coast of South Florida. This style of architecture is characterized by its simplicity, its use of manufactured materials and its versatility. The style has been identified as the design template for the oceanside park because of its regional appropriateness and its cheerful seaside imagery as well as the versatility of the vocabulary of simple concrete construction, inexpensive finishes and details. Streamline Moderne is typified by the following elements:

- Building forms modeled after oceanliners
- Smooth, planar surfaces and streamlined lines
- Horizontal orientation
- Simple ornamentation
- Rounded edges and curved corners
- Wrap-around windows
- Stucco exterior walls
- Glass block windows and walls
- Small round windows reminiscent of portholes on yachts and ocean liners

It is not the intent of the guidelines to promote literal translations of the Streamline Moderne architecture of the 1930s. Rather, the guidelines identify a set of design features that can be incorporated into a variety of project types with, it is hoped, the same creative spirit that guided Depression-era designers toward the inventive use of simple elements. The guidelines identify simple elements and appropriate decorative themes but designers are encouraged to interpret these in innovative ways. While designers may find ample inspiration in the region's Art Deco architecture, not all elements of the style are appropriate for the park. Designers are discouraged from incorporating elaborate or expensive features and encouraged instead to seek opportunities to integrate functional details into the design. An elegantly detailed scupper or air intake is preferable to an elaborate vertical entrance feature. Designers are encouraged to be creative in the application of the guidelines.

Ease of maintenance should be a consideration in the design of all structures. Where the building program allows, the walls of structures should be open at the bottom to permit hosing of the floor surface. The floor surface should likewise permit hosing.

Application of the Guidelines

The guidelines apply to all new facilities identified in the Haulover Park General Plan:

Building types:

- Tunnel Entrances
- Restroom and Concession Buildings
- Central Lifeguard Station
- Golf Teaching Facility
- Marina Commercial Buildings
- Ship Store
- Dockmaster's Office
- Conservation Interpretive Facility
- Intracoastal Pavilion
- Service Buildings - Lifeguard Garage, Beach Maintenance, Drystack Boat Storage

Site features:

- Exterior spaces associated with buildings
- Shelters - Beach Huts, Picnic Shelters, Fishing Shelters
- Activity Nodes - Play Areas, Interpretive Features, Performance Areas
- Fishing Piers - Ocean Fishing Pier, Intracoastal Fishing Piers
- Beach Promenade - Activated Beach Area, Main Beach
- Waterfront Promenade - Haulover Sound, Marina, Intracoastal Waterway
- Recreational Facilities - Driving Range, Putting Area, Tennis Courts, Boat Ramp

The guidelines identify desired design characteristics for Architectural and Hardscape Elements and include illustrations of typical examples of these characteristics. Appropriate adaptation of the design characteristics to the scale, function and location of the project is the responsibility of the designer. Parks staff will provide input to identify preferred architectural and site design treatments which are consistent with the design guidelines and the program requirements for individual projects. Guidelines apply to the following elements:

Architectural Elements

- Building Form
- Windows
- Materials, Finishes and Color
- Decorative Elements
- Decorative Themes

Hardscape Elements

- Paving
- Walls
- Rails
- Lighting
- Site Furnishings
- Special Features

Architectural Elements

Building Form

Desired Characteristics:

- Building forms inspired by ships
- Simple, bold horizontal design compositions
- Flat roof with parapet wall incorporating vertical accent features
- Streamlined lines - curves, uninterrupted horizontal lines and other details suggesting motion and reminiscent of the aerodynamic forms of yachts and ocean liners and of waves
- Stepped-back facade for upper floors
- Symmetrical or asymmetrical massing
- Smooth, rounded corners, semicircular bays
- Main entry facade oriented toward the ocean or bay promenade
- "Eyebrows" that wrap around corners



Haulover Park Design Guidelines

Architectural Elements

Windows

Desired Characteristics:

- Narrow horizontal bands of windows
- Windows wrapped around corners
- Small round windows reminiscent of portholes on yachts and ocean liners
- Metal window frames
- Glass block

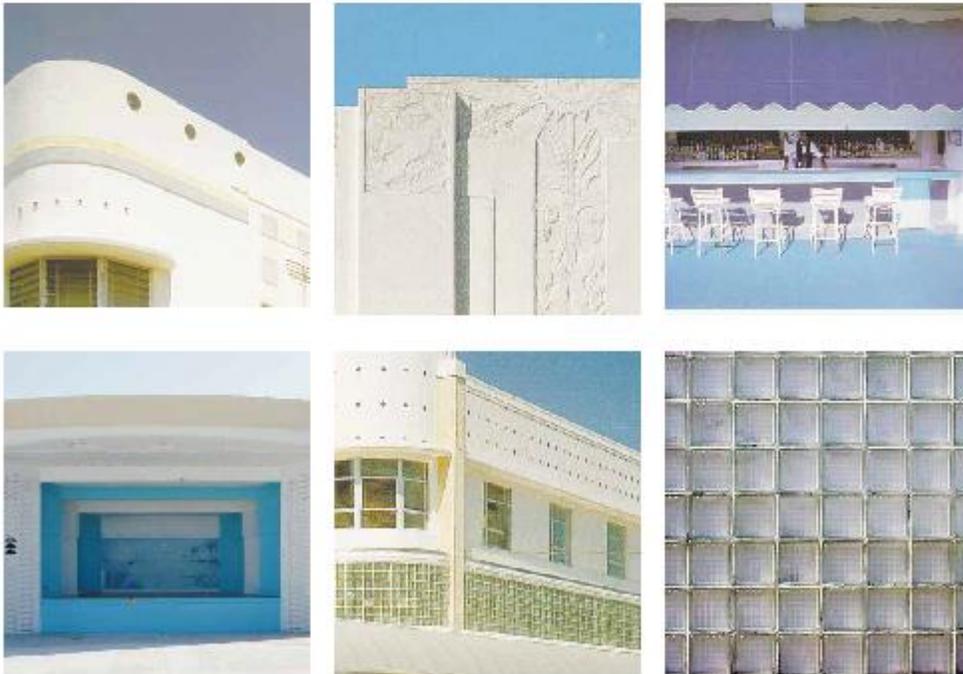


Architectural Elements

Materials, Finishes and Color

Desired Characteristics:

- Smooth, planar, and aerodynamic surfaces
 - Molded concrete
 - Glass Block
 - Painted stucco
 - Changes in color, material, or surface molding that accent the horizontal layering of the facade
 - Shades of the same hue that accent molded surface detailing and layering of facades
- Paint colors shall be predominantly white with accent colors selected from the color chart on the following page. The color chart identifies by name and number the Benjamin Moore Exterior Paint colors that may be used for accents. A master color chart is available for use at the Miami Dade County Department of Parks and Recreation.



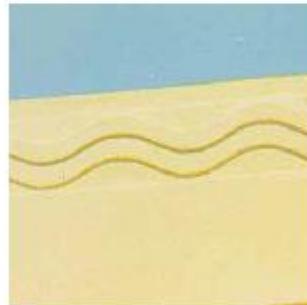
Haulover Park Design Guidelines

Architectural Elements

Decorative Elements

Desired Characteristics:

- Deck railings like those found on grand ocean liners
- Ship's mast-like spires
- "Eyebrows" over windows or swept around corners as a continuous awning
- Shadow lines in molded concrete
- Bas-relief stucco
- Painted wall murals
- Cast concrete accents
- Glass block



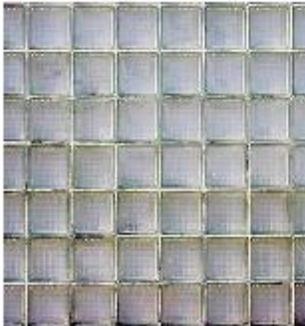
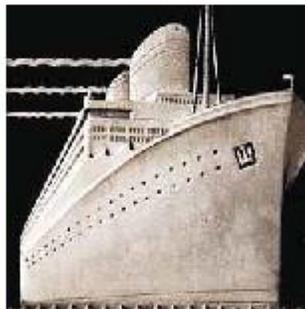
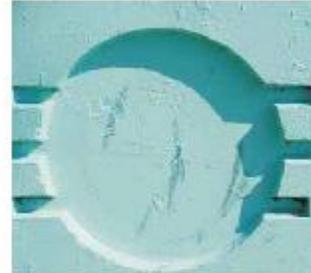
Haulover Park Design Guidelines

Architectural Elements

Decorative Themes

Desired Characteristics:

- Geometric patterns
- Racing stripe banding
- Abstracted natural forms, especially waves
- Nautical motifs
- Tropical floral and fauna motifs, especially turtles, palm trees, fish, sea birds



Hardscape Elements

Paving

Desired Characteristics:

- Patterning consistent with the decorative themes identified for park architecture: geometric patterns such as stripes, abstracted natural forms such as waves.

Promenades and Walkways

- Concrete paving with patterning in contrasting finishes including Salt finish, Exposed Mica/ Seashell aggregate with light sandblast (for glimmering effect), Broom finish.

- Board decking in sustainable wood.

Building Exterior Spaces and Activity Nodes

- Concrete with patterning in contrasting finishes or integral color

- Decorative treatments that are compatible with the architecture of the building and the activity of the site including patterned terrazzo, concrete unit pavers, real keystone, board decking in sustainable woods or recycled lumber or glass block

Parking Lots

- Drive lanes and permanent parking bays: Asphalt

- Overflow parking bays: Grass Pavers



Concrete- integral color



Concrete unit pavers



Board decking



Concrete-contrasting finishes



Stone pavers with concrete



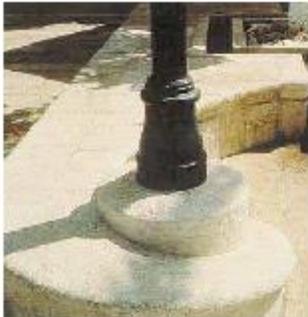
Terrazzo and board decking

Hardscape Elements

Walls

Desired Characteristics:

- Cast concrete compatible with adjacent architecture and paving.
- Streamlined forms: curves, rounded corners, long uninterrupted horizontal lines or other forms suggesting movement, waves or other nautical themes.
- Painted stucco or concrete finished to match adjacent paving.



Haulover Park Design Guidelines

Hardscape Elements

Rails

Desired Characteristics:

- Handrails, guardrails and decorative rails of tubular steel or aluminum with either a polished, brushed or white finish.
- Continuous horizontal cross pieces
- Streamlined forms that incorporate the decorative motifs and details outlined for park architecture that reflect the nautical imagery of the park. Railings may recall the railings found on grand ocean liners and yachts or include curves, rounded corners, long uninterrupted horizontal lines or other forms suggesting movement, waves or other nautical themes.
- Bollards and chains may be used adjacent to the Intracoastal Waterway
- Open concrete railings incorporating decorative motifs and materials may be used at buildings and activity nodes.



Haulover Park Design Guidelines

Hardscape Elements

Lighting

Desired Characteristics:

- Light fixtures shall be assembled from readily available standard components in configurations that evoke the masts, rigging and hardware of ships and sailboats.

- Because Haulover Beach is a sea turtle habitat, full cut-off type light fixtures are required to reduce light pollution and minimize the negative effects of artificial light on nesting sea turtles.



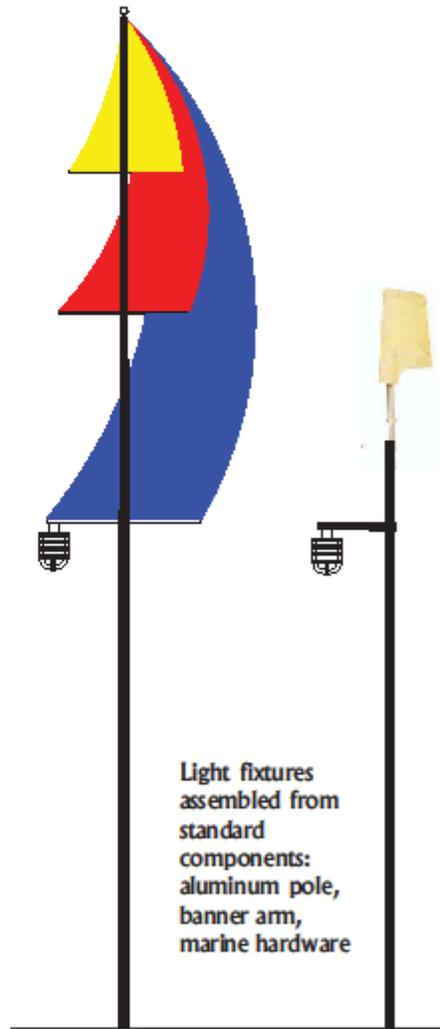
Marine hardware



Standard aluminum flagpole with banner arms



Full cut-off, nautically inspired luminaires



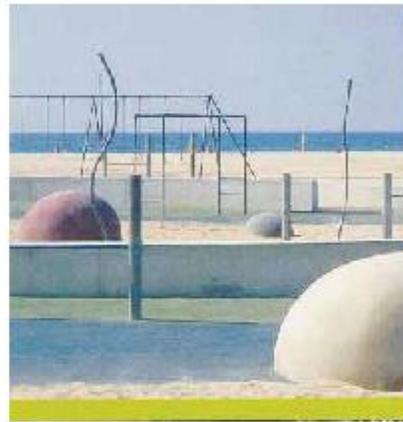
Hardscape Elements

Site Furnishings

Benches, trash receptacles, picnic tables, grills, showers

Desired Characteristics:

- Assembled from standard components or custom fabricated from fiberglass, recycled plastic or aluminum, marine plywood or concrete
- Streamlined forms that reflect the nautical imagery of the park
- Finishes that are naturally weathering, integrally colored or painted.
- Colors that are bright pastel tropical hues with ocean and sky hues predominating. See the color chart on page 7 for approved colors.



Site furnishings with geometric and abstract natural forms fabricated from aluminum or steel pipe, concrete and recycled plastic.

Hardscape Elements

Special Features

Site furnishings, shelters, play equipment, interpretive elements, signage and sculpture

Desired Characteristics:

- Coordinated with the site design, hardscape elements and architecture
- Created as part of the Art in Public Places program



Sculpture in the form of beach icons.



Custom fabricated bench in the form of a ship's cleat.



Riveted metal trash can in the form of a ship's smokestack.



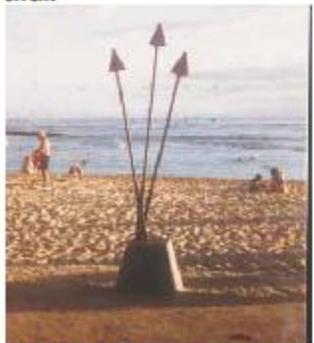
Band shell in the form of a sea shell.



Interpretive elements that explore nautical themes.



Post War Deco style shelter.

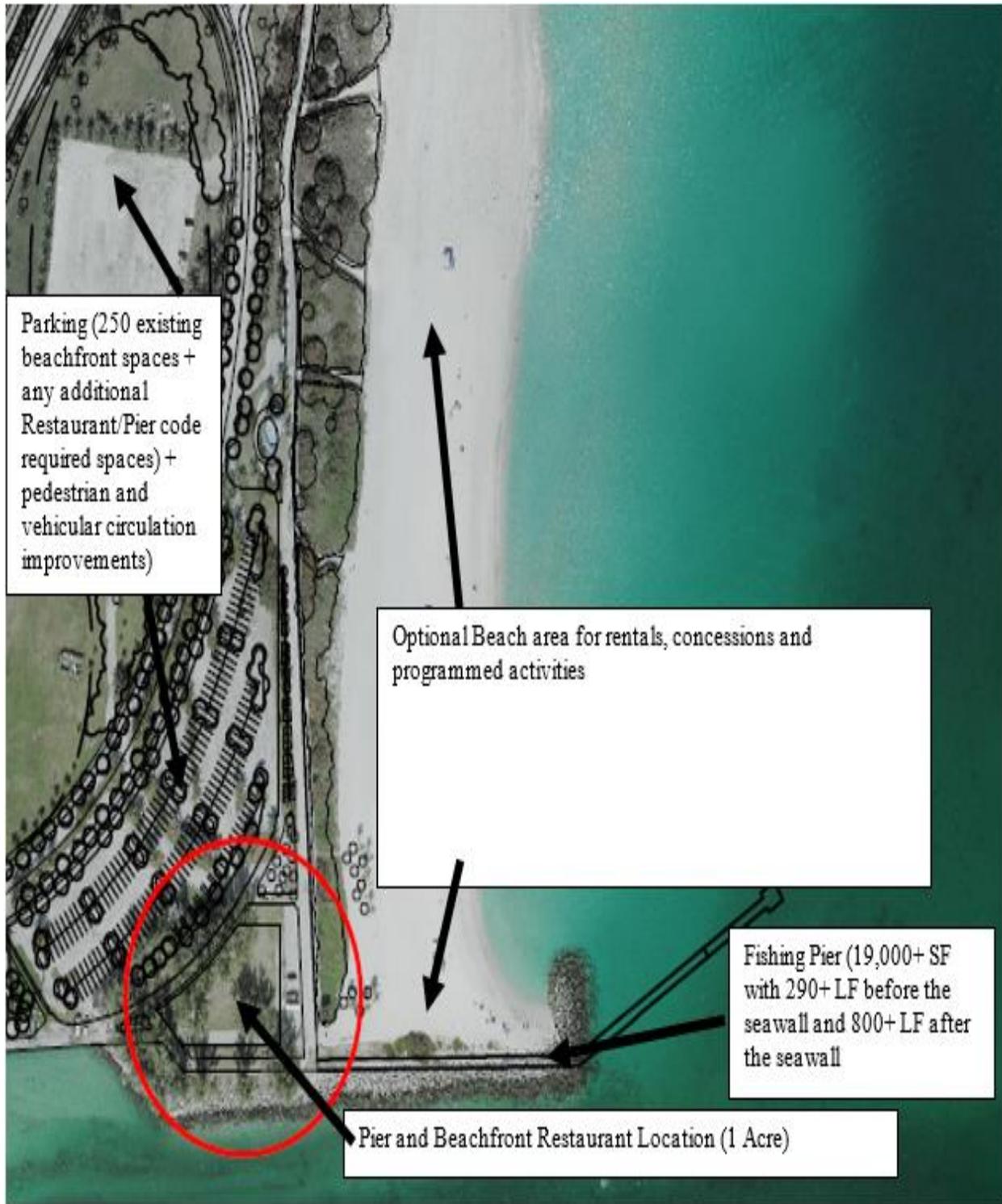


Beach lighting in the form of

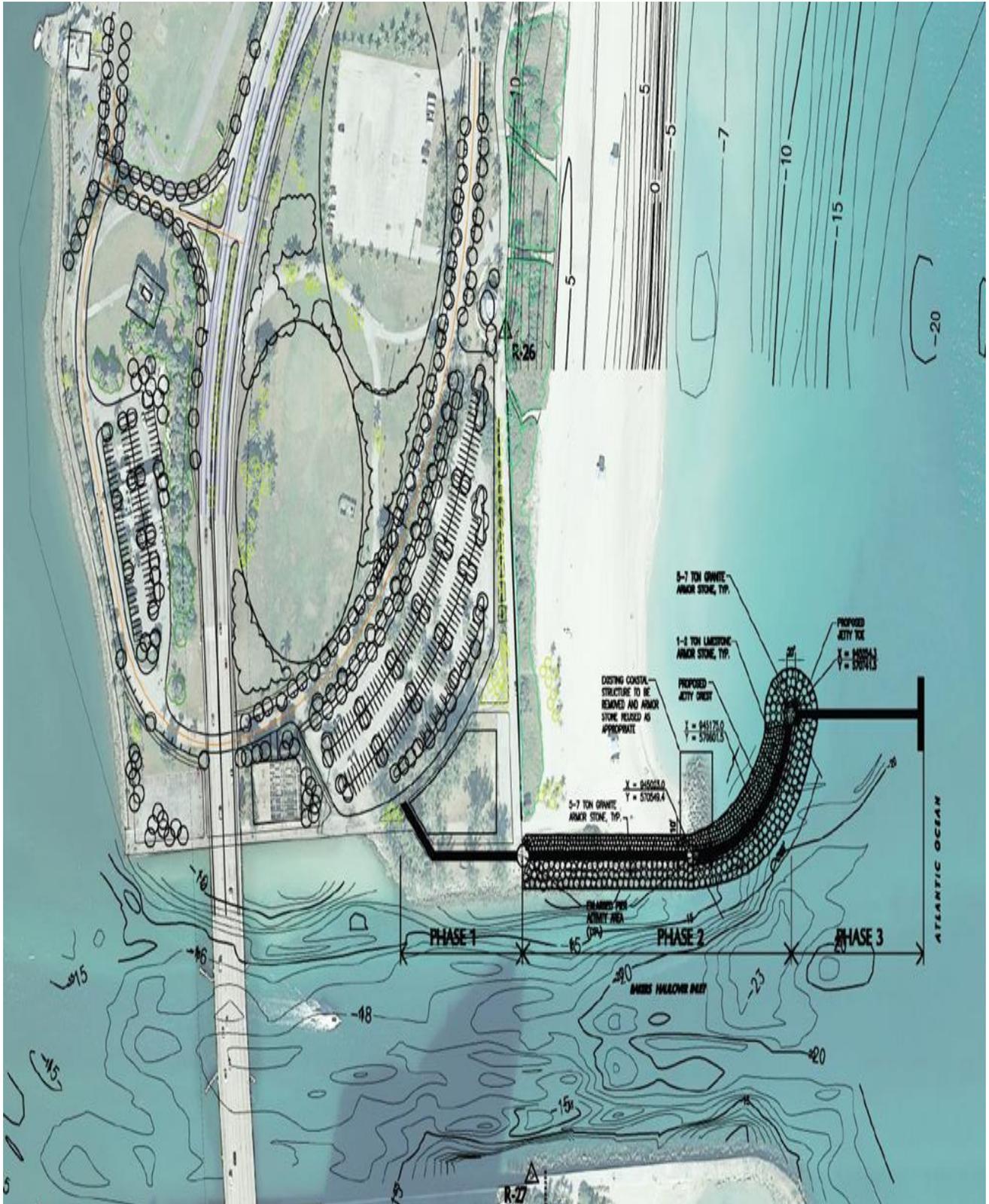


Custom steel and concrete

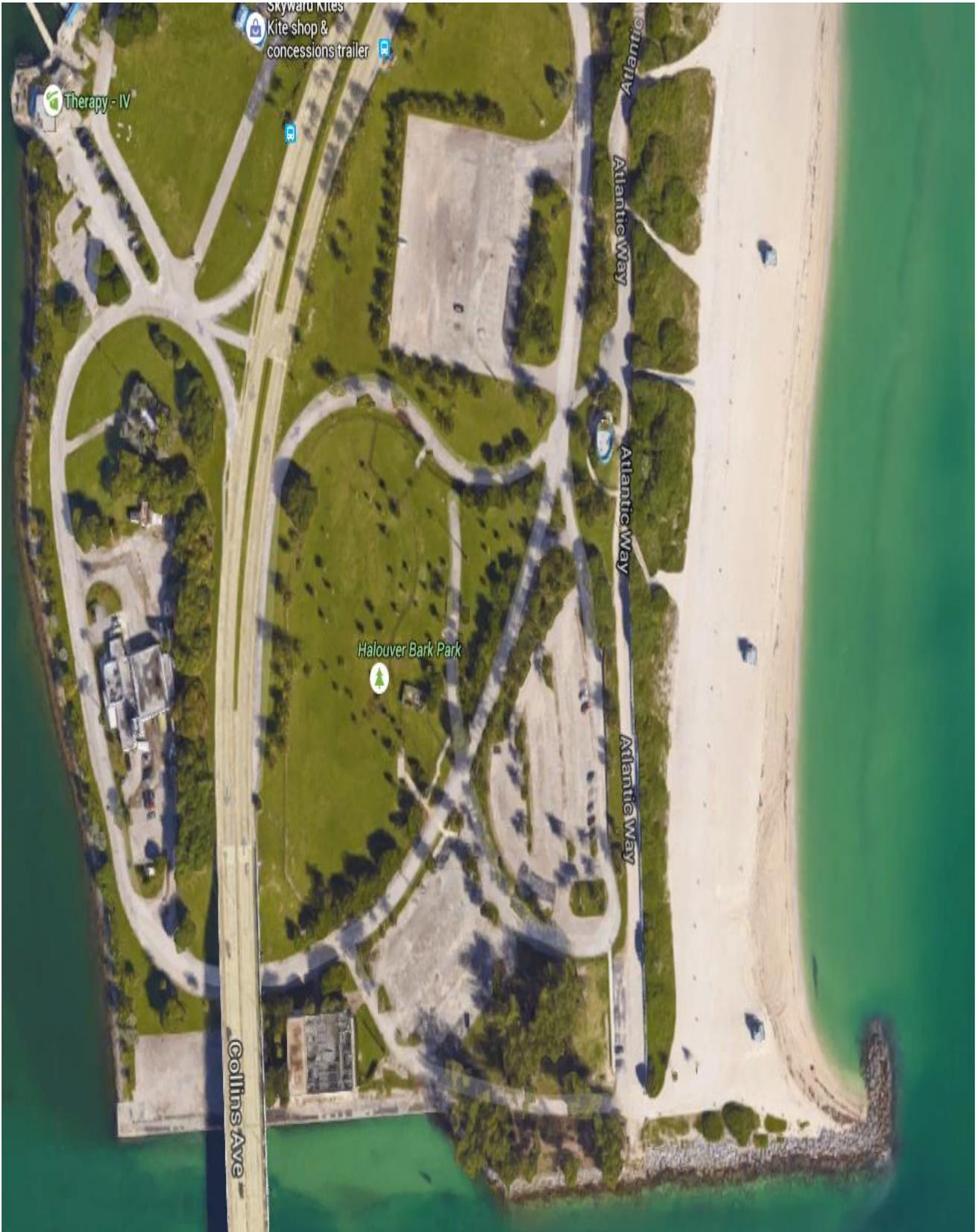
ATTACHMENT E – PIER AND BEACHFRONT LOCATIONS



ATTACHMENT F – PIER DEVELOPMENT

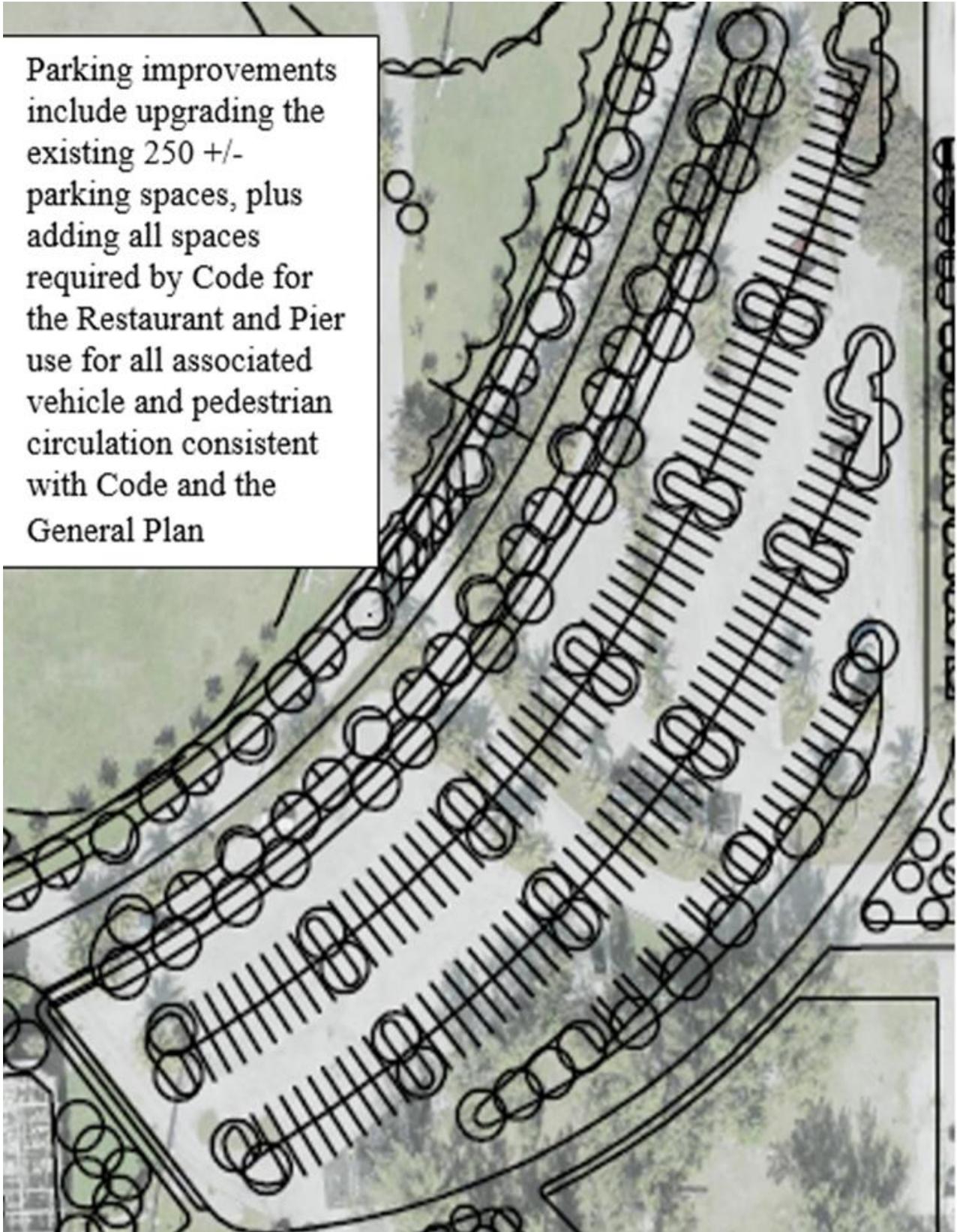


ATTACHMENT G – BEACH ACTIVITY AREA



ATTACHMENT H – PARKING IMPROVEMENTS

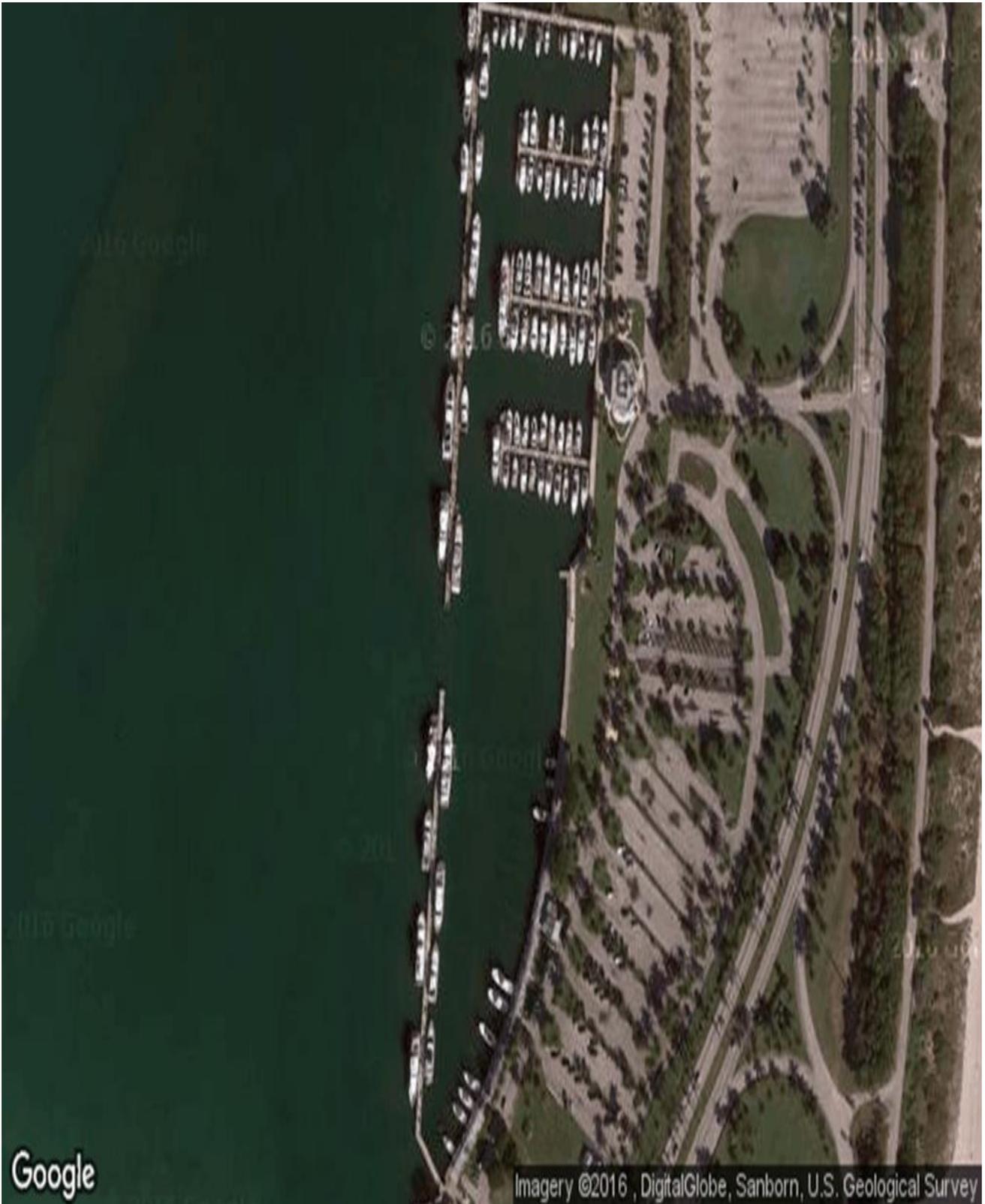
Parking improvements include upgrading the existing 250 +/- parking spaces, plus adding all spaces required by Code for the Restaurant and Pier use for all associated vehicle and pedestrian circulation consistent with Code and the General Plan



ATTACHMENT I – BILL BIRD MARINA RESTAURANT AND PUBLIC RESTROOM



ATTACHMENT J – BILL BIRD MARINA



ATTACHMENT K – BOAT RAMPS



ATTACHMENT L – COUNTY ESTIMATED PROJECT COMPLETION TIMELINE

DRAFT

ATTACHMENT M – RESOLUTION NO. R-997-12, APPROVAL OF REVISED GENERAL PLAN

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



MEMORANDUM

Agenda Item No. 5(G)

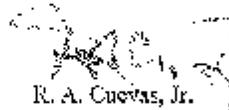
TO: Honorable Vice Chairwoman Audrey M. Edmonson **DATE:** December 4, 2012
and Members, Board of County Commissioners

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

SUBJECT: Resolution approving the Revised
General Plan for Haulover Park,
located at 10800 Collins Avenue, in
Compliance with Section 33-303 of
the Code of Miami-Dade County

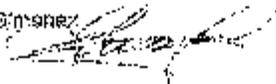
Resolution No. R-997-12

The accompanying resolution was prepared by the Regulatory and Economic Resources Department and placed on the agenda at the request of Prime Commissioner Sally A. Heyman.


R. A. Cuevas, Jr.
County Attorney

RAC/jls

Memorandum 

Date: December 4, 2012
To: Honorable Vice Chairwoman Audrey M. Edmondson
 and Members, Board of County Commissioners
From: Carlos A. Gimenez
 Mayor 
Subject: Governmental Facilities Hearing Application
 GF12-02 Revised General Plan for Haulover Park

RECOMMENDATION

It is recommended that the Board of County Commissioners approve the attached resolution approving the revised General Plan for Haulover Park, located at 10600 Collins Avenue, south of the City of Sunny Isles Beach, in compliance with Section 33-309 of the Code of Miami-Dade County. This item was prepared by the Department of Regulatory and Economic Resources at the request of the Miami-Dade Parks, Recreation and Open Spaces Department (MDPROS) and is recommended for approval.

LOCATION: 10600 Collins Avenue Miami-Dade County
COMMISSION DISTRICTS: 4
COMMISSION DISTRICT IMPACTED: Countywide
FOLIO NUMBER: 30-2214-005-0010
SIZE: Approximately 177 acres

BACKGROUND:

Haulover Park was acquired by Dade County in 1939. Development of the park began in the 1940's, and it remains today as a public beach and regional open space for the enjoyment of all county residents. Haulover Park is a Metropolitan Park, designed to preserve valuable natural historic resources, while providing a broad mix of resource dependent recreation opportunities. This application revises the plan approved for Haulover pursuant to Resolution No. R-162-02. The plan revision is designed to update park facilities to better respond to current recreational demands, improve pedestrian and vehicular circulation, and enhance the quality and diversity of natural resources.

ZONING: GU, Interim Zoning District; BU-2, Special Business District; I-1, Industrial, Light Manufacturing

Honorable Vice Chairwoman Audrey M. Compton
and Members, Board of County Commissioners
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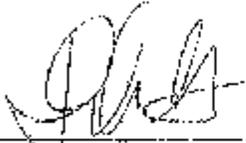
JUSTIFICATION	This application is being processed as a Government Facility to allow the Parks, Recreation and Open Spaces Department (PROS) to continue improvements and renovations at Haulover Park. The application will allow PROS to enhance, renovate, improve and develop public facilities that will serve all County residents.
PROJECT DESCRIPTION:	The Haulover Park revised General Plan addresses the following: traffic circulation improvements; improve access to the beach for bicycles, pedestrians, and people with disabilities; improve transit connections; improve beach access through funnel ramps; provide more green space; expand the dry rack storage facility capacity up to 510 spaces; rebuild the pier; rebuild the marina and pier restaurants, and restore the dunes. Once implemented, the General Plan will provide enhanced service to residents of Miami-Dade County. Parking areas to support all park uses are included. Parking on natural terrain used for overflow during special events is also indicated.
DEVELOPMENT	The revised General Plan for improvements and renovations to the park was the subject of a public meeting held on August 20, 2012. Information gathered at the public meeting was considered and where appropriate, incorporated in the plan. The plan will be implemented as funding becomes available.
FUNDING	Building Better Communities General Obligation Bond funds are available for improvements to Haulover Park. The total estimated cost of improvements to Haulover Park is 70 million dollars. The improvements listed will be developed with a phased approach, as funding becomes available. Park operation and maintenance funding will rely on park fees and charges, concession revenue, lease fees and the General Fund.
SITE REVIEW COMMITTEE	The committee's task is to review projects subject to 33-303 of the Code of Miami-Dade County with regard to the public need for the proposed facility, its impact upon the surrounding community, and other similar considerations. The committee reviewed this project on September 27, 2012 and recommended approval.
PUBLIC HEARING	Section 33-303 of the Code of Miami-Dade County provides that, prior to the construction, erection or operation of a government facility in the unincorporated areas of Miami-Dade County, a favorable public hearing before the Board of County Commissioners (BOC) is

Honorable Vice Chairwoman Audrey M. Edmouson
and Members, Board of County Commissioners
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required. The BCC may only authorize the use, construction, erection and operation of such facilities in any zoning district after considering, among other factors, the public need for the facility, the type of function involved, existing land use patterns in that area and the nature of the impact of the facility on surrounding properties. The attached report from the Miami-Dade County Site Review Committee addresses these factors.

REVIEWER: Gilberto Blanco Supervisor

DELEGATED AUTHORITY: This resolution approves the revised General Plan for Haulovers Park.



Jack Osterjal
Deputy Mayor

Memorandum

Date: December 4, 2012

To: Carlos A. Gimenez
Mayor

From: Miami-Dade County Site Review Committee

Subject: Governmental Facilities Hearing Application
GF12-02 Revised General Plan for Haulover Park

RECOMMENDATION

It is recommended that the Board of County Commissioners approve the attached resolution approving the revised General Plan for Haulover Park, at 13800 Collins Avenue, in compliance with Section 33-503 of the Code of Miami-Dade County. This item was prepared by the Department of Regulatory and Economic Resources (R&ER) at the request of the Miami-Dade Parks, Recreation and Open Spaces Department (PROS). The Miami-Dade Site Review Committee's task is to review projects subject to Section 33-503 of the Code of Miami-Dade County with regard to the public need for the facility, its impact upon the surrounding community, and other similar considerations. The committee reviewed the application on September 27, 2012 and recommends approval of the revised General Plan for Haulover Park.

STAFF REPORTS

Department of Regulatory and Economic Resources

CDMP CONSISTENCY AND IMPACT OF FACILITY ON SURROUNDING LAND USE

Comprehensive Development Master Plan (CDMP)

The subject property is designated for Parks and Recreation on the adopted 2015-2025 Comprehensive Development Master Plan (CDMP) Land Use Plan (LUP) map.

Land Use Element

The proposed general plan will further the following policies of the Land Use Element:

Policy LU-1D

In conducting its planning, regulatory, capital improvements and intergovernmental coordination activities, Miami-Dade County shall seek to facilitate the planning of residential areas and neighborhoods which include recreational, educational and other public facilities, houses of worship, and safe and convenient circulation of automotive, pedestrian and bicycle traffic.

Policy LU-10C

Miami-Dade County shall encourage energy conservation by adopting Florida Green Building Coalition, US Green Building Council Leadership in Energy and Environmental

Carlos A. Ghirelli
Mayor
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Design (LEED), or other acceptable commercial building standards for County-owned facilities.

Parks and Recreation

Congregate parks are encouraged in all of the residential categories and may be allowed in all other categories of the LUP map. The siting and use of future parks and recreation areas shall be guided by the Parks and Open Space, and Capital Improvement Elements, and by the goals, objectives and policies of the CDMP.

Recreation & Open Space Element

The proposed revised general plan will further the following objective and policies of the Recreation and Open Space Element:

Policy ROS-3A

The County shall continue to improve motorized access to parks and recreation open spaces on roads and mass transit routes for autos, bicycles, and public transport through the joint efforts of the Park and Recreation Department, the Public Works Department, and the Transit Agency, as well as other concerned County agencies where deemed necessary by the Park and Recreation Department.

Policy ROS-3D

Through its park and recreation programs and all other available means, Miami-Dade County shall preserve and protect beaches and shores and maximize public ownership of these coastal resources. The County shall improve the maintenance of existing public park and recreation entrances and shall, where feasible, provide additional access points at water front and coastal locations.

Objective ROS-6

Maintain a formal capital improvements planning program that improves and expands the park and recreation system through the acquisition of land, the renovation and restoration of facilities and natural areas, the development of new park and recreation open spaces and facilities, and the linking of parks and other public spaces.

Policy ROS-5A

The County shall prioritize capital improvement expenditures in accordance with the following criteria: 1) Acquire local parkland to maintain the adopted LOS standards for local recreation open space by correcting existing deficiencies and addressing future needs; and acquire countywide parkland suitable for compatible outdoor recreation while preserving natural, historical, and cultural resources; 2) renovate, restore, and upgrade existing recreation open spaces and facilities; and, 3) develop new recreation open spaces and facilities within undeveloped or incomplete parks (Page VI-110).

Policy ROS-5C

The Park and Recreation Department shall, as funds are available, renovate, restore, and upgrade County facilities to ensure that the public can safely and securely enjoy recreational opportunities and that the County can cost-effectively extend the usefulness of existing facilities. Expenditures for the renovation, restoration and upgrade of existing parks and recreation facilities are prioritized as follows: 1) repairs and projects increasing visitor safety; 2) hazard reduction; 3) facility upgrade and resource management; 4) accessibility improvements in compliance with ADA; and, 5) energy efficiency improvements (Page VI-112).

Carlos A. Gimenez
 Mayor
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BACKGROUND

Haulover Park was acquired by Dade County in 1935. Development of the park began in the 1940's and it remains today as public beach and regional open space for the enjoyment of all county residents. Haulover Park is a Metropolitan Park, designed to preserve valuable natural historic resources, while providing a broad mix of resource dependent recreation opportunities. This application revises the plan approved for Haulover pursuant to Resolution No. R-182-02. The new plan revision is designed to update park facilities to better respond to current recreational demands, improve pedestrian and vehicular circulation, and enhance the quality and diversity of natural resources.

PROJECT DESCRIPTION

The Haulover Park revised General Plan addresses the following: traffic circulation improvements; improve access to the beach for bicycles, pedestrians, and people with disabilities; improve transit connections; improve beach access through tunnel ramps; provide more green space; expand the dry rack storage facility capacity up to 510 spaces; rebuild the pier; rebuild the marina and pier restaurants; and restore the dunes. Once implemented, the General Plan will provide enhanced service to residents of Miami-Dade County. Parking areas to support all park uses are included. Parking on natural terrain used for overflow during special events is also indicated.

NEIGHBORHOOD CHARACTERISTICS		
	Zoning and Existing Use	Land Use Designation
Subject Property	OU, TU-1 and OU-2; Metropolitan Park (beach, marina, natural and recreational open spaces, surface parking lots, park and lifeguard offices, HPL station)	Parks and Recreation
North	City of Sunny Isles Beach; High-rise residential, commercial and beach	High Density Residential, Business and Office, and Parks and Recreation
South	City of W. Hialeah; Haulover inlet	Business and Office; Medium Density Residential; Parks and Recreation; Water
East	Atlantic Ocean	Water
West	Biscayne Bay	Water

METROPOLITAN PLANNING

The Miami-Dade County Parks, Recreation, and Open Spaces Department (PROS) has proposed a revised General Plan for the development and renovation of Haulover Park. The revised General Plan for the 177-acre park indicates improvements to traffic and circulation; improvements to park and beach access for pedestrians, people with disabilities and bicycles; improvements to beach access through tunnel ramps; provision of more green space; improvements to transit connections; expansion of the dry rack storage facility capacity up to 510 spaces; the rebuilding of an existing pier; the rebuilding of the marina and pier restaurants; and the restoration of beach dunes.

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The 177-acre County-owned park is bounded by the City of Sunny Isles Beach to the north, Haulover Inlet and Bal Harbour Village to the south, the Atlantic Ocean to the east, and Biscayne Bay to the west. The areas of Sunny Isles and Bal Harbour adjacent to Haulover Park are dense urbanized areas primarily composed of high-rise residential buildings. The park currently includes the beach, a marina, natural and recreational open spaces, surface parking lots, park and lifeguard offices, and an FRL substation.

The property is designated "Parks and Recreation" on the Adopted 2015-2025 Land Use Plan map. The "Parks and Recreation" land use designation allows parks and recreational areas, golf courses, and certain commercial activities that support recreational uses and relate to the uses of the park. Other commercial and recreational entertainment or cultural uses may also be considered for approval if authorized in accordance with Article 6 of the Miami-Dade Charter, as amended, and may be allowed in all categories of the Land Use Plan map of the Comprehensive Development Master Plan (CDMP pp. I-41 and I-52). The project is generally identified in the Social Improvements Element of the CDMP, Table 6, Park and Recreation, as Project No. 56: Haulover Park - B3CBP (CDMP p. IX-48). In conclusion, the proposed General Plan is **consistent** with the adopted goals, objectives and policies of the CDMP.

The Metropolitan Planning Section of the Department of Regulatory and Economic Resources that the applicant coordinate with the Americans with Disabilities Act Coordination staff and other permit agencies to address all accessibility requirements. Also, Policy LU-100 (CDMP p. I-24) encourages the adoption of Florida Green Building Coalition, U.S. Green Building Council Leadership in Energy and Environmental Design (LEED) or other energy conservation standards for County-owned buildings.

DEVELOPMENT SERVICES DIVISION

The Miami-Dade County Parks, Recreation and Open Spaces Department is seeking approval of the revised General Plan for Haulover Park. The new plan reflects the need to accommodate present and future park growth to serve the residents of the area and those visiting from abroad. Among other improvements for Haulover, there will be the following enhancements and redevelopment goals: reduction of traffic conflicts between A1A and park facilities; pedestrian crosswalks on A1A; provision of pedestrian connectivity throughout the park and onto adjoining communities; provision of a shore walk along Biscayne Bay; improvement of existing tunnels for pedestrian and disabled accessibility to the beach; the reduction of existing impervious parking areas and their rehabilitation into green spaces which can also be used for overflow parking during special events; continuous mangrove and sand dune restorations; and construction of a new dry stock storage.

The CDMP's Recreation and Open Space Policy 50 indicates that "the Park and Recreation Department shall, as funds are available, renovate, restore, and upgrade County facilities to ensure that the public can safely and securely enjoy recreational opportunities, and that the County can cost-effectively extend the useful life of existing facilities." The revised General Plan's goal is to renovate older park amenities and upgrade the park to increase traffic and pedestrian safety while enhancing the visitor's enjoyment through the development of new facilities and increasing open space opportunities. The plan provides for greater public access to the County's shoreline through the development of a shore walk promenade along Biscayne Bay and shows improvements to the park's vehicular and traffic circulation system, which include bicycle access and bus

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Mayor
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steps. According to the CDMP's Recreation and Open Space Policies 3A and 3D, the County shall continue to "provide additional access point at water front and coastal locations" and "improve motorist access to parks and recreation open spaces on roads and mass transit routes for autos, bicycles, and public transport the joint efforts of the Parks and Recreation Department, the Public Works Department, and the Transit Agency." In this regard, the revised General Plan for Haulover furthers the aforementioned policies and is therefore, consistent with the CDMP.

The Development Services Division recommends approval of this application with the following conditions. The proposed revised General Plan for Haulover Park will provide enhanced recreational opportunities for the residents of Miami-Dade County.

CONDITIONS:

1. The revised General Plan for Haulover Park shall be submitted to the Director of the Department of Regulatory and Economic Resources or its successor Department upon the submittal of an application for a building permit.
2. That in the approval of the application at the time of permitting, the revised General Plan considered shall be basically in accordance with that submitted for the hearing entitled, "Haulover Park General Plan", as prepared by the Miami-Dade Parks, Recreation and Open Spaces Department, consisting of 1 page.
3. That the applicant shall comply with all applicable conditions and requirements of the Site Review Committee.
4. That the applicant submit to the Permitting Section of the Department of Regulatory and Economic Resources or its successor Department for its review and approval a landscaping plan which indicates the type of plant material and size, prior to the issuance of a building permit, and to be installed prior to final construction sign off.
5. That the lighting, if provided, shall be designed so that any overspill of lighting onto adjacent properties shall be limited to not exceed one-half (1/2) foot candle power (vertical) and one-half (1/2) foot candle power (horizontal) illumination on adjacent properties or structures. An outdoor lighting installation shall not be placed in permanent use until a letter of compliance from a registered architect or engineer is provided stating that the installation has been field checked and meets the requirements as set forth above.
6. That proposed development shall have a LEED (Leadership in Energy and Environmental Design) certified rating or similar organization as provided in Chapter 9 Sections 9-71 through 9-75 of the Code of Miami-Dade County.

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Mayor
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Environmental Resources

The subject application has been reviewed for compliance with the requirements of Chapter 24 of the Miami-Dade County Code (the Code) and meets the minimum requirements of the Code. Accordingly, the application may be scheduled for public hearing.

Potable Water Service and Wastewater Disposal

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

The subject property is located within the Miami-Dade Water and Sewer Department (MDWASD) sanitary sewer franchised service area. The sanitary flow is directed to three private pump stations (99-1005A, 99-1005B and 99-1005C), which direct it into WARD pump station 30-0301, and then, the North District Wastewater Treatment Plant. The aforementioned sanitary sewer pump stations as well as the North District Wastewater Treatment Plant are currently working within the mandated criteria set forth in the First and Second Partial Consent Decree. At this time the North District Wastewater Treatment Plant has sufficient capacity to treat current discharge.

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

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

Stormwater Management

An Environmental Resource Permit from the Florida Department of Environmental Protection (FDEP) and Standard General Permit from the South Florida Water Management District (SFWMD) may be required for the proposed project for the construction and operation of the required surface water management system. The FDEP and SFWMD will determine if those permits are required.

A retention/retention system adequately designed to contain on-site the runoff generated by a 5-year storm event shall be provided. If this system is designed with an emergency overflow into any adjacent surface water body, a Class II permit issued by the Department shall be obtained before the construction of any surface water management system.

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Mayor
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Site grading and development shall provide for the full retention of the 25-year/3-day storm event and shall also comply with the requirements of Section 11C of the Code, as well as with all state and federal criteria, and shall not cause flooding of adjacent properties.

The project site is in the vicinity of a landfill area; therefore, a Class VI maybe is required for the installation of the required surface water management system.

Any proposed development shall comply with county and federal flood criteria requirements. The proposed development order, if approved, will not result in a reduction in the LOS standards for flood protection set forth in the CDMF subject to compliance with the conditions required for this proposed development order.

Pollution Remediation

The subject property has records of solid waste impacts on a part of the northern portion of the site, under tracking number SW-1188. There are no records of current contaminated sites directly abutting the subject site.

Coastal Resources

Any development of Haulover Park which involves work in, on, over or upon tidal waters of Miami-Dade County, or any work within coastal wetlands, or any work to trim, cut, or alter mangroves anywhere in Miami-Dade County, requires a Class I Permit. The applicant must make sure to obtain said Class I Permit prior to the commencement of any applicable work as described above. A Class I Permit application may be submitted to the Coastal and Wetlands Resources Section.

Applicable Class I Permits may require relocation or modification of the proposed work in order to avoid and minimize adverse impacts to natural resources, such as submerged benthic habitat including seagrasses and coastal wetlands containing mangroves and buttonwoods. In addition, the applicant will be required to mitigate for any unavoidable adverse impacts to said resources.

Class I permit applications proposing work to dredge or fill coastal wetlands must first demonstrate compliance with one of the criteria listed in Section 24-46.3(2) of the Code, and obtain approval from the Board of County Commissioners at a Public Hearing.

Development of Haulover Park to facilitate the mooring or storage of vessels, to create new marinas, to modify current uses at existing marinas, or to provide water dependent public transportation services, requires a review for compliance with applicable operating permits from Miami-Dade County. Such proposed development may be required to obtain or modify an Annual Marine Facilities Operating Permit (MOP).

Areas along the east shoreline of Haulover Park may include sensitive beach dunes which provide valuable habitat for nesting sea turtles. Development of these areas may require coordination with the Florida Fish and Wildlife Conservation Commission (FWC) for applicable State and Federal Permits.

Additional permits from the Army Corps of Engineers (305-822-7161), the Florida Department of Environmental Protection (FDEP) (881-681-6500), FDEP's Bureau of Beaches and Coastal Systems (850-921-7757) and the South Florida Water Management District (1-800-432-2045) may be required for the proposed project.

Carina A. Gomez
Mayor
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The applicant is encouraged to plant native species and avoid planting exotic, non-native, prohibited species as per Prohibited Plant Species List (list may be reviewed at: http://www.miamidade.gov/development/library/guidelines/prohibited_plant_species.pdf)

Please contact the Coastal and Wetlands Resources Section of at (305)372-8575 with any questions.

Tree Preservation

According to the site plan submitted with this zoning application, the property may contain specimen-sized trees (trunk diameter 18 inches or greater) that may be impacted by the proposed project. Section 24-49 of the Code requires the preservation of tree resources. Prior to the removal and/or relocation of any tree on site, a Miami-Dade County Tree Removal/Relocation Permit is required. Section 24.49.3 of the Code states, "If it is determined that the proposed development site involves removal of a specimen tree, the standards set forth in Section 24.49.2 shall apply." As such, this Department recommends approval of this application with the condition that the applicant obtain a Miami-Dade County Tree Removal/Relocation permit prior to the removal and/or relocation of any tree that is subject to the Tree Preservation and Protection provisions of the Code. Said Tree Removal/Relocation Permit shall meet the requirements of Sections 24-49.2 and 24-49.4 of the Code.

Please be advised that if this condition cannot be met prior to development orders, this zoning application would have to be resubmitted for review. The applicant is required to comply with the above tree permitting requirements. This Department's approval of the subject application is contingent upon inclusion of said tree permitting requirements in the resolution approving this application. The applicant is advised to contact the Tree Permitting Program for additional information regarding tree permitting procedures and requirements prior to site development.

Air Quality Preservation

In the event of any kind of renovation or demolition activity, an asbestos survey from a Florida-licensed asbestos consultant is required. If said survey shows friable asbestos materials in amounts larger than prescribed by federal law (260 linear feet of pipe insulation/thermal system insulation (TSI) or 100 square feet of surfacing material), then those materials must be removed/abated by a Florida-licensed asbestos abatement contractor. A notice of asbestos renovation or demolition form must be filed with the Air Quality Management Division for both the abatement (renovation) work and the demolition activity at least 10 working days prior to starting the field operations.

Concurrency Review Summary

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

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

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

Public Works and Waste Management Department (PWWM)

The Right-of-Way Division has reviewed the application and provides the following:

- No comments.

The Highway Division has reviewed the application and provides the following comments:

- Currently, the PWWM has no proposed roadway project adjacent to the subject site in the 2013 Transportation Improvement Program (TIP), nor in the 2035 Long Range Transportation Plan (LRTP).
- Please be advised that Collins Avenue (SR A1A) is part of the State Highway System. Contact Ali Al-Said, P.E., Florida Department of Transportation, at (305) 470-5867, for information regarding permitting requirements.
- Please be advised that a PWWM permit will be required for this project. Contact the PWWM Permit Section, at (305) 375-2142, for more information.

Should you have any questions, please contact Javier Heredia, P.E., Section Head, Highway Planning, at (305) 375-2142, for more information.

The Zoning and Platting Section of the Department of Regulatory and Economic Resources has reviewed the application and offers the following comments:

- The subject property has been used as a park prior to the enactment of the Subdivision Code; therefore, a plat is not required.

Should you have any questions, please contact Julio Boigado, P.S.M., Land Development Division, at (305) 375-2142.

Miami-Dade Fire Rescue Department

The Fire Rescue Department has reviewed the application and provides the following comments:

According to the letter of intent dated September 8, 2012, the Parks, Recreation and Open Spaces Department (PROS) is seeking approval of a new General Plan for the development and renovation of Haulover Park. The general plan is designed to update park facilities to better respond to current recreational demands, improve the efficiency of pedestrian and vehicular circulation, and enhance the quality and diversity of natural resources.

Carlos A. Gimenez
Mayor
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Haulover Park is currently served by Miami-Dade Fire Rescue Station No. 21 (Haulover) located on the grounds of Haulover Park at 10600 Collins Avenue. The station is equipped with an Advanced Life Support (ALS) Engine, a Rescue, a Platform, and a Battalion Chief totaling twelve (12) firefighters/paramedics 24 hours a day, seven days a week.

The Miami-Dade Fire Rescue Department (MDFR) has no objections to the proposed general plan. MDFR believes that the improvements will provide enhance service to residents of Miami-Dade County.

For additional information, please contact Mr. Carlos Heredia, Planning Section Supervisor, at 783-831-4544

Miami-Dade Water & Sewer Department

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

Project: Haulover Park

Location: 10600 Collins Avenue

Water:

The Water Service Area for the referenced project belongs to the City of North Miami Beach.

Sewer:

There is no sewer available for connection in the referenced area at the present time.

Should you have any questions, please do not hesitate to call 783-268 5214.

Internal Services Department

The Design and Construction Services Division has reviewed the application and has no objections.

MIAMI-DADE COUNTY SITE REVIEW COMMITTEE

APPLICATION G201200002

Parks Recreation and Open Spaces Department

Revised General Plan for Haulover Park



Kathleen Woods-Richardson, Director
Public Works and Waste Management



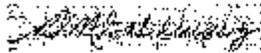
Eric Silva, Interim Assistant Director
Sustainability, Planning and Economic
Enhancement



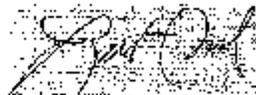
William W. Bryson, Fire Chief
Fire Rescue Department



Jose Gonzalez, Assistant Director
Permitting, Environment and
Regulatory Affairs



Bertha Goldenberg, Assistant Director
Water and Sewer Department



Lester Sola, Director
Internal Services Department

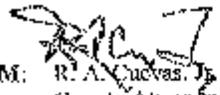


MEMORANDUM

(Revised)

TO: Honorable Vice Chairwoman Audrey M. Edmonson
and Members, Board of County Commissioners

DATE: December 4, 2012

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

SUBJECT: Agenda Item No. 5(C)

Please note any items checked.

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

Approved _____ Mayor
Veto
Override _____

Agenda Item No. 5 (C)
12-4-12

RESOLUTION NO. R-997-12

RESOLUTION APPROVING THE REVISED GENERAL PLAN FOR HAULOVER PARK, LOCATED AT 10800 COLLINS AVENUE, IN COMPLIANCE WITH SECTION 33-303 OF THE CODE OF MIAMI-DADE COUNTY

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

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS OF MIAMI-DADE COUNTY, FLORIDA, that this Board hereby finds that the proposed Revised General Plan for Haulover Park located at 10800 Collins Avenue, more specifically described as follows:

SEE ATTACHED EXHIBIT A

is necessary to provide recreational opportunities for and protect the public health, safety and welfare of the citizens of Miami-Dade County, Florida and in so finding, has considered, among other factors, the type of function involved, the public need therefore, the land use pattern in the area, and the nature of the impact on the surrounding property.

Agenda Item No. 5 (G)
Page No. 2

The foregoing resolution was offered by Commissioner **Sally A. Heyman**,
who moved its adoption. The motion was seconded by Commissioner **Rebeca Sosa**
and upon being put to a vote, the vote was as follows:

Audrey M. Edmonson, Vice Chairwoman	aye		
Bruno A. Barreiro	absent	Lynda Bell	absent
Erickson T. Bowen, Jr.	absent	Jose "Pepi" Diaz	aye
Sally A. Heyman	aye	Barbara J. Jordan	aye
Juan Manestime	aye	Dennis C. Moss	aye
Rebeca Sosa	aye	Sen. Javier D. Souto	absent
Xavier L. Suarez	nay	Juan C. Zapata	aye

The Chairperson thereupon declared the resolution duly passed and adopted this 4th day of December, 2012. This resolution shall become effective ten (10) days after the date of its adoption unless vetoed by the Mayor, and if vetoed, shall become effective only upon an override by this Board.

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



HARVEY RUVIN, CLERK

Christopher Agrippa
By: Deputy Clerk

Approved by County Attorney as
to form and legal sufficiency.

Craig H. Collier

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

The BOARD OF COUNTY COMMISSIONERS of Miami-Dade County, Florida will meet Tuesday 4th day of December 2012 9:30 a.m. in the County Commission Chambers, Second Floor, Stephen P. Clark Center, 111 N.W. First Street, Miami, Florida, to consider the following request:

Application: REVISED GENERAL PLAN FOR BAYLOR PARK
 Number: C112-02
 Applicant: MIAMI-DADE PARKS, RECREATION AND OPEN SPACES DEPARTMENT
 Location: 12800 Collins Avenue, Miami-Dade County
 Size: Approximately 177 acres
 Request: Approval of the Revised General Plan for Baylover Park
 Legal Description: FOLIO: 30-2214-608-0010

Lots 4 through 76 inclusive of TATUM OCEAN BEACH PARK, according to the Plat thereof as recorded in Plat Book 5, at Page 55, of the Public Records of Miami Dade County, Florida, together with all the Submerge land and riparian rights adjoining to the property, AND, all of the land bounded to the North by the South line of said Lot 4 of TATUM OCEAN BEACH PARK, bounded to the East, South and to the West by the Bulkhead Line as shown in the DADE COUNTY BULKHEAD PLAT as recorded in Plat Book 74, at Page 10 of the Public Records of Miami Dade County, Florida; together with all Submerge land and Riparian rights thereto, LESS, the Right of Way of State Road A-1-A as shown in the Department of Transportation Section map #8706 dated 8/31/47, in Section 14 and 23, of Township 52 South, Range 42 East, Miami-Dade County, Florida.

OBJECTIONS MAY BE MADE IN PERSON AT THE HEARING OR FILED IN WRITING PRIOR TO THE HEARING DATE. WRIT OBJECTIONS AT LEAST FIVE BUSINESS DAYS PRIOR TO THE HEARING TO THE DEPARTMENT OF REGULATORY AND ECONOMIC RESOURCES, ATTENTION: GILBERTO PLAZA, 111 NW 1 STREET, 2ND FLOOR, MIAMI, FLORIDA 33128. SIGN LANGUAGE INTERPRETERS ARE AVAILABLE UPON REQUEST. PLEASE CALL (305) 361-9696 AT LEAST FOUR DAYS IN ADVANCE.

EXHIBIT "A"

MIAMI-DADE COUNTY

REVISED GENERAL PLAN FOR HIAULOVER PARK

Legal Description

Lots 4 through 75, inclusive, of TATUM OCEAN BEACH PARK, according to the Plat thereof as recorded in Plat Book 6, at Page 25 of the Public Records of Miami Dade County, Florida, together with all the Submerged land and riparian rights adjoining to the property, AND, all of the land bounded to the North by the South line of said Lot 4 of TATUM OCEAN BEACH PARK, bounded to the East, South and to the West, by the Bulkhead Line as shown in the DADE COUNTY BULKHEAD PLAT as recorded in Plat Book 74, at Page 10 of the Public Records of Miami Dade County, Florida; together with all Submerged land and Riparian rights thereon. LESS, the Right of Way of State Road A-1-A as shown in the Department of Transportation Section map #8703 dated 3/3/47 in Section 14 and 23, of Township 52 South, Range 42 East, Miami-Dade County, Florida.

Exhibit "A" - Page 1 of 2

ATTACHMENT N – RESOLUTION No. 12-SRDC-14, SHORELINE DEVELOPMENT REVIEW COMMITTEE DETERMINATION

SHORELINE DEVELOPMENT REVIEW COMMITTEE

RESOLUTION 12 - SDRC - 14

WHEREAS, the Miami-Dade Parks, Recreation and Open Spaces Department ("applicant") has applied for a "No Need to Comply" determination of Section 33-D (Shoreline Ordinance) from the Biscayne Bay Shoreline Development Review Committee ("Shoreline Committee"); and

WHEREAS, the applicant proposes changes to the General Plan for Haulover Park located at 10800 Collins Avenue, Miami-Dade County, Florida; and

WHEREAS, the subject application was filed with the Miami-Dade County Department of Regulatory and Economic Resources; and

WHEREAS, the Shoreline Development Review Committee considers whether and the extent to which a project as presented conforms to the Miami-Dade County Comprehensive Development Master Plan and the Biscayne Bay Management Plan; and

WHEREAS, the Shoreline Development Review Committee determines the extent to which any plan or development action, as proposed, is in conformance with Article III of Chapter 33D of the Code of Miami-Dade County and with the minimum standards set forth in Miami-Dade County Resolution 85-257; and

WHEREAS, the Shoreline Development Review Committee determined the application is a "No Need to Comply" in accordance with Section 33-D of the Miami-Dade County code as the revised General Plan for Haulover Park is not intended as a development site plan for Haulover Park but as a guide indicating the location and number of new amenities and future improvements to Haulover Park; and

WHEREAS, a public meeting of the Shoreline Development Review Committee was advertised and held on November 15, 2012, and the Shoreline Development Review Committee had the opportunity to hear from the applicant and members of the public; and

WHEREAS, The revised General Plan for Haulover Park, indicates among other enhancements: vehicular and pedestrian circulation through and within the park; improved beach access; a pedestrian promenade on the bay side; improvement to open spaces and parking; re-vegetation; mangrove and dune restoration; new concessions; boat storage improvements; and

WHEREAS, the Shoreline Development Review Committee considered the recommendations from Miami-Dade County Shoreline Lower Council as part of its review,

NOW THEREFORE BE IT RESOLVED, that at the November 15, 2012 meeting, the Shoreline Development Review Committee, as moved by Craig Phillip Southern and seconded by Sarah Sinatra, approved the request for a "No Need to Comply" determination from Section 33-D (Shoreline Ordinance), in accordance with the Department of Regulatory and Economic Resource's recommendation and in accordance with the submitted revised General Plan for Haulover Park referenced herein as Exhibit A, with the following conditions:

1. All development actions as described and/or illustrated in the revised General Plan for Haulover Park are subject to review and approval by the Shoreline Development Review Committee (SDRC). The Miami-Dade County Parks, Recreation and Open Spaces Department and its consultants will be responsible for bringing these development actions before the SDRC.
2. The revised General Plan for Haulover Park shall include directional and informational signage. The type, size and graphics for the signs shall be provided by the Miami-Dade County Parks, Recreation and Open Spaces Department in collaboration with the Department of Regulatory and Economic Resources Department. Such signs shall

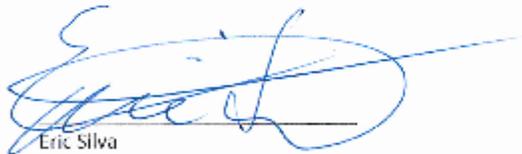
conform to the Miami-Dade County Code. The vote on the motion was as follows:

George Puig	- absent
Jorge Azze	- yes
Rick Hernandez	- yes
Craig Philip Southern	- yes
Ivonne Martinez	- absent
Sarah Sinatra	- yes
Kevin Flaherty	- absent

Motion to **approve** passed 4 - 0.

This resolution constitutes the report of the Shoreline Development Review Committee together with all exhibits attached hereto submitted to the Miami-Dade County, Florida pursuant to Article III of Chapter 33D of the Code of Miami-Dade County which shall become a part of all hearings and/or permit records on the proposed development action.

Respectfully submitted,



Eric Silva
Asst. Director
Department of Regulatory and Economic Resources
Application # 12-SDRC-14

11/30/12
Date

ATTACHMENT O – ARTICLE 7 OF THE HOME RULE AMENDMENT AND CHARTER

obligations or other refundings secured by revenues or taxes collected within the proposed municipality's area and that neither the new municipality nor its electors shall take any action that would adversely affect the County's bond or other debt obligations that are secured by taxes or revenues from the area constituting the new municipality.

SECTION 6.06. CONTRACTS WITH OTHER UNITS OF GOVERNMENT.

Every municipality in this county shall have the power to enter into contracts with other governmental units within or outside the boundaries of the municipality or the county for the joint performance or performance by one unit in behalf of the other of any municipal function.

SECTION 6.07. FRANCHISE AND UTILITY TAXES.

Revenues realized from franchise and utility taxes imposed by municipalities shall belong to municipalities.

ARTICLE - 7

PARKS, AQUATIC PRESERVES, AND PRESERVATION LANDS

Note: This Article does not apply to municipal property in Coral Gables, Hialeah, Hialeah Gardens, Miami, Sweetwater and West Miami. See Section 7.04.

SECTION 7.01. POLICY.

Parks, aquatic preserves, and lands acquired by the County for preservation shall be held in trust for the education, pleasure, and recreation of the public and they shall be used and maintained in a manner which will leave them unimpaired for the enjoyment of future generations as a part of the public's irreplaceable heritage. They shall be protected from commercial development and exploitation and their natural landscape, flora and fauna, and scenic beauties shall be preserved. In lands acquired by the County for preservation and in parks along the Ocean or the Bay the public's access to and view of the water shall not be obstructed or impaired by buildings or other structures or concessions which are in excess of 1500 square feet each. Adequate maintenance shall be provided.

SECTION 7.02. RESTRICTIONS AND EXCEPTIONS.

In furtherance of this policy parks shall be used for public park purposes only, and subject to the limited exceptions set forth in this Article, there shall be no permanent structures or private commercial advertising erected in a public park or private commercial use of a public park or renewals, expansions, or extensions of existing leases, licenses, or concessions to private parties of public park property, unless each such structure, lease, license, renewal, expansion, extension, concession or use shall be approved by a majority vote of the voters in a County-wide referendum. Nothing in this Article shall prevent any contract with federally tax-exempt not-for-profit youth, adult, and senior cultural, conservation and parks and recreation program providers. To ensure aquatic preserves, lands acquired by the County for preservation, and public parks or parts thereof which are nature preserves, beaches, natural forest areas, historic or archeological areas, or otherwise possess unique natural values in their present state, such as Matheson Hammock, Greynolds Park, Redlands Fruit and Spice Park, Castellow Hammock, Crandon Park, Trail Glades Park, Deering Estate Park, Pine Shore Park, Old Cutler Hammock, Chapman Field, Tamiami Pinelands, Wainright Park, Larry and Penny Thompson Park, Whispering Pines Hammock, Mangrove Preserve, Owaissa Bauer Park, Fuchs Hammock, Black Point Marina, Simpson Park, Sewell Park, Barnes Park, Virginia Key, mangrove preserves, and all other natural or historical resource based parks do not lose their natural or historical values, any structure, lease, license, renewal, extension, concession or use in any of this class of public parks or in aquatic preserves and preservation lands must be approved by an affirmative vote of two-thirds of the voters in a County-wide referendum. No park shall be designed to be used beyond its appropriate carrying capacity and to the extent required by law all parks and facilities and permitted special events and concessions operating in the parks shall be fully accessible to persons with disabilities. Nothing in this Article shall prevent the maintenance of existing facilities, the maintenance, operation, and renovation of existing golf course and marina restaurants at their existing square footage by government agencies or private operators, provided such private operators are chosen as a result of competitive selection and their initial contract terms are limited to no more than ten years, or the construction, operation, maintenance, and repair by government agencies or private operators of or issuance of temporary permits for the following, provided that there be no adverse impact to natural resources on lands acquired or designated for preservation by the Board of County Commissioners:

- A. Appropriate access roads, bridges, fences, lighting, flag poles, entrance features, picnic shelters, tables, grills, benches, irrigation systems, walls, erosion control devices, utilities, trash removal, parking and security and fire facilities for the primary use of the park system;
- B. Food and concession facilities each not in excess of 1500 square feet of enclosed space, with any complementary outdoor or covered areas needed to service park patrons;
- C. User-participation non-spectator recreation and, playground facilities, golf courses and golf-course related facilities, and bandstands and band shells containing less than 1,000 spectator seats and athletic facilities, sports fields and arenas containing less than 3,000 spectator seats;
- D. Facilities for marinas, sightseeing and fishing boats, visiting military vessels, and fishing;
- E. Park signage and appropriate plaques and monuments;
- F. Rest rooms;
- G. Fountains, gardens, and works of art;
- H. Park service facilities, senior, day care and preschool facilities, small nature centers with not more than one classroom;
- I. Film permits, temporary fairs, art exhibits, performing arts, concerts, cultural and historic exhibitions, regattas, athletic contests and tournaments, none of which require the erection of permanent structures;
- J. Advertising in connection with sponsorship of events or facilities in the park, provided however all such facilities and uses are compatible with the particular park and are scheduled so that such events do not unreasonably impair the public use of the park or damage the park;
- K. Programming partnerships with qualified federally tax exempt not-for-profit youth, adult, and senior cultural, conservation, and parks and recreation program providers;
- L. Agreements with cable, internet, telephone, electric or similar service providers or utilities, so long as any installations are underground or do not adversely impact natural resources, or parks facilities and uses;
- M. Campgrounds and limited overnight camping accommodations in cabins/lodges only for park patrons at Camp Matecumbe; and
- N. Miami-Dade County Public Library System facilities providing library services to the public so long

as such library facilities are established within recreation facilities, are compatible within the surrounding park and do not unreasonably impair the public use of the park.

No park facilities, golf courses, or County lands acquired for preservation shall be converted to or used for non-park offices, purposes, or uses. The County, the municipalities, and agencies or groups receiving any public funding shall not expend any public money or provide any publicly funded services in kind to any project which does not comply with this Article. No building permit or certificate of occupancy shall be issued for any structure in violation of this Article. The restrictions applying to parks in this Article shall not apply to the Dade County Youth Fair site at Tamiami Park and to any expansion of Florida International University onto no more than 64 acres therein upon the relocation of the Miami-Dade County Fair & Exposition, Inc. No County funds shall be used for the University's expansion and for the required relocation of the Miami-Dade County Fair & Exposition, Inc. The restrictions applying to parks in this Article shall also not apply to Metro Zoo, Tamiami Stadium, Haulover Fishing Pier, the Dade County Auditorium, the Museum of Science, the Gold Coast Railroad Museum, Vizcaya Museum and Gardens, Trail Glade Range, the Orange Bowl, the Commodore Ralph Munroe Marine Stadium, the Seaquarium, Curtis Park track and stadium, Fairchild Tropical Gardens, the Miami-Dade County Regional Soccer Park on NW 58th Street, and mini and neighborhood parks except that no mini or neighborhood park may be leased or disposed of unless a majority of the residents residing in voting precincts any part of which is within 1 mile of the park authorize such sale or lease by majority vote in an election.

SECTION 7.03. ENFORCEMENT AND CONSTRUCTION.

All elections required by this Article shall be held either in conjunction with state primary or general elections or as part of bond issue elections. The provisions of this Article may be enforced by a citizen alleging a violation of this Article filed in the Dade County Circuit Court pursuant to its general equity jurisdiction, the plaintiff, if successful, shall be entitled to recover costs as fixed by the Court. The provisions of this Article shall be liberally construed in favor of the preservation of all park lands, aquatic preserves, and preservation lands. If any provision of this Article shall be declared invalid it shall not affect the validity of the remaining provisions of this Article. This Article shall not be construed to illegally impair any previously

existing valid written contractual commitments or bids or bonded indebtedness.

SECTION 7.04. JURISDICTION.

Except as otherwise provided herein the provisions of this Article shall apply to all County and municipal parks, aquatic preserves, and lands acquired by the County for preservation now in existence or hereafter acquired, provided that if this Article was not favorably voted upon by a majority of the voters voting in any municipality at the time of the adoption of this Article the municipal parks of such municipality shall be excluded from the provisions of this Article.

ATTACHMENT P – OPERATIONS AND MANAGEMENT PLAN

The Proposer shall include the below operations and management items as a part of the Operations and Management Plan. Proposer shall include:

1. Hours of Operations
2. Marketing Plan
3. Payroll
4. Accounts Payable
5. Accounts Receivable
6. Resale Merchandise Inventory
7. Point of Sales System
8. Reservation Systems
9. Accident Reports
10. Employee Injuries
11. Safety Procedures
12. Security Plan
13. Hurricane Plan
14. Emergency Plan
15. Special Events
16. Background Checks
17. Purchasing Procedures
18. Performance Measures
19. Facility Maintenance/Grounds Cycles
20. Debris and Trash Removal
21. Capital Inventory
22. Opening and Closing Procedures for Points of Operation
23. Staff Job Description
24. Lighting Warning Guidelines
25. ADA Guidelines
26. Repair Work Orders – Annual Dollar Allocation
27. Park Security
28. Staff Uniform Dress Policy
29. Volunteers
30. Staff Training
31. Customer Service
32. Park Rules and Regulations
33. In-house or Contracted Maintenance

DRAFT FORM OF AGREEMENT

Development, Management, and Operations of Haulover Park Contract No. RFP-00xxx

This Agreement made and entered into by and between _____, a corporation organized and existing under the laws of the State of _____, having its principal office at _____ ("Contractor"), and Miami-Dade County, a political subdivision of the State of Florida, having its principal office at 111 N.W. 1st Street, Miami, Florida 33128 ("County"),

WITNESSETH:

Whereas, the County owns certain property located at approximately located at 10800 Collins Avenue, Miami, Florida 33154 which is composed of public park and utility easement property; and,

Whereas, the County has approved a General Plan, through a Governmental Facility Hearing (R-997-12) for the entirety of property, known as Haulover Park ("Park"), to be used as a publicly accessible ...; and,

Whereas, the County solicited for a Contractor (RFP-00xxx Development, Management, and Operation of Haulover Park) to establish and develop facilities within the Park for public recreation and enjoyment, and to assume a controlling position in the long-term management and operation of Haulover Park to expand recreational opportunities for the community, and construct a variety of permanent structures; and,

Whereas, the Contractor responded with a Proposal to develop the Park, operate, and manage associated services for the County, and maintain facilities within the Park;

Now, therefore, for and in consideration of the mutual promises and conditions contained in this Agreement, the County and the Contractor 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 "Applicable Law" to means any applicable law, statute, code, ordinance, administrative order, implementing order, charter, resolution, order, rule, regulation, judgment, decree, writ, injunction, franchise, permit or license, of any Governmental Authority, now existing or hereafter enacted, adopted, promulgated, entered, or issued.
- b) The word "Architect" to mean _____ or such other architectural firm as the Developer may retain as the principal architect for the Haulover Park Elements or any Phase thereof, and their respective successors or assigns.
- c) The word "Board" to means the Board of County Commissioners of Miami-Dade County.
- d) The words "Business Day" to mean any day other than a Saturday, Sunday or legal or bank holiday in Miami-Dade County. If any time period set forth in this Agreement expires on a day other than a Business Day, such period shall be extended to and through the next succeeding Business Day.
- e) The words "Certificate of Occupancy" to mean a certificate issued by County Regulatory and Economic Resources (RER) department (or appropriate, authorized County department) permitting public occupancy and use of the Haulover Park Elements.
- f) The words "Commencement of Construction" to mean a permit needed to begin construction of the applicable Phase of the Haulover Park Elements has been issued by RER and the Contractor has begun physical construction of that Phase of the Haulover Park Elements.
- g) The words "Construction Documents" to mean the architectural drawings, specifications and other documents, as may be amended from time to time in accordance with this Agreement, setting forth the design of the Haulover Park Elements and the requirements for their respective construction in sufficient detail for the permitting and construction of the Haulover Park Elements.

- h) The words "Construction Schedule" to mean any of the construction schedules relating to the Work to be prepared by the Contractor.
- i) The words "Contract" or "Agreement" to mean collectively these terms and conditions, the Scope of Services (Appendix A), all other appendices and attachments hereto, all amendments issued hereto, RFP No. 00xxx and all associated addenda, and the Contractor's Proposal.
- j) The words "Contract Date" to mean the date on which this Agreement is effective.
- k) The words "Contractor" or "Developer" to mean _____ and its permitted successors.
- l) The words "Critical Path Method" to mean a step-by-step project management technique for process planning that defines critical and non-critical tasks with the goal of preventing time-frame problems and process bottlenecks.
- m) The word "Deliverables" to mean all documentation and any items of any nature submitted by the Contractor to the PROS Capital Project Manager for review and approval pursuant to the terms of this Agreement.
- n) The words "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 PROS Capital Project Manager; and similarly the words "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 PROS Capital Project Manager.
- o) 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.
- p) The words "Development Requirements" to mean items described in Article 61.
- q) The words "Effective Date" shall mean the date on which the County Mayor executes this Agreement.
- r) The words "Environmental Conditions" to mean any environmental pollution, flammable materials, explosives, radioactive materials, infectious waste, hazardous materials, hazardous wastes, hazardous or toxic substances, or environmental contaminants which are or become defined under any Applicable Law including, without limitation, the following statutes or ordinances and the regulations promulgated under their authority: (a) the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended (42 U.S.C. §§ 9601 et seq.); (b) the Hazardous Materials Transportation Act, as amended (49 U.S.C. §§ 1801 et seq.); and (c) the Resource Conservation and Recovery Act of 1976, as amended (42 U.S.C. §§ 6901 et seq.); (d) the Water Pollution Control Act (33 U.S.C. § 1317); (e) the Florida Resource Recovery and Management Act, Fla. Stat. § 403.702-403.7893; (f) the Pollutant Spill Prevention and Control Act, Fla. Stat. §§ 376.011-376.21; (g) any material defined as "petroleum" or "petroleum products" under Fla. Stat. § 376.301, (h) contaminant, or hazardous substance as defined in Fla. Stat. § 376.301 or Fla. Stat. § 403.031, wastes as defined in Fla. Stat. § 403.031; and (i) ground or water pollution as defined by Section 24-5 of the Miami-Dade County Code.
- s) The word "Exhibits" to mean the exhibits attached to the body of this Agreement. Exhibits constitute a part of this Agreement.
- t) The words "Extra Work" or "Additional Work" to mean additions or modifications to the amount, type or value of the Work and Services as required in this Contract, as directed and/or approved by the County.
- u) The words "Final Completion" to mean the occurrence of all of the following: (i) the Architect has signed and delivered to the Developer and the PROS Capital Project Manager a certificate of final completion in accordance with the Construction Documents of the applicable Phase of the Haulover Park Elements, (ii) a Certificate of Occupancy has been issued for the applicable Phase of the Haulover Park Elements, and (iii) punch list items for that Phase have been completed.
- v) The words "Force Majeure" means an act of nature, war, hurricane, riot, sovereign conduct, or verifiable vandalism that delays progress of the Project.
- w) The words "Governmental Authority" to mean any federal, state, county, municipal, or other governmental department, entity, authority, commission, board, bureau, court, agency, or any instrumentality of any of them.
- x) The words "Governmental Facilities Plan" or "GF Plan" or "General Plan" as approved by the County's Board of County Commissioners pursuant to Resolution No. R-997-12. To the extent that a new general facilities plan for the Site is approved by the Board of County Commissioners after the effective date of this Agreement, for the purpose of including elements set forth in the Resolution, then such new general facilities plan shall be deemed to be the GF Plan for purposes of this Agreement.
- y) The words "Imminent Danger" to mean the exposure or vulnerability to harm or risk that is impending or about to occur as defined or identified by Miami-Dade County staff or its designee.
- z) The words "ISD Contract Manager" to mean Miami-Dade County's Director, Internal Services Department, or

- the duly authorized representative designated to manage the Contract performance and compliance.
- aa) The words "Haulover Park Elements" to mean the improvements and renovations to the Site that are depicted in the Plan attached as Exhibit "C".
 - bb) The word "Park" to mean Haulover Park and the property that composes it.
 - cc) The word "Phase" to mean a distinct period or stage in a process of change or forming part of the Haulover Park Elements.
 - dd) The word "Project" to mean the design, development, permitting, construction, and operation of the Haulover Park Elements (or any Phase thereof) in accordance with this Agreement.
 - ee) The words "Project Cost Estimate" to mean all hard costs and the soft costs incurred by the Developer in connection with this Agreement for the design, development, renovation, construction and completion of the Haulover Park Elements or any Phase thereof as depicted in Exhibit "E". Project hard costs include only the cost of all labor, construction materials, furniture, fixtures, equipment, landscaping and hardscaping incorporated into the Haulover Park Elements.
 - ff) The words "Project Renderings" to mean those illustrations designed to provide a 3-D representation of the Proposed Development Plan on the Park as depicted by Exhibit "C".
 - gg) The words "Project Schedule" to mean the Project schedule using a Critical Path Method, prepared by the Construction Manager, that identifies, coordinates and integrates the anticipated design, permitting, and construction milestones, as well as commencement of operations of the completed facility for the applicable Phase of the Project, the Developer's responsibilities, Governmental Authority reviews and other activities as are necessary for the timely completion of the Work, as such schedule shall be revised and updated in accordance with Exhibit "D".
 - hh) The words "Proposed Development Plan" or "Plan" to mean is defined in Article 64 and depicted in Exhibit "B".
 - ii) The words "PROS Capital Project Manager" or acronym "CPM" to mean Miami-Dade County's Director, Parks, Recreation, and Open Spaces Department, or the duly authorized representative designated to the Project to expedite the Project design, permitting, and construction.
 - jj) The words "PROS Project Coordinator" to mean Miami-Dade County's Director, Parks, Recreation, and Open Spaces Department, or the duly authorized representative designated to coordinate all County involved staff and Contractor from Contract execution through Project completion.
 - kk) The words "PROS Contract Manager" to mean Miami-Dade County's Director, Parks, Recreation, and Open Spaces Department, or the duly authorized representative designated to manage the Contract adherence, performance, and compliance on a day to day basis.
 - ll) The words "Remediation Costs" to mean only the costs of correcting, eliminating, monitoring, remediating, or mitigating, any Environmental Conditions present on the Site as required by Applicable Law. To the extent the County has any obligations for Remediation Costs, the County shall determine in its sole and absolute discretion, the means and methods for complying with Applicable Law, regardless of whether the means and methods chosen for such correction, elimination, monitoring, remediation or mitigation work would result in a Site suitable for development of the Haulover Park Elements.
 - mm) The words "Scope of Services" to mean the document appended hereto as Appendix A, which details the work to be performed by the Contractor.
 - nn) The word "Site" to mean the area of land described in Exhibit "A."
 - oo) The words "Site Conditions" to mean any site conditions other than Environmental Conditions, including (i) Unforeseen Site Conditions; (ii) subsurface or otherwise concealed physical conditions which differ materially from those indicated or assumed in the Construction Documents; and (iii) unknown physical conditions of an unusual nature which differ materially from those ordinarily found to exist and generally recognized as inherent in construction activities of the character provided for in the Construction Documents.
 - pp) 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.
 - qq) The words "Subject Area" or "Subject Site" to mean Haulover Park and the property that compose it.
 - rr) The word "State" to mean the State of Florida.
 - ss) The words "Substantial Completion" to mean the occurrence of both of the following: (i) the Architect has signed and delivered to the Developer and the PROS Capital Project Manager a certificate certifying that the Haulover Park Elements have been substantially completed subject to the completion of minor punch list items that do not materially affect the use or occupancy of the Haulover Park Elements.

- tt) The words "Targeted Completion Date" to mean the date on which all Work is complete in accordance with the Contract, including but not limited to, any items identified in the punch list, submission of all warranty documents, and compliance with all permitting requirements.
- uu) The words "Total Development Cost" to mean total of all costs to complete the Work in accordance with the Contract. The Total Development Cost (TDC) includes all costs associated with, but is not limited to testing, design, permitting, project management, construction, bonds, construction management, and commissioning of the Work for its intended purpose. Additionally, the TDC includes all costs associated with environmental assessments and mitigation (if necessary); providing all necessary utility and infrastructure; and all other development expenses (i.e., impact fees, expenses to mitigate deed restrictions, legal counsel) to complete the Work in accordance with the Contract Documents. The TDC Cost does not include any operational costs.
- vv) The words "Unforeseen Site Conditions" to mean unsuitable soil conditions, man-made obstructions, abandoned foundations, utilities, and natural underground obstructions or any other physical condition which may alter or delay any part of the Work.
- ww) The words "Work", "Services" "Program", or "Project" to mean all matters and things required to be done by the Contractor in accordance with the provisions of this Contract including but not limited to work associated with construction of Park Elements, or any Phase thereof, in accordance with this Agreement.

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) these terms and conditions, 2) the Scope of Services (Appendix A), 3) the Miami-Dade County's RFP No. 00xxx and any associated addenda and attachments, 4) Revenue Schedule (Appendix B), and 5) the Developer'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 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.

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 both 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 Services 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 and Services 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 and Services that are necessary for the completion of this Contract. All Work and Services shall be accomplished at the direction of and to the satisfaction of the PROS Capital Project Manager.
- e) The Contractor acknowledges that the County shall be responsible for making all policy decisions regarding the Scope of Services. The Contractor agrees to provide input on policy issues in the form of

recommendations. The Contractor agrees to implement any and 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 upon execution and shall continue through the last day of the last month of the fifty (50) year term. The County, at its sole discretion, reserves the right to exercise its option to renew this contract for up to two, twenty-year (20) terms. The County reserves the right to exercise its option to extend this Contract for up to 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.

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 Registered or Certified Mail, with return receipt requested; or delivered personally; or delivered via e-mail (if provided below) and followed with delivery of hard copy; and in any case addressed as follows:

(1) to the County

- a) to the PROS Project Coordinator:
Miami-Dade County
Parks, Recreation, and Open Spaces Department
Financial Management Division
275 NE 2nd Street, 5th Floor
Miami, FL 33128
Attention:
Phone:
E-mail:
- b) to the PROS Contract Manager:
Miami-Dade County
Parks, Recreation, and Open Spaces Department
Financial Management Division
275 NE 2nd Street, 5th Floor
Miami, FL 33128
Attention:
Phone:
E-mail: <mailto:>
- c) to the ISD Contract Manager:
Miami-Dade County
Internal Services Department, Procurement Management Division
111 N.W. 1st Street, Suite 1300
Miami, FL 33128-1974
Attention:
Phone:
E-mail:
- d) to the PROS Capital Project Manager (CPM):
Miami-Dade County
Parks, Recreation, and Open Spaces Department
Management Division
275 NE 2nd Street, 4th Floor

Miami, FL 33128
Attention:
Phone:
E-mail:

and,

e) to the County Attorney:

Miami-Dade County
Assistant County Attorney
111 N.W. 1st Street, Suite 2810
Miami, Florida 33128
Attention:
Phone:
Email:

(2) To the Contractor

Attention:
Phone:
Fax:
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 for the Work and Services to be performed under this Contract. The revenue for all Work and Services performed under this Contract, including all costs associated with such Work and Services, shall be pursuant to Appendix B – Revenue Schedule.

ARTICLE 8. REVENUE

Revenue shall remain firm and fixed for the term of the Contract, including any option or extension periods; however, the Contractor may offer additional revenue to the County at any time during the Contract term, including any renewal or extension thereof. The County reserves the right to renegotiate revenues based on the following (but not limited to): sales, economic factors, and/or the best interest of the County.

ARTICLE 9. METHOD, TIMES, AND APPLICATION OF PAYMENTS AND ASSOCIATED REQUIRED DOCUMENTATION AND PENALTIES

In accordance with Miami-Dade County Implementing Order 3-9, Accounts Receivable Adjustments, if money is owed by the Contractor to the County, whether under this Contract or for any other purpose, the County reserves the right to retain such amount from payment due by County to the Contractor under this Contract. Such retained amount shall be applied to the amount owed by the Contractor to the County. The Contractor shall have no further claim to such retained amounts which shall be deemed full accord and satisfaction of the amount due by the County to the Contractor for the applicable payment due herein.

Guaranteed Monthly Initial Rent payable by Contractor to the County herein shall be payable on the first day of each month following the Contract Date and shall continue through to the Date of Beneficial Occupancy.

Guaranteed Monthly Land Rent payable by Contractor to the County herein shall be payable on the first day of each month following the Date of Beneficial Occupancy through to the expiration or early termination of the term.

Percentage of Monthly Gross Revenue shall be paid to the County on or before the 10th day following the end of each month during the term of this Contract and on or before the 10th day of the month following the expiration or earlier termination of the term.

Percentage of Monthly Miscellaneous Fee Revenue shall be paid to the County on or before the 10th day following the end of each month during the term of this Contract and on or before the 10th day of the month following the expiration or earlier termination of the term.

Such payments, as well as other amounts payable by Contractor to the County under the terms of this Contract, shall be paid promptly when due, without notice for any reason whatsoever and without abatement, except as hereinafter provided.

All guaranteed monthly rent and percentage revenue provided for in this Contract shall be paid or mailed to:

Miami-Dade County
Parks Recreation and Open Spaces Department
Financial Management Division
275 N.W. 2nd Street, 3rd Floor
Miami, FL 33128
Attention:
Phone:
Email:

(Checks shall be made payable to the "Miami-Dade County Parks".)

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

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 Guaranteed Monthly Rent and Percentage of Monthly Gross Revenues.

In the event that the Contractor fails to make any payments on time, as required to be paid under the provisions of this Contract, a penalty at the rate of 1.5% per month or any portion of a month shall accrue from the due date, against the delinquent payment(s) until same are paid. 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 rights of the County to enforce other provisions herein, including termination of this Contract, or to pursue other remedies provided by law.

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

The County shall have lien upon all personal property of the Contractor in/on the Facilities to secure the payment to the County of any unpaid money accruing to the County under the terms of this Contract.

No payment by Contractor or receipt by County of a lesser amount than any payment of Guaranteed Monthly Rent or Percentage of Monthly Gross Revenue herein stipulated shall be deemed to be other than on account of the earliest

stipulated Guaranteed Monthly Rent or Percentage of Monthly Gross Revenue then due and payable, nor shall any endorsement or statement on any check or any letter accompanying any check or payment for Guaranteed Monthly Rent or Percentage of Monthly Gross Revenues be deemed an accord and satisfaction. The County may accept such check or payment without prejudice to County's right to recover the balance of such Guaranteed Monthly Rent or Percentage of Monthly Gross Revenues or pursue any other remedy provided in this Contract, at law or in equity.

Contractor shall submit to County on or before the 10th day following the end of each month during the term of this Contract and on or before the 10th day of the month following the expiration or earlier termination of the term, a written statement, signed by Contractor and certified by it to be true and correct, showing the amount of Gross Revenues during the preceding month. Contractor shall submit to the PROS Contract Manager 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 and certified by it 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.

Such books and records as are necessary to determine the amount of any Percentage of Monthly Gross Revenues payable to County shall be subject to examination by County or its authorized representatives at reasonable times during Contractor's business hours, at County's expense and 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 if subject to the requirements of Florida Public Records Act.

For the purpose of computing and verifying the Percentage of Monthly Gross Revenues due hereunder, Contractor shall prepare and keep, for a period of not less than five (5) years following the end of each Contract Year, adequate books and records, including but not limited to those relating to inventories, purchases, and receipts of merchandise, and all sales and other pertinent transactions by Contractor. Contractor shall record at the time of sale each receipt from sales or other transactions, whether for cash or on credit, in one or more sealed cash register or registers having a cumulative total. Contractor shall keep, for at least five (5) years following the end of each Contract Year, all pertinent original sales records, which records shall include (i) cash register tapes; (ii) serially-numbered sales slips; (iii) mail order; (iv) telephone orders; (v) settlement report sheets of transactions; (vi) records showing that merchandise returned by customers was purchased by such customers; (vii) receipts or other records of merchandise taken out on approval; (viii) income and sales tax returns; and (ix) such other records which would normally be examined and required to be kept by an independent accountant pursuant to generally accepted auditing standard in performing an audit of Contractor's Gross Receipts.

The acceptance by County of payments of Percentage of Monthly Gross Revenues 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 Revenues and inventories of merchandise.

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 PROS, or the Internal Auditing Department of the County. Contractor shall make all such records available for said examination at the Facilities or at some other mutually agreeable location. If the result of such audit shall show that Contractor's statement of Gross Revenues 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. 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. Any information, excluding written documents, obtained by County as a result of such audit shall be held in strict confidence by County except in any proceeding or action to collect the cost of such audit or deficiency.

If Contractor fails to record, maintain, or make available sales supporting documentation as specified above, then Contractor shall be deemed to be in default under this Article.

ARTICLE 10. INDEMNIFICATION AND INSURANCE

Proposer shall indemnify and hold harmless the County and its officers, employees, agents and instrumentalities from any and all liability, losses or damages, including attorneys' fees and costs of defense, which the County or its officers, employees, agents or instrumentalities may incur as a result of claims, demands, suits, causes of actions or proceedings of any kind or nature arising out of, relating to or resulting from the performance of this Agreement by the Proposer or its employees, agents, servants, partners principals or subcontractors. Proposer 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. Proposer expressly understands and agrees that any insurance protection required by this Agreement or otherwise provided by Proposer 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.

The Proposer shall furnish to the Internal Services Department / Procurement Management Services, 111 NW 1st Street, Suite 1300, Miami, Florida 33128-1989, Certificate(s) of Insurance which indicate that insurance coverage has been obtained which meets the requirements as outlined below:

Commencement Stage

- A. Worker's Compensation Insurance for all employees of the Proposer as required by Florida Statute 440.
- B. Commercial General Liability Insurance on a comprehensive basis in an amount not less than \$1,000,000 combined single limit per occurrence for bodily injury and property damage. **Miami-Dade County must be shown as an additional insured with respect to this coverage.**
- C. Automobile Liability Insurance covering all owned, non-owned and hired vehicles used in connection with the work, in an amount not less than \$300,000 combined single limit per occurrence for bodily injury and property damage.

Design Stage

In addition to the insurance coverage required in **A – C** above, provide the following coverage:

- D. Professional Liability insurance in the name of the Proposer or its licensed design professional in an amount not less than \$1,000,000.

Construction Stage

In addition to the insurance coverage required in **A – D** above, provide the following coverage:

- E. Completed Value Builders' Risk Insurance on an "all risk" basis in an amount not less than one hundred (100%) percent of the insurable value of the building(s) or structure(s). **The policy shall be in the name of Miami-Dade County and the Proposer A.T.I.M.A.**
- F. Flood Insurance for properties in flood zone A or V, in an amount not less than the full replacement value(s) of the completed structure(s) or the maximum amount of coverage available through the National Flood Insurance Program (NFIP), whichever is greater. **The policy will show Miami-Dade County as a Loss Payee A.T.I.M.A** and the policy must be provided at such time that the building's walls and roofs exist.

Operation / Management Stage

After the completion of construction of the Project and occupancy begins, the insurance coverage required in **A – C** must be kept in force in addition to the below listed coverage:

- G. Property Insurance Coverage on an "All Risk" basis in an amount not less than one hundred (100%) percent of the replacement cost of the building or structure. **Miami Dade County must be named as a Loss Payee with respect to this coverage.**
- H. Flood Insurance for properties in flood zone A or V, in an amount not less than the full replacement value(s) of the completed structure(s) or the maximum amount of coverage available through the National Flood Insurance Program (NFIP), whichever is greater. **The policy will show Miami-Dade County as a Loss Payee A.T.I.M.A**

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 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.

NOTE: CERTIFICATE HOLDER MUST READ:

**MIAMI-DADE COUNTY
111 NW 1st STREET
SUITE 2340
MIAMI, FL 33128**

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

ARTICLE 11. MANNER OF PERFORMANCE

- a) The Contractor shall provide the Services 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 Services described herein and to full and prompt cooperation by the Contractor in all aspects of the Services. At the request of the County, the Contractor shall promptly remove from the project any Contractor's employee, subcontractor, or any other person performing Services 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 any and all claims, suits, actions, damages and costs (including attorney's 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 agrees that at all times it will employ, maintain and assign to the performance of the Services 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 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 Services described herein, in a competent and professional manner.
- e) The Contractor shall at all times cooperate with the County and coordinate its respective work efforts to most effectively and efficiently maintain the progress in performing the Services.
- f) The Contractor shall comply with all provisions of all federal, state and local laws, statutes, ordinances, and regulations that are applicable to the performance of this Agreement.

ARTICLE 12. EMPLOYEES OF THE CONTRACTOR

All employees of the Contractor shall be considered to 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 13. INDEPENDENT CONTRACTOR RELATIONSHIP

The Contractor is, and shall be, in the performance of all work services 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 or services performed pursuant to this Agreement shall at all times, 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 14. AUTHORITY OF THE PROS CONTRACT MANAGER

- a) The Contractor hereby acknowledges that the PROS Contract 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 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 PROS Contract Manager, including the withdrawal or modification of any previous order and regardless of whether the Contractor agrees with the PROS Contract Manager's determination or order. Where orders are given orally, they will be issued in writing by the PROS Contract 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 PROS Contract Manager. In the event that the Contractor and the PROS Contract 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 to this Agreement authorize the County Mayor or designee, who may not be the PROS Contract 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 parties. Any such dispute shall be brought, if at all, before the County Mayor within 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 in regard to such questions, in order that a fair and impartial decision may be made. Whenever the County Mayor is entitled to exercise discretion or judgment 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.

ARTICLE 15. 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 both 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.
- 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 costs from the Contractor.

ARTICLE 16. 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 Scope of Services. The Contractor and its subcontractors and suppliers, shall retain such records, and all other documents relevant to the Services furnished under this Agreement for a period of five (5) years from the expiration date of this Agreement and any extension thereof.

ARTICLE 17. AUDITS

The County, or its duly authorized representatives or governmental agencies, shall until the expiration of five (5) 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 Miami-Dade County 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. 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.

The Developer shall keep and maintain all books, records and documents of all kinds in any way related to the Developer's rights and obligations under this Agreement separate and identifiable from its other books, records, and documents. The County shall have the right to audit the books of the Developer relating to the planning, design, development, and construction of the Haulover Park Elements. The County shall have the right to audit the books, records and documents of the Developer relating to the hiring and work of CSBEs, SBEs, CBEs and responsible wages paid to workers pursuant to the requirements of the County Code. The Developer shall require all consultants or subcontractors keep and maintain all books, records, and documents of all kinds related to their obligations and that the County shall have the right to audit the Construction Manager's, consultant's, and subcontractor's books.

ARTICLE 18. SUBSTITUTION OF PERSONNEL

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 19. CONSENT OF THE COUNTY REQUIRED FOR ASSIGNMENT

Developer shall not assign this Agreement or any portion thereof, nor any property associated with this Agreement without prior written approval of the County. Unapproved assignment shall be grounds for immediate termination of this Agreement. It is agreed that all terms and conditions of this Agreement shall extend to and be binding on assignees and other successors as may be approved by the County.

Developer shall not enter into any sub-agreement for services required to be provided under this Agreement without prior written approval of the County. It is agreed that all terms and conditions of this Agreement shall extend to and be binding on any sub-Contractors. Developer shall be liable for acts and omissions by any sub-Contractor affecting this Agreement. The County reserves the right to require the removal of any sub-Contractor of the Developer for any cause for which Developer may be terminated.

Any sub-agreement for Agreement services must be made available and accounted for through the Developer so as to provide seamless service to the public as if provided directly by the Developer.

ARTICLE 20. SUBCONTRACTUAL RELATIONS

- a) If the Contractor will cause 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 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 services, will state in writing to the County the name of the proposed Subcontractor, the portion of the Services 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 Services to be performed. Such Services 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 Services 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 services 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 subcontract 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 and 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 21. 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 22. 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 23. TERMINATION AND SUSPENSION OF WORK

- a) The County may terminate this Agreement if an individual or corporation or other entity attempts to meet its contractual obligation with the County through fraud, misrepresentation or material misstatement.
- b) The County may, as a further sanction, 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 be responsible for all direct and indirect costs associated with such termination or cancellation, including attorney's fees.
- c) The foregoing notwithstanding, any individual, corporation or other entity which attempts to meet its contractual obligations with the County through fraud, misrepresentation or material misstatement may be debarred from County contracting for up to five (5) years 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 County Code.
- d) In addition to cancellation or termination as otherwise provided in this Agreement, the County may at any time, in its sole discretion, with or without cause, terminate this Agreement by written notice to the Contractor.
- 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
- 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.

ARTICLE 24. DEFAULT AND REMEDIES

Each of the following shall constitute a default by the Developer hereunder (a "Developer Default"):

- i. the Contractor has not delivered Deliverables 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 in the representation of any warranties stated herein.
- vii. If any representation or warranty made by the Developer in this Agreement shall at any time prove to have been incorrect in any material respect as of the time made, and the Developer fails to cause such representation or warranty to become correct within thirty (30) days after written notice thereof is given to the Developer by the PROS Capital Project Manager; provided, however, that if it is not reasonably possible to cause such representation or warranty to become correct within such thirty (30) day period, then the Developer can request an extension of such cure period from the County for good cause shown and provided that the Developer has commenced the cure during the initial thirty (30) day period and diligently continues to cause such representation or warranty to become correct. However, in no event shall the County extend the cure period beyond one hundred eighty (180) days following the date of the original notice without prior Board approval.
- viii. If the Developer fails to pay any amount payable by the Developer under this Agreement and fails to cure the same within thirty (30) days after written notice to the Developer from the PROS Capital Project Manager.
- ix. If the Developer shall breach any of its other covenants or agreements in this Agreement other than as referred to in Sections vii and viii above and such breach is not cured within thirty (30) days after written notice thereof is given to the Developer by the PROS Capital Project Manager; provided, however, that if it is not reasonably possible to cure such breach within such thirty (30) day period, the Developer can request an extension of such cure period from the County for good cause shown and provided that the Developer has commenced the cure during the initial thirty (30) day period and diligently continues to cause such representation or warranty to become correct. However, in no event shall the County extend the cure period beyond one hundred eighty (180) days following the date of the original notice without prior Board approval.

Each of the following shall constitute a default by the County under this Agreement (a "County Default"):

- i. If any representation or warranty made by the County in this Agreement shall at any time prove to have been incorrect in any material respect as of the time made, and the County fails to cause such representation or warranty to become correct within thirty (30) days after written notice thereof is given to the County by the Developer; provided, however, that if it is not reasonably possible to cause such representation or warranty to become correct within such thirty (30) day period, such cure period shall be extended for up to one hundred eighty (180) days following the date of the original notice if within thirty (30) days after such written notice the County commences and thereafter diligently continues to cause such representation or warranty to become correct.
- ii. If the County shall breach any of the other covenants or provisions in this Agreement other than as referred to in Section i above and such breach is not cured within thirty (30) days after written notice thereof is given to the County by the Developer; provided, however, that if it is not reasonably possible to cure such breach

within such thirty (30) day period, such cure period shall be extended for up to one hundred eighty (180) days following the date of the original notice if within thirty (30) days after such written notice the County commences and thereafter diligently continues to cure such breach; provided, further, that no cure period shall not apply to, and no rights to cure exists for, any covenant that is required to be performed by a specified date or during a specified period of time

Remedies:

- i. Except as otherwise specifically provided in this Agreement, either Party may institute litigation to recover damages for any Default or to obtain any other remedy at law or in equity (including specific performance, permanent, preliminary or temporary injunctive relief, and any other kind of equitable remedy) consistent with the purposes of this Agreement. To the extent applicable, neither the existence of any claim or cause of action of a Party against the other Party, whether predicated on this Agreement or otherwise, nor the pendency of arbitration proceedings involving the other Party, shall (a) constitute a defense to specific enforcement of the obligations of such other Party under this Agreement or (b) bar the availability of injunctive relief.
- ii. Except with respect to rights and remedies expressly declared to be exclusive in this Agreement, the rights and remedies of the Parties are cumulative and the exercise by either Party of one or more of such rights or remedies shall not preclude the exercise by it, at the same or different times, of any other rights or remedies for the same Default or any other Default.
- iii. Any failure of a Party to exercise any right or remedy as provided in this Agreement shall not be deemed a waiver by that Party of any claim for damages it may have by reason of the Default.
- iv. Damages to be paid by the County under this Article shall be payable from Non-Ad Valorem Revenue sources.

Self-Help Remedies:

If a court of competent jurisdiction has determined pursuant to a final judgment or award that a the Developer default has occurred and such the Developer default is continuing, or if the Developer has abandoned the Work for a period of sixty (60) consecutive days without providing to the County reasonable assurances as to the Developer's ability to proceed with the Project, then, in addition to any other remedy available to the County under this Agreement, the County may pursue any one or more of the following remedies concurrently or successively, it being the intent hereof that none of such remedies shall be to the exclusion of any other: Take possession of the Site and the Park Elements and complete the construction and the equipping of the Haulover Park Elements and do anything required, necessary or advisable in the County's sole judgment to fulfill the obligations of the Developer under this Agreement, including the rights to avail itself of or procure performance of the Construction Management Contract or the Architect's Contract, as the case may be, to let any contracts with the same contractors, architects, subcontractors or others and to employ watchmen to protect the Haulover Park Elements from injury. Without restricting the generality of the foregoing and for the purposes aforesaid, the Developer hereby appoints and constitutes the County as the Developer's lawful attorney-in-fact with full power of substitution in the Site to perform the following actions:

- i. to complete construction and equipping of the Haulover Park Elements;
- ii. to make changes in the Design Documents which shall be necessary or desirable to complete the Haulover Park Elements, as the case may be;
- iii. to retain or employ new contractors, subcontractors, architects, engineers and inspectors;
- iv. without inquiring into and without respect to the validity thereof, to pay, settle or compromise all existing bills and claims which may be Liens, or to avoid such bills and claims becoming Liens, against the Site and Haulover Park Elements or as may be necessary or desirable for the completion of the construction and equipping of the Park Elements;
- v. to prosecute and defend actions or proceedings in connection with the Site and Haulover Park Elements;
- vi. to take action and require such performance as the County deems necessary or advisable under any of the payment and/or performance bonds to be furnished by the Construction Manager under the Construction Management Contract and to make settlements and compromises with the surety or sureties there under, and in connection therewith, to execute instruments of release and satisfaction;

- vii. to do any and every act which the Developer might do in its own behalf with respect to the construction of the Haulover Park Elements it being understood and agreed that this power of attorney shall be a power coupled with an interest and cannot be revoked; and
- viii. exercise or pursue any other remedy or cause of action permitted at law or in equity or under this Agreement.

If a court of competent jurisdiction or the judge selected under this Article has determined pursuant to a final judgment or award that a County Default has occurred and such County Default is continuing, in addition to any other remedy available to the Developer under this Agreement, the Developer shall have the right, but not the obligation, to render the performance required to cure a County Default. If a court of competent jurisdiction or the judge selected under this Article has determined pursuant to a final judgment or award that a Developer Default has occurred and such Developer Default is continuing, in addition to any other remedy available to the County under this Agreement, the County shall have the right, but not the obligation, to render the performance required to cure a Developer Default.

ARTICLE 27. 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 28. 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 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 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) It is understood and agreed that 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 29. PROPRIETARY INFORMATION

As a political subdivision of the State of Florida, Miami-Dade County is subject to the stipulations of Florida's 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 (hereinafter "Computer Software"). All third-party license agreements must also be honored by the contractors and their 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 any 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 30. 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 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) 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 31. VENDOR REGISTRATION/CONFLICT OF INTEREST

a) Vendor Registration

The Contractor shall be a registered vendor with the County – Internal Services Department, Procurement Management Division, for the duration of this Agreement. In becoming a Registered Vendor with Miami-Dade County, the Contractor confirms its knowledge of and commitment to comply with the following:

1. **Miami-Dade County Ownership Disclosure Affidavit**
(Section 2-8.1 of the County Code) (Ordinance 97-35)
2. **Miami-Dade County Employment Disclosure Affidavit**
(Section 2-8-1(d)(2) of the County Code)
3. **Miami-Dade Employment Drug-free Workplace Certification**
(Section 2-8.1.2(b) of the County Code)
4. **Miami-Dade Disability and Nondiscrimination Affidavit**
(Section 2-8.1.5 of the County Code)
5. **Miami-Dade County Debarment Disclosure Affidavit**
(Section 10.38 of the County Code)
6. **Miami-Dade County Vendor Obligation to County Affidavit**
(Section 2-8.1 of the County Code)
7. **Miami-Dade County Code of Business Ethics Affidavit**
(Section 2-8.1(j) and 2-11(b)(1) of the County Code through (6) and (9) of the County Code and Section 2-11.1(c) of the County Code)
8. **Miami-Dade County Family Leave Affidavit**
(Article V of Chapter 11 of the County Code)
9. **Miami-Dade County Living Wage Affidavit**
(Section 2-8.9 of the County Code)
10. **Miami-Dade County Domestic Leave and Reporting Affidavit**
(Article 8, Section 11A-60 11A-67 of the County Code)
11. **Subcontracting Practices**
12. **Subcontractor /Supplier Listing**
(Section 2-8.8 of the County Code)
13. **Environmentally Acceptable Packaging**
(Resolution R-738-92)
14. **W-9 and 8109 Forms**
(as required by the Internal Revenue Service)
15. **FEIN Number or Social Security Number**
In order to establish a file, the Contractor's Federal Employer Identification Number (FEIN) must be provided. If no FEIN exists, the Social Security Number of the owner or individual must be provided. 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
 - To make payments to individual/Contractor for goods and services provided to Miami-Dade County
 - Tax reporting purposes
 - To provide a unique identifier in the vendor database that may be used for searching and sorting departmental records
16. **Office of the Inspector General**
(Section 2-1076 of the County Code)
17. **Small Business Enterprises**

The County endeavors to obtain the participation of all small business enterprises pursuant to Sections 2-8.2, 2-8.2.3 and 2-8.2.4 of the County Code and Title 49 of the Code of Federal Regulations.

18. Antitrust Laws

By acceptance of any contract, the Contractor agrees to comply with all antitrust laws of the United States and the State of Florida.

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b) Conflict of Interest

Section 2-11.1(d) of Miami-Dade County Code requires that any County employee or any member of the employee's immediate family who has a controlling 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 request a conflict of interest opinion from the County's Ethics Commission prior to their or their immediate family member's entering into any contract or transacting any business through a firm, corporation, partnership or business entity in which the employee or any member of the employee's immediate family has a controlling financial interest, direct or indirect, with Miami-Dade County or any person or agency acting for Miami-Dade County. Any such contract or business engagement entered in violation of this subsection, as amended, shall be rendered voidable. For additional information, please contact the Ethics Commission hotline at (305) 579-2593.

ARTICLE 32. INSPECTOR GENERAL REVIEWS
Independent Private Sector Inspector General Reviews

Pursuant to Miami-Dade County Administrative Order 3-20, the County has the right to retain the services of an Independent Private Sector Inspector General (hereinafter "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 of Miami-Dade County, 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 (1/4) of one (1) percent 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 (1/4) of one percent 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 Commission; (j) professional service agreements under \$1,000; (k) management agreements; (l) small purchase orders as defined in Miami-Dade County Administrative Order 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 (1/4) of one percent 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 Public Health 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 shall have the power 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 form and which 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 33. LOCAL, STATE, AND FEDERAL COMPLIANCE REQUIREMENTS

Contractor agrees to comply, subject to applicable professional standards, with the provisions of any and 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) Equal Employment Opportunity (EEO), in compliance with Executive Order 11246 as amended and applicable to this Contract.
- b) Miami-Dade County Florida, Department of Small Business Development Participation Provisions, as applicable to this Contract.
- c) Environmental Protection Agency (EPA), as applicable to this Contract.
- d) "Conflicts of Interest" Section 2-11 of the County Code, and Ordinance 01-199.
- e) Miami-Dade County Code Section 10-38 "Debarment".
- f) Miami-Dade County Ordinance 99-5, codified at 11A-60 et. seq. of Miami-Dade Code pertaining to complying with the County's Domestic Leave Ordinance.
- g) Miami-Dade County Ordinance 99-152, prohibiting the presentation, maintenance, or prosecution of false or fraudulent claims against Miami-Dade County.
- h) 49 CFR 26.7 binding the selected Proposer or transferee not to discriminate based on race, color, religion, ancestry, national origin, sex, pregnancy, age, disability, marital status, familial status, sexual orientation, gender identity or gender expression, or status as victim of domestic violence, dating violence or stalking."
- i) 49 CFR 27.7, 27.9(b) and 37 binding the selected Proposer or transferee not to discriminate based on disability and binding the same to compliance with the Americans with Disabilities Act with regard to any Elements constructed.
- j) Prohibition against Liens. The Contractor is prohibited from placing a lien on the County's property. This prohibition shall be placed in all Subcontractor contracts.
- k) Contractor shall be required to comply with Ordinance 94-12, Section 2.11-15, for Art in Public Places (APP) as it applies to the project.
- l) Contractor shall conduct 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".

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 PROS Capital Project Manager shall verify the certification(s), license(s), permit(s), etc. 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 34. NONDISCRIMINATION

During the performance of this Contract, Contractor agrees to not discriminate against any employee or applicant for employment because of race, color, religion, ancestry, national origin, sex, pregnancy, age, disability, marital status, familial

status, sexual orientation, gender identity or gender expression, status as victim of domestic violence, dating violence or stalking, or veteran status, and on housing related contracts the source of income, and will take affirmative action to ensure that employees and applicants are afforded equal employment opportunities without discrimination. Such action shall be taken with reference to, but not limited to: recruitment, employment, termination, rates of pay or other forms of compensation, and selection for training or retraining, including apprenticeship and on the job training.

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 35. 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, supplies 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 PROS Contract Manager. Contractor shall thereafter cooperate with the County's review and investigation of such information, and comply with the instructions Contractor receives from the PROS Contract Manager in regard to remedying the situation.

ARTICLE 36. 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 Services 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 product or service provided by the Contractor or such parties has been approved or endorsed by the County.

ARTICLE 37. BANKRUPTCY

The County reserves the right to 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 38. 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 Miami-Dade County.

ARTICLE 39. FIRST SOURCE HIRING REFERRAL PROGRAM

Pursuant to Section 2-2113 of the Code of Miami-Dade County, 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 the South Florida Workforce Investment Board ("SFWIB"), the designated Referral Agency, of the vacancy and list the vacancy with SFWIB 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 SFWIB. 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 SFWIB 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 FSHRP are available at <https://iapps.careersourcesfl.com/firstsource/>.

ARTICLE 40. RESPONSIBLE WAGES

Pursuant to Section 2-11.16 of the County Code, responsible wages applies to competitively bid County contracts in excess of \$100,000 for the construction of public buildings or public works, whether on publicly-owned or privately-owned land. Responsible Wages also apply to privately-funded construction of buildings, whether privately-owned or publicly-owned, located on County-owned land where the construction cost is equal to or greater than \$1 million. The provisions of Section 2-11.16 of the County Code stipulates that for construction contracts valued greater than \$100,000, all laborers and mechanics employed or working upon a project will be paid the full amount of wages and fringe benefits (or cash equivalent thereof) computed at rates not less than those contained in the wage determination in effect at the time the work is performed, regardless of any contractual relationship which may be alleged to exist between the contractor and such laborers and mechanics.

ARTICLE 41. COMMUNITY BUSINESS ENTERPRISE PROGRAM

In accordance with the County's Ordinance No. 12-05, which amended Sections 2-10.4.01 and 10-33.02 of the County Code, this Solicitation, and therefore the Development Project, is subject to the requirements of both the Small Business Enterprise Program-Architectural & Engineering (SBE-A&E) and the Small Business Enterprise Program-Construction (SBE-Construction). As a result, for purposes of selecting and/or hiring any architectural, landscape architectural, engineering, surveying and mapping professional Services, for purposes of design and/or construction, as well as any construction services, the Selected Proposer shall submit or cause to be submitted design packages as well as construction packages, for any and all such work, to the County's Small Business Development Division of the Services Department ("SBD") prior to the Selected Proposer's advertisement for such services, for review and determination of appropriate small business program measures, and the application of same. All packages must be advertised and awarded with the applicable small business measures in accordance with the requirements of the above mentioned County Code.

All privately funded construction with a total value over \$200,000 must comply with Sections 10-33.02 and 2-10.4.01 of the Code of Miami Dade County (the "Code"), which govern the County's Small Business Enterprise-Construction ("SBE-Construction") and Small Business Enterprise-Architectural & Engineering ("SBE-A&E") programs. The selected Proposers shall submit or cause to be submitted the Design and Construction Packages, to the Small Business Development Division of Internal Services Department ("SBD/ISD") prior to advertisement, for review and determination of appropriate small business program measures, and the application of same. All packages must be advertised and awarded with the applicable small business measures in accordance with the requirements of the above mentioned Code.

ARTICLE 42. RESIDENT'S FIRST TRAINING AND EMPLOYMENT (RFTE) PROGRAM

This program is applicable to all Miami-Dade County construction contracts valued over \$1 million and requires contractors/subcontractors to adhere to the following:

- A. All persons employed on a project to perform construction shall have completed the OSHA 10-hour safety training.
- B. The contractor will make its best reasonable effort to have 51% of all construction labor hours performed by Miami-Dade County residents.

Contractor shall comply with requirements of Section 2-11.7 of the Code of Miami-Dade County and Implementing Order No. 3-61, including the right of the County to access the Contractor's and subcontractors' records to verify compliance, in any contract, subcontract, or sublease. Contractor shall be responsible to the County for payment of compliance monitoring costs and any penalties found due.

Form 1: In accordance with Section 2-11.17 of the Miami-Dade County Code, all contractors and subcontractors of any tier performing on a contract for (i) the construction, demolition, alteration and/or repair of public buildings or public works projects valued in excess of \$1,000,000 funded completely or partially by Miami-Dade County, or (ii) privately funded projects or leases valued in excess of \$1,000,000 for the construction, demolition, alteration or repair of buildings or Elements on County owned land, and which are subject to Section 2-11.16 of the Code of Miami-Dade County shall comply with the requirements of the Residents First Training and Employment Program.

Form 2: In accordance with Section 2-11.17 of the Miami Dade County-Code, this form must be submitted by the Prime Contractor within ten (10) business days of award notification and prior to issuance of a Notice to Proceed. The Prime Contractor should enter the word "NONE" where appropriate and sign the form. Duplication of this form if additional space is needed is acceptable.

Form 3: In accordance with Section 2-11.17 of the Miami-Dade County Code, all Contractors and subcontractors of any tier performing on a County Construction Contract, shall satisfy the requirements of the Miami-Dade County Residents First Training and Employment Program which requires: for (i) all persons employed by the Contractor to perform construction shall have completed the Occupational Safety & Health Administration (OSHA) 10 Hour safety training course established by the Occupational Safety & Health Administration of the United States Department of Labor.

Form 4: In accordance with Section 2-11.17 of the Miami-Dade County Code, this report must be submitted by the Prime Contractor within thirty (30) days of completion of a County Capital Construction Contract to Small Business Development through the Contracting Officer. The Contracting Officer shall not authorize issuance of final payment for completion of a County Capital Construction Contract until the County receives a completed Workforce Performance Report.

ARTICLE 44. PUBLIC RECORDS AND CONTRACTS FOR SERVICES PERFORMED ON BEHALF OF A PUBLIC AGENCY

The Contractor shall comply with the state of FL Public Records Law, s. 119.0701, F.S., specifically to: (1) keep and maintain public records that ordinarily and necessarily would be required by the public agency in order to perform the service; (2) provide the public with access to public records on the same terms and conditions that the public agency would provide the records and at a cost that does not exceed the cost provided in Chapter 119, F.S., or as otherwise provided by law; (3) ensure that public records that are exempt or confidential and exempt from public records disclosure requirements are not disclosed except as authorized by law; and (4) meet all requirements for retaining public records and transfer, at no cost, to the public agency all public records in possession of the Contractor upon termination of the contract and destroy

any duplicate public records that are exempt or confidential and exempt from public records disclosure requirements. All records stored electronically must be provided to the public agency in a format that is compatible with the information technology systems of the public agency. If the Contractor does not comply with a public records request, the public agency shall enforce contract provisions in accordance with the contract.

ARTICLE 45. 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.

ARTICLE 46. PROPERTY DESCRIPTION

The Subject Site, Haulover Park, located at located at 10800 Collins Avenue, Miami, Florida 33154. The Site (Exhibit A) consists of 177+/- acres. Approximately xxx acres are to be developed under this Agreement.

ARTICLE 47. INTENT

The Developer and the County agree and recognize that the development of the Site and Park as set forth within this Agreement is intended to: .

ARTICLE 48. USE

County hereby grants unto the Developer, and the Developer hereby accepts from the County for the term, at the rate and upon the covenants and conditions as set forth, to develop and manage the Park. Developer shall use the subject area only for the use already approved and made permissible by the Governmental Facility Hearing R-997-12 and further described in Exhibit B, or as amended. The Developer shall not conduct any business nor provide any services nor sell any item or product without the prior written approval of the Department, and any sales by the Developer of services or items not specifically authorized in writing by the Department shall constitute a default. The unapproved services or items shall be discontinued immediately by the Developer, as per directed by the Project Manager or upon written notice from the Department. Developer shall conduct its business at all times in accordance with this Agreement.

ARTICLE 49. LIMITATIONS ON USE

Subject to Developer's right to use the subject area for the purposes specified in this Agreement, Developer shall not suffer or permit the subject area or any part thereof to be used in any manner, or anything to be done therein, or suffer or permit anything to be brought into or kept therein, which would in any way (i) violate any legal requirements or insurance requirements; (ii) cause structural injury to the subject area or any part thereof; (iii) constitute a public or private nuisance; (iv) impair the appearance of the subject area; (v) materially impair or interfere with the subject under this Agreement.

ARTICLE 50. SITE

The County shall deliver physical possession of the Site to the Developer in an "as is" condition so that the Developer may commence construction of the Park Elements within the Site. The Developer shall be responsible for the planning, design, permitting, platting, construction, operations, maintenance, and management of the Park Elements.

ARTICLE 51. ACCESS TO SITE

The County shall provide authorization for the Developer and its agents, consultants and contractors (including the Construction Manager and the Design Professionals) to, immediately upon the Effective Date, enter upon the Site in order for them to be able to perform various tests and studies of the Site, and other pre-construction work as contemplated by this Agreement. This right of access to the Site shall be exercised in such a manner as not to cause any damage or destruction to the Site or unreasonable interruption or interference with normal site activities. The Developer shall immediately pay or cause to be removed any Liens filed against the Site as a result of any actions taken by it or on its behalf in connection with the work contemplated and to repair such damage to the.

The County shall make the Site fully available to the Developer for the construction of the Work. Upon the date set forth in the approved Project Schedule as the commencement of construction date for a particular Phase, the Developer shall be fully responsible for securing that part of the Site under construction for a particular Phase and providing the insurance required by this Agreement. All construction areas (including staging areas) shall be covered by the bonds and insurance required under this Agreement.

The County shall continue to have access to the Site at all times, including those portions under construction.

ARTICLE 52. SITE CONDITIONS

As is necessary for the Developer to complete its construction obligations related to the Work, the Developer shall have the right to inspect the Site and to perform such tests as it deems necessary or appropriate from time to time to determine the existence of Site Conditions. Developer shall be responsible for all Site Conditions which Developer encounters, causes or contributes to at the Site, and Developer's responsibilities shall include but not be limited to, designing the Park Elements taking such Site Conditions into account and removing any Site Conditions such as debris and non-hazardous materials necessary for construction of the Park Elements. Developer's responsibility for Environmental Conditions is limited as set forth in this Article.

ARTICLE 53. SITE CONTROL

At the time the Developer is authorized by the County to take control of Park land for the purpose of commencing construction, the Developer shall be given exclusive control over only the Subject Area. At the time the Developer is authorized by the County to commence construction, the Developer shall be given non-exclusive control and shall be required to coordinate with the County as to the schedule for commencement, duration and location of any construction, staging and mobilization areas outside of the Subject Area needed to complete the required Elements. All construction areas (including Subject Area, other work and staging areas) shall be covered during the development phase by the bonds and insurances required under the Agreement.

ARTICLE 54. ENVIRONMENTAL DUE DILIGENCE

Developer may, after Effective Date and before obtaining any financing, undertake and cause to complete all environmental testing. Such testing shall be completed within forty-five (45) days, which is reasonably necessary and prudent to ascertain whether there are any Environmental Conditions present on the Site which require remediation or mitigation work ("Environmental Due Diligence").

ARTICLE 55. SELECTION OF ENVIRONMENTAL DUE DILIGENCE CONSULTANT

The County shall be consulted on any contract to perform the Environmental Due Diligence, but the Developer shall be responsible for the selection and costs of the consultant. Notwithstanding the foregoing, the Parties acknowledge and agree that the consultant is preparing its Environmental Due Diligence report for the benefit of both Parties and neither Party shall be liable to the other for any errors or omissions in such report or for either Party's reliance on the report.

ARTICLE 56. SCOPE OF ENVIRONMENTAL DUE DILIGENCE

The Environmental Due Diligence shall include the entire Site and the consultant shall investigate and test, to the extent practicable, those areas of the Site where each Element is to be built. The Environmental Due Diligence report shall set forth the consultant's findings, and the report shall identify any Environmental Conditions present on the Site, the exact or presumed location or radius of any Environmental Conditions, and the anticipated impact of such Environmental Conditions in light of the Element proposed to be built on each such location within the Site.

ARTICLE 57. REMEDIATION/MITIGATION DISCLOSED IN THE ENVIRONMENTAL DUE DILIGENCE REPORT

If the Environmental Due Diligence report discloses specific Environmental Conditions on the Site, not including those already required to properly constructed on the site, requiring the expenditure of more than \$1,000,000 in Remediation Costs, as estimated in the Environmental Due Diligence report, then either Party may terminate this Agreement within 30 days of the receipt of the Environmental Due Diligence report. However, if such estimated Remediation Costs are less than \$1,000,000, as estimated in the Environmental Due Diligence report, then the Developer shall be responsible for completing the required remediation or mitigation work. Pursuant to environmental reports and landfill construction practices described in PROS made available to Proposers prior to this solicitation, engineering and construction practices necessary to construct the fields and buildings in compliance with accepted regulations governing such areas are not to be considered as Remediation Costs in the calculation of such estimates.

ARTICLE 58. ENVIRONMENTAL CONDITIONS REMEDIATION/MITIGATION REQUIRED FOR CONSTRUCTION OF PARK ELEMENTS

If before, during, or after the commencement of construction of any Element, the Developer encounters Environmental Conditions, the Developer shall be fully responsible for the Remediation Costs. To the extent Remediation Costs exceeds a level at which the Developer determines the project may no longer viable, the Parties shall:

- a) Work cooperatively with each other in order to mutually agree to either (i) move Elements around within the Site (subject to a possible modification of the GF Plan), or (ii) move one or more Element(s) from any phased development plan in order to reduce the Remediation Costs.
- b) Evaluate the costs of mitigation such that the County may choose to be responsible, at its sole discretion, for all or part of certain corrective actions, which may be reimbursed to the Developer directly or through rent abatement; Notwithstanding the foregoing, the County Mayor shall have the authority, in his/her sole and absolute discretion, to authorize the payment of up to \$250,000 in Remediation Costs: or,

If the Parties are unable to reach an agreement under this subparagraph, terminate this Agreement.

ARTICLE 59. ENVIRONMENTAL CONDITIONS REMEDIATION/MITIGATION REQUIRED FOR SITE

If at any time after the Effective Date of this Agreement, the Developer causes a new Environmental Condition, the Developer shall be responsible to undertake and complete any remediation and/or mitigation work that is required on the Site by Applicable Law, inclusive of any monitoring required thereafter, and to pay all Remediation Costs associated therewith. If at any time after the Effective Date of this Agreement, the Developer, with respect to an existing Environmental Condition, through gross negligence or willful misconduct, exacerbates or disturbs any existing Environmental Condition, then the Developer shall be responsible to undertake and complete any remediation and/or mitigation work that is required on the Site by Applicable Law, inclusive of any monitoring required thereafter, and to pay all Remediation Costs associated therewith. This obligation shall survive the termination or expiration of this Agreement and shall obligate the Developer to complete all required remediation activities including, but not limited to, all required testing, monitoring, and closure conditions.

ARTICLE 60. ENVIRONMENTAL INDEMNITIES AND OBLIGATIONS

The Developer agrees to indemnify, defend, and hold harmless the County from and against any claims arising from new Environmental Conditions on the Site caused by the Developer, and/or its employees, agents, consultants, and/or contractors in performing its activities under this Agreement. The Developer agrees to indemnify, defend, and hold harmless the County from and against any claims arising from the exacerbation or disturbance of existing Environmental Conditions on the Site caused by the gross negligence or willful misconduct of the Developer, and/or its employees, agents, consultants and/or contractors in performing its activities under this Agreement. The indemnification provisions contained in this Article shall survive the termination or expiration of this Agreement. This agreement shall not alter the Parties rights and obligations with respect to environmental issues, including Chapter 24 of the Code of Miami-Dade County, with the exception of the Environmental Conditions matters agreed to herein. Nothing herein shall relieve the Developer, and/or its employees, agents, consultants and/or contractors from the obligation to comply with Chapter 24 of the Code of Miami-Dade County and all other applicable environmental laws, including state and federal statutes and regulations.

ARTICLE 61. DEVELOPMENT REQUIREMENTS

The County, in consultation with and upon application by the Developer, shall use reasonable, good faith efforts to expeditiously process all applications for consents, approvals and permits necessary to allow for the construction of the Haulover Park Elements, which may include, if applicable, without limitation: (i) major use special permit and any other special permits and/or special exception applications; (ii) road, alley, and/or public right of way closure(s) and relocation petitions; (iii) re-zoning or zoning variance applications; (iv) those from County's Water and Sewer Department (WASD) and Regulatory and Economic Resources Department (RER) and/or the County departments overseeing environmental regulations and affairs; (v) petitions to relocate all public and private utilities, including, without limitation, electric, gas, cable, telecommunication, water, sewer, and storm drainage facilities located within the Site, provided the relocation will not materially and negatively impact any other public facilities; (vi) building permits; and (v) if (and when) any work is done to improve the lake and its channels, then such permits as may be required for such work (collectively, the "Development Requirements"). Notwithstanding the foregoing, any and all costs associated with the applications for the Development requirements shall be borne exclusively by, and be the sole responsibility of, the Developer and in no event will the County be responsible for any of the costs associated therewith.

The County staff shall serve as the applicant or co-applicant for any government approval processes relating to the Development Requirements. The County shall, within five (5) Business Days following receipt of a written request from the Developer, execute any applications, forms or petitions reasonably necessary to modify, renew, or obtain any Development Requirements for the Park Elements prepared by the Developer or its consultant, as may be necessary from time to time. The County agrees not to act unreasonably, or unreasonably fail to act, in a manner that would substantially delay or place in jeopardy, or would reasonably be expected to jeopardize, the completion of any Phase of the Project by its Targeted Completion Date.

Any County permit fees and other County development requirement fees applicable to the Project shall be customary and consistent with amounts charged for County-owned projects.

ARTICLE 62. OWNERSHIP OF ELEMENTS

The Haulover Park Elements shall be developed by _____, its consultants and contractors, as a first class public multi-sports facility suitable for County, state, national and international sports play and tournaments, and shall continue to be owned at all times by the County. The County shall own all Park lands, landscaping and in-ground infrastructure required to be constructed for the Park including any permanent facilities, fixtures, furniture and equipment affixed to the Site.

ARTICLE 63. GF PLAN

The approved use plan, and all requirements for developing the Site, are set forth in the GF Plan approved by the Board of County Commissioners pursuant to Resolution No. 997-12. The GF Plan depicts many, but may not depict all, of the elements set forth in the Project Development Plan. Therefore, in order to fully develop the Site as depicted in the Proposed Development Plan, the Developer may, if their proposed plan is substantially different from the approved GF plan, be required to seek a new development approval, including but not limited to, a subsequent GF hearing and approval. The Developer agrees that in order to develop the Site, the Developer must comply, with all requirements set forth the GF Plan. In developing the Project, the Developer agrees to include all requirements and specifications set forth in the GF Plan and to do so in the time and sequence mandated by the GF Plan.

ARTICLE 64. PROPOSED DEVELOPMENT PLAN

The Plan of the Site depicts the Park Elements and is attached as Exhibit "B."

ARTICLE 65. PROPOSED RENDERING OF ELEMENTS

Attached as Exhibit "C" is the rendering and elevations of proposed Park Elements, which are the subject matter of this Agreement. The photo renderings are intended to address the proposed location, design style and heights of its various components.

ARTICLE 66. PROJECT SCHEDULE

Attached as Exhibit "D" is the projected schedule of the proposed Park Elements, which are the subject matter of this Agreement. The schedule contains all phases of development and milestone dates as negotiated. If the Developer fails to complete all elements of the subsequent phases within the agreed upon timeframe contained within the Project Schedule, without a remedy or cure approved by the County, then the County's sole remedy for such breach may be: the automatic termination of the Agreement, including all exhibits and addenda, at the end of its initial term, as that term is defined in the Agreement.

ARTICLE 67. PROJECT COST ESTIMATE

Attached as Exhibit "E" is the projected cost estimate of the proposed Park Elements, which are the subject matter of this Agreement. The budget is an order of magnitude estimation of various phases of development as negotiated. If the Developer fails to complete all elements of the subsequent phases within the agreed upon timeframe contained within the Project Schedule, without a remedy or cure approved by the County, then the County's sole remedy for such breach may be: the automatic termination of the Agreement, including all exhibits and addenda, at the end of its initial term, as that term is defined in the Agreement.

ARTICLE 68. PREDEVELOPMENT

The Developer shall develop the Park in accordance with the Scope of Services (Appendix A), the Agreement, the approved final conceptual plans and with all other design plans hereinafter developed and approved. The Final Site Plan shall be submitted to the Department for review and approval no later than two (2) months after the execution date of the Agreement. The Elements the Developer develops at the Project Site shall be designed and constructed in accordance with the provisions of the Agreement, any applicable park design guidelines; and include any comments or changes provided by the Department.

Developer understands and agrees that all costs associated with the design, development, permitting, and construction of the Project, and any required off-site Elements, shall be the sole responsibility of the Developer. Prior to commencing construction, the Developer shall provide proof, in a manner sufficient to satisfy the County, as determined in the sole and absolute discretion of the County, that the Developer has the necessary funds to complete the approved Project.

ARTICLE 69. PROS CAPITAL PROJECT MANAGER

A Capital Project Manager ("CPM") shall be assigned by the Miami-Dade County Parks, Recreation and Open Spaces Department to represent Miami-Dade County during the development phase. The CPM shall monitor compliance with the terms and conditions of the Agreement; coordinate reviews, comments and approvals; attend design phase and construction meetings; and perform periodic site visits and reviews to monitor compliance with the scope of services and schedule during the design and construction of the Project.

The Developer shall remit to the County a fee for the Capital Project Management ("CPM Fee Payment") that shall not exceed 1.5% of the Total Development Cost of this Project or \$200,000; whichever is less. The total CPM Fee Payment shall be paid to the County in prorated monthly installments commensurate with the progress of the work beginning with the approval of the Final Conceptual Plans; and shall be subject to an adjustment at the end of construction or upon Termination of the Agreement, whichever occurs first, when the actual Total Development Cost is confirmed, and based on an audit conducted at the expense of the Developer. For purposes of this Agreement, the Total Development Cost shall include the cost of the work including all fees and costs for registered and licensed design professionals, surveyors, contractors, subcontractors, materialmen, testing and material.

The Developer shall maintain all files, records, accounts of expenditures for the Project and Elements, including Elements performed by Developer's subcontractor's, in a local office within Miami-Dade County. The County shall have access to such records as provided in the Agreement.

ARTICLE 70. SCHEDULE

The Developer shall, upon execution of the Agreement, and prior to preparing the Final Site Plans and specifications, shall submit a Critical Path Method schedule for the entire scope of the Project along with any proposed phasing plan and receive approval from the County. Such approval from the County shall not be unreasonably withheld or delayed. The schedule shall be updated and submitted to the County with the Conceptual, Preliminary, and Final Plans and as requested by the County.

All requests from the Developer for modifications to the Plans and/or schedule during any phase of the development process must be submitted in writing to the PM with sufficient documentation to justify said request. The Department will consider the information provided and any mitigating circumstances prior to approving or rejecting said requests.

ARTICLE 71. SUSTAINABLE BUILDINGS PROGRAM

The Developer shall comply with County Ordinance No. 07-65 dealing with Sustainable Buildings Program. Developer shall further cooperate and shall cause its consultants and contractors to cooperate with the County's Sustainability Manager to incorporate green building practices into the planning and design of the Project, pursuant to County Ordinance Number 07-65 concerning the County's Sustainable Buildings Program. The Developer shall include in its contracts for services associated with this Project a provision that each subcontractor shall comply with all requirements of the County's Sustainable Building Program.

ARTICLE 72. ART IN PUBLIC PLACES

In compliance with the Art in Public Places program (APP), the Developer shall set aside and transfer to APP a minimum contribution of 1.5% of the total costs of design and construction of the development for the commissioning of art work(s).

The Project shall be subject to the provisions set forth pursuant to Section 2.11.15 of the Miami-Dade County Code (the "Code"), which provisions are incorporated herein by reference. The basic services to be provided by the Developer shall extend to include Art in Public Places as more particularly described below:

In performance of the services, the Developer shall be responsible for all coordination related to the implementation of the Art in Public Places program at the Project and coordination, by definition, shall include the Developer and designate representatives, as appropriate, from the architectural and engineering teams, and other consultants to facilitate the design and construction of the Art Scope in regards to the construction project. The Developer shall confer with the APP Representative in order to develop a concept for art appropriate to the Project and the Site. The Director of the Department of Cultural Affairs shall approve the final concept and location of the Art. The APP Trust shall make final determination of the artist or artists (the "Artist," collectively) upon recommendation of the APP Professional Advisory Committee (PAC). The Developer is expected to attend all meetings related to the implementation of the APP Program including, but not limited to:

- 1) APP orientation meeting(s) with staff to discuss and determine the scope of the APP program as related to the Project; and
- 2) PAC meetings, including one during the Artist pre-selection phase and one during the Artist Proposal Review and recommendation phase.

APP Program Intent: APP is committed to the collaboration of the Artist with the Developer for the Project, other County authorities overseeing the management of the Project (where applicable), and the end-user (where applicable); all as required to fulfill its obligations under the APP Master Plan & Implementation Guidelines to promote the successful integration of the artwork and the Site. Collaborative efforts shall, by definition, include the Artist as a member of the Design Team and the continuous and proactive involvement of the Developer and his designees, the Artist, and APP staff during all phases of the Project development, all as required to ensuring that the requisites of form and function, with respect to both the building architecture and Art, are satisfied and do not conflict with one another. APP staff will be involved in all aspects of administering the Art selection and the implementation process and will make themselves available to render assistance to the Developer as may be required to facilitate the integration of Art in the Project and Site, including but not limited to providing expert advice on matters intrinsic to the public art processes.

Coordination of APP Construction Documents Development: In consultation with APP and the Artist, the Developer shall make all the necessary provisions and coordinate the development and/or incorporation of the Art Scope of Work (Art Scope), including any architectural/engineering details and/or specifications into the Building Contract Documents (as such term is used in the construction industry) for the Project, irrespective of whether developed by the Developer or provided by the Artist own forces. The Developer shall coordinate and/or develop the design of elements necessary for the Art Scope such as anchorage, electrical, and plumbing systems, or other utility installations and/or connections that represent ancillary elements to the Art, in a manner consistent with the APP Intent.

Prior to the construction of the Project, the Developer shall provide technical support, including but not limited to assisting the Artist in the development of preliminary and final construction estimates for the ancillary infrastructure work described above that is to become part of the Base Building Construction package (as such term is used in the construction industry). The Developer shall itemize and assign building construction unit costs for work that is mutually agreed among Developer, PROS Capital Project Manager, if any, Artist, and APP to be consequential to the Art. The estimate of "Probable Construction Costs" will include any impacts to the building architecture (Art Impact or Debit) as well as any "descoping" to the building architecture due to assimilation within the Art Scope (Building Credit). The unit cost estimates described above may be used by APP to negotiate with the PROS Capital Project Manager any reimbursement due to either the Project from the Art Fund or to the Art Fund from the Project as an aggregate to the APP 1.5% contribution.

APP Construction Coordination: The Developer shall coordinate the review and comment (as may be applicable) of shop drawings developed by the trade contractors that incorporate elements intrinsic to the Art, and any shop drawings or

engineering documents developed by the Artist for compliance with the Building Construction Documents (as such term is used in the construction industry). The Developer shall assist the Artist in securing building permits as applicable to implementation of the Art (Artist to pay for all costs associated with permitting of the Art Scope). The PROS Capital Project Manager shall provide input on recommended construction procedures/approach and shall coordinate the installation of the Art with the Artist during the construction and shall assist the Artist and APP in the resolution of issues pertaining to construction coordination for the Art. The Developer shall periodically monitor the progress of construction and inspect, along with the Artist and APP Representative, work by the Artist own forces and the trade contractors for the Project for compliance with the Art Scope.

ARTICLE 73. SELECTING A DESIGN PROFESSIONAL

The Developer desires to, and has agreed, to retain a professional architect, engineer and/or surveyor ("Design Professional") to provide design, architectural, engineering, and/or surveying services ("Professional Services") for the development of the Project. In selecting and contracting with one or more Design Professionals to provide Professional Services to the Project and/or Project Enhancements, the Developer understands it must either included the selected professionals into the Proposal to be approved by the Board of County Commissioners, or agree to later comply, with Section 2-10.4.01 of the Code of Miami-Dade County, Florida (known as the "Community Business Enterprise" or "CBE" Program) as it pertains to the selection of design professionals. As such, prior to contracting with any Design Professional for Professional Services, the Developer agrees to consult with the Review Committee in the County's Internal Services Department's Small Business Development's Division (ISD) in order to determine whether CBE goals and/or measures are appropriate and, if so, what those goals and/or measures will be. The Developer must comply with the CBE goals and/or measures established by the County's Review Committee. The Developer shall enter into written agreements with the Design Professionals providing services for the Project, which agreements shall incorporate, and be consistent with, all of the terms and conditions of this Agreement and be subject to the review and approval by the County prior to their execution.

ARTICLE 74. DESIGN FEES

All fees, costs, reimbursements and/or other monies paid to Design Professionals for the Project and/or Project Enhancements for Professional Services shall be paid solely by the Developer. In no event shall the County be obligated to pay for, or reimburse the Developer and/or any Design Professional for any Professional Services.

ARTICLE 75. CONCEPTUAL PLANS

The Developer must submit the proposed Conceptual Plans, Schedule and Total Development Cost estimate for review and approval to the PM within ___ months of the date of execution of the Agreement. The Conceptual Plans must be prepared by an architect or engineer licensed to practice in the State of Florida; and must describe all elements of the proposed Project including, but not limited to the limits of construction, pedestrian and vehicular circulation and locations of construction ingress and egress; all sufficient to enable the County to make an informed judgment about the proposed scope and any effect the Project will have on the property (hereinafter referred to as the "Conceptual Plans"). If the County has any comments and/or proposed modifications to the Conceptual Plans, the County shall provide comments and/or proposed modifications in writing to the Developer within 30 calendar days from the date of submittal of the Conceptual Plans. The Department shall not be unreasonable in exercising its approval rights hereunder. The comments and proposed modifications shall be addressed by Developer in developing the Preliminary Plans, as described below. Developer shall incorporate said comments into a set of revised Conceptual Plans to be reviewed and approved by the County.

ARTICLE 76. PRELIMINARY PLANS

Within 60 calendar days after approval of the Conceptual Plans, unless a written request for extension has been received and approved by the PM, Developer, at its cost, shall prepare and deliver to the Department the proposed Preliminary Plans, Schedule and Total Development Cost estimate for review and approval to the PM. The Preliminary Plans must be prepared by an architect or engineer licensed to practice in the State of Florida; and must describe all elements of the proposed Project including, but not limited to the limits of construction, pedestrian and vehicular circulation and locations of construction ingress and egress; all sufficient to enable the County to make an informed judgment about the proposed scope and any effect the Project will have on the property (hereinafter referred to as the "Preliminary Plans"). If the County has any comments and/or proposed modifications to the Preliminary Plans, the County shall provide comments and/or proposed modifications in writing to the Developer within 30 calendar days from the date of submittal of the Preliminary Plans. The Department shall not be unreasonable in exercising its approval rights hereunder. The comments and proposed

modifications shall be addressed by Developer in developing the 50% Plans, as described below. Developer shall incorporate said comments into a set of revised Preliminary Plans to be reviewed and approved by the County.

Prior to commencing the development of the 50% Plans, the Developer shall schedule and coordinate a kick-off meeting with the PM to review the Development Schedule including start and completion dates as well as major milestones and the Total Development Cost estimate.

ARTICLE 77. 50% PLANS AND SPECIFICATIONS

Within 120 calendar days after approval of the Preliminary Plans, unless a written request for extension has been received and approved by the PROS Capital Project Manager, Developer, at its cost, shall prepare and deliver to the Department an updated Schedule; an updated Total Development Cost estimate; and five (5) sets of hard-copy 50% plans and a computer-aided design and drafting (CAD) file in compliance with the Department's CAD Standards (Exhibit F) for the construction of the Project prepared by an architect and/or engineer licensed to practice in the State of Florida.

The 50% Plans shall show without limitation any/all work to be performed in the field, including site plans; architectural, structural, mechanical, electrical, landscape and plumbing plans; preliminary grading and drainage plans; soil tests; utilities, sewer and service connections; vehicular and pedestrian traffic circulation plans including locations of ingress and egress to and from the Project, curbs, gutters and parkways; lighting; locations for outdoor signs; and storage areas; all sufficient to enable the Department to make an informed judgment about the schedule, estimate, design and quality of construction and about any effect the Project shall have on the Park ("50% Plans"). Such 50% Plans shall be based on the Preliminary Plans previously submitted by the Developer, and as approved by the Department. Additionally, such 50% Plans of the Elements shall be in strict adherence to Article 7 of the Miami-Dade County Home Rule Charter. The Developer shall also be responsible for all off-site improvements required to accomplish the construction and occupancy of the Project, including utilities and infrastructure needs. The Project shall be aesthetically and functionally compatible with the setting of the Park.

Within 30 days after the Department receives the 50% Plans, the Department shall either approve of them or deliver to Developer specific corrective comments. The Department shall not be unreasonable in exercising its approval rights hereunder.

Developer shall resolve all comments and requests for modifications by the Department to the 50% Plans and obtain written approval from the Department prior to proceeding with the development of the Final Plans. If the parties are unable to resolve any objections by the Department to the 50% Plans within 60 days after Developer has received the Department's comments, the Department shall have the right to terminate the Agreement upon notice to the Developer pursuant to the termination terms of the Agreement.

ARTICLE 78. FINAL PLANS

Within 150 days after the 50% Plans are approved by the Department, the Developer, at its cost, shall prepare and deliver to the Department an updated Schedule; an updated Total Development Cost estimate; and five (5) sets of Final Plans and a computer-aided design and drafting (CAD) file in compliance with the Department's CAD Standards for the construction of the Project prepared by an architect and/or engineer licensed to practice in the State of Florida, and specifications comprising the Final Plans for the Project. The Final Plans must be consistent with the approved 50% Plans.

The Final Plans shall show without limitation any/all work to be performed in the field, including site plans; architectural, structural, mechanical, electrical, landscape and plumbing plans; preliminary grading and drainage plans; soil tests; utilities, sewer and service connections; vehicular and pedestrian traffic circulation plans including locations of ingress and egress to and from the Project, curbs, gutters and parkways; lighting; locations for outdoor signs; storage areas; and completed technical specifications; all sufficient to enable the Department to make an informed judgment about the schedule, estimate, design and quality of construction and about any effect the Project shall have on the Park (hereinafter referred to as "Final Plans"). Such Final Plans shall be based on Preliminary Plans previously submitted by the Developer, and as approved by the Department. Additionally, such Final Plans of the Elements shall be in strict adherence to Article 7 of the Miami-Dade County Home Rule Charter. The Developer shall also be responsible for all off-site improvements required to accomplish the construction and occupancy of the Project, including utilities and infrastructure needs. The Project shall be aesthetically and functionally compatible with the setting of the Park.

Within 45 days after the Department receives Final Plans, the Department shall either approve of them or deliver to Developer specific corrective comments. The Department shall not be unreasonable in exercising its approval rights hereunder.

Developer shall resolve all comments and requests for modifications by the Department to the Final Plans and obtain written approval from the Department prior to submitting the Final Plans to the regulatory agencies for permitting. If the parties are unable to resolve any objections by the Department to the Final Plans within 60 days after Developer has received the Department's comments, the Department shall have the right to terminate the Agreement upon notice to the Developer pursuant to the termination terms of the Agreement.

The approved Final Plans and all associated addenda and attachments shall be incorporated into the Agreement by reference.

ARTICLE 79. PERMITS

When the Developer receives the Department's written approval of the Final Plans, Developer shall immediately commence seeking from all regulatory agencies having jurisdiction over the Park and the Project all such required permits. Developer shall exercise due diligence in processing and procuring such permits. The County expects that this process shall take no longer than 180 days from approval of Final Plans.

The Developer shall keep the PM informed of the progress during the permitting phase and coordinate with the Department to ensure that permitting requirements are acceptable to the Department when said requirements will modify the scope or aesthetics of the Project or its location within the Park. The Final Plans shall not be changed and/or modified without the Department's approval, which approval shall not be unreasonably withheld or delayed. The Department's approval shall not be deemed as a substitute for approval from any agency which issues permits and whose approval of modifications may be required.

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

Developer receives the County's approval of the Final Plans, the County shall have the right to terminate the Lease/License Agreement upon notice to the Developer pursuant to the termination terms in the Agreement. The County shall have the right, in its sole discretion and only for good cause shown, to extend the time within which Developer must obtain such permits. However, the County shall be under no obligation to grant said extensions of time.

Within 30 days from the date that the Developer obtains all permits, the Developer shall submit copies of all permits to the County.

ARTICLE 80. SELECTING A CONTRACTOR AND AWARDING A CONTRACT

Unless a contractor is already included in the executed Agreement, the Developer agrees to competitively select a Florida licensed Contractor to construct the Project in accordance with the provisions of applicable laws, including the competitive selection and award provisions of Section 255.20, Florida Statutes, "Local Bids and Contracts for Public Construction Work" and provide proof of same to the County.

The Developer shall enter into written agreements with the Contractor(s) providing construction services for the Project, which agreements shall incorporate, and be consistent with, all of the terms and conditions of this Agreement and be subject to the review and approval by the County prior to their execution.

The Developer shall cause the Contractor to comply with the County's Ordinances, Resolutions and Code requirements that are applicable to the Project as a condition of awarding the construction contract(s) and this Agreement shall be incorporated into any construction contract and all terms in any such construction contract shall be consistent with this Agreement.

Prior to competitively selecting any contractor, the Developer shall obtain and the contractor shall meet Community Small Business Enterprise (CSBE) goals established by the County's Review Committee under the County's CSBE Program, as enacted under the County's Ordinance 97-52, as amended, and codified in Section 10-33.02 of the County Code; and Administrative Order 3-22, as amended. The Developer shall cause the contractor to comply with the County's Resolution No. R-138-10, which mandates that the work of CSBE firms be identified in the Schedule of Values ("SOV"); and the requirements of Resolution No. R-1386-09 pertaining to sub-contracting. The Contractor shall submit its Schedule of Intent ("SOI") for approval prior to commencing construction, and comply with the reporting requirements of the CSBE Program. For purposes of this Agreement, SOV is defined as a detailed breakdown of each lump sum bid item in the bid form indicating a complete breakdown of labor and material for all categories of work - shall include such items as building permit, mobilization, insurance, contractor administration, supervision, etc. The SOV shall be used as the basis to determine monthly progress payments. For purposes of this Agreement, the SOI is defined as a listing of all Small Business Enterprise ("SBE") sub-contractors that will be utilized for scopes of work on the Project (form SBD 400).

The Contractor shall not discriminate against any employee or applicant for employment in the performance of the contract with respect to their hire, tenure, terms, conditions or privileges of employment, or any matter directly or indirectly related to employment because of age, sex or physical handicap except when based on bona fide occupational qualifications; or because of marital status, race, color, religion, national origin or ancestry. All construction contracts/subcontracts shall include the above non-discrimination provisions.

The Developer shall cause the Contractor to comply with the requirements of the Ordinance and Code required affidavits and other form submittals, and shall submit the executed documents to the PROS Capital Project Manager for review and approval prior to awarding a contract.

Within 30 days from the date that the Developer obtains all permits, the Developer shall submit copies of all permits, Cost Estimate, proof of compliance with the contractor selection process, SOI, SOV, and Schedule indicating start and completion dates, major milestones regarding construction of the Project and constraints. Within 30 days after the County receives copies of all permits, proof of compliance with the contractor selection process, SOI, SOV, and Project Schedule, the County shall either approve them or deliver to the Developer specific written corrective comments. The County shall not be unreasonable in exercising their approval rights hereunder. If corrective comments are issued as provided above, then once all comments have been satisfactorily addressed by the Developer, the County shall issue a Notice-to-Proceed - 1 (NTP-1) to the Developer.

The Developer shall have 15 days from the date of the NTP-1 to submit all required insurances and bonds to the Department prior to commencing construction. Within 30 days after the County receives the required insurance and bonds, the County shall either approve them or deliver to the Developer specific written corrective comments. Once the County reviews and approves the insurances and bonds it will issue a Notice-to-Proceed - 2 (NTP-2) to the Developer.

The Developer shall schedule a Pre-Construction meeting with the PM prior to mobilization. The pre-construction meeting shall serve to review and discuss the upcoming construction activities and its impact to Park operations. Upon agreement by the PM to all construction work activities and the associated logistics and timing, the County will issue the Authorization to Occupy the Site. Upon issuance of the Authorization to Occupy the Site, the County shall turn over possession of the Project limits to the Developer and construction shall commence within 60 days..

The Developer shall, without delay, pursue commencement of construction and diligently pursue completion thereof. The construction of the Project shall be in accordance with the approved Final Plans and shall be completed within 710 days months of the date of the NTP-2 for construction.

ARTICLE 81. CONSTRUCTION ADMINISTRATION

The Developer shall be responsible for managing, directing, supervising, coordinating, controlling and fully paying for and funding the planning, design and construction of the Haulover Park Elements in accordance with, the Construction Documents, the Construction Schedule, the Master Project Schedule, and the Project Budget as any of the foregoing may be modified as permitted by this Agreement. Except as otherwise specifically provided in this Agreement, the Developer shall be responsible for taking all reasonable action for the orderly performance of all aspects of the Work required in connection with the construction of the Haulover Park Elements, including, but not limited to:

- a) retaining the services of the Architect, compliance with the requirements of the Architect Contract, and coordinating the design of the Park Elements;
- b) retaining, as necessary, the services of specialty consultants;
- c) retaining the services of the Construction Manager pursuant to Article 82, who shall cause the Haulover Park Elements to be constructed in accordance with the requirements of this Agreement, the Construction Schedule, the Master Project Schedule, the Construction Documents, and the Construction Management Contract;
- d) preparing and updating, or causing to be prepared and updated, the Construction Schedule and the Master Project Schedule in accordance with Article 86, and delivering copies to the Project Coordination Team;
- e) retaining and supervising the personnel reasonably required by the Developer in order to properly perform or cause to be performed the Work;
- f) maintaining, or causing to be maintained, complete and accurate books and records, consistent with industry standards, regarding the design and construction of the Project, including but not limited to, the Construction Documents, shop drawings, testing, surveys, Change Orders, as-built drawings, applications for payment, permits, insurance policies, bills, vouchers, receipts, lien waivers, customary periodic reports, inspector daily reports, estimates, correspondence and bid calculation sheets;
- g) taking all action reasonably required to comply with all Applicable Laws, the PM, and taking all reasonable action required to cause the Architect and the Construction Manager and all other agents and contractors engaged by the Developer to design and construct the Haulover Park Elements in accordance with Applicable Laws, the PM, the Resolution No. xxxxxx and the provisions of the Architect Contract and Construction Management Contract;
- h) furnishing promptly to the PROS Capital Project Manager all documents and information required to be provided to them pursuant to this Agreement and all other information relating to the Project that they may reasonably request;
- i) providing the PROS Capital Project Manager, upon Final Completion for each phase of construction in the Phasing Plan, with a hard copy and a CD of the "as-built" Construction Documents revised to show the "as-built" condition of the Haulover Park Elements;
- j) managing and ensuring that all punch list and warranty work after Substantial Completion for each Phase undertaken is achieved;
- k) establishing and updating, as necessary and in accordance with the requirements of this Agreement, the schedule of dates for delivery of various Design Documents for review by the PROS Capital Project Manager;
- l) inviting the PROS Project Coordinator and PROS Capital Project Manager to all Project meetings and preparing or causing to be prepared minutes for all scheduled project meetings (including construction meetings) and providing the PROS Project Coordinator and PROS Capital Project Manager with copies of any minutes prepared by the Developer, or by its contractors that are received by the Developer, with respect to all Project meetings for the Park Elements, as the case may be;
- m) causing the completion of the Park Elements in accordance with the Design Documents, the Construction Schedule, the Master Project Schedule and within the Project Budget;
- n) obtaining or causing to be obtained all permits necessary for construction of the Project;
- o) providing to the PROS Contract Manager and PROS Project Coordinator in hard copy an original, and by e-mail copies, of all contracts and amendments for informational purposes only (other than contracts and amendments thereto which shall be subject to approval by the County as provided in this Agreement and the other Stadium Agreements) relating to the Project;
- p) maintaining, or causing to be maintained, the Park Elements construction sites in safe condition and properly secured against unpermitted access from and after the Commencement of Construction;
- q) providing the PROS Capital Project Manager the monthly progress reports required by this Agreement and the Construction Management Contract as prepared by the Construction Manager;
- r) supervising and coordinating, or using reasonable efforts to cause the Construction Manager to supervise and coordinate, the construction of the Park Elements, including the scheduling of all construction work on the Park

- Elements, so that the Park Elements are constructed, equipped, furnished and completed in a good and workmanlike manner, in accordance with the Design Documents and Master Project Schedule and otherwise in accordance with this Agreement; and
- s) causing the Construction Manager to coordinate work and grant appropriate access to the Site for contractors appropriately performing work.

ARTICLE 82. CONSTRUCTION MANAGER

- a) Unless already part of the Developer's team approved by the Board of County Commissioners, the Developer shall competitively select the Construction Manager in accordance with, and as required by, Section 255.20, Florida Statutes when the construction is for a public improvement. Any Construction Manager selected by the Developer shall be in good standing with the County, cannot be an entity that is debarred from doing County work, and cannot be in arrears or delinquent in its obligations to the County.
- b) The Construction Manager shall oversee construction of the Park Elements. The Developer represents and warrants that, to its knowledge, it did not, at any time prior to the execution of this Agreement, and shall not, at any time subsequent to its execution, confer any unfair competitive advantage to any contractor with respect to the Project in violation of Applicable Law. The Construction Manager shall select and engage such other service providers in connection with the Work as the Developer and the Construction Manager may deem necessary.
- c) The Developer shall enter into a Construction Management Contract with the Construction Manager to oversee the construction of the Park Elements. The Construction Management Contract shall be consistent with the terms of this Agreement, Applicable Law. The Developer shall submit to the County, for its review and approval, the Construction Management Contract at least ten (10) Business Days prior to its execution. The County's review and any comments shall be completed and provided within those ten (10) Business Days. In the event that the County does not deliver written objections to the proposed Construction Management Contract within such ten (10) Business Day period, then the Developer may send the County a notice of second request for approval of the Construction Management Contract, with copies of the notice to each of the Director of Parks, the Assistant Director of Parks and the PROS Project Coordinator. If, within five (5) Business Days after delivery of such second request bearing such caption, the County does not provide written notice of disapproval, identifying its reasons for disapproval, then the proposed Construction Management Contract shall be deemed approved. The County's review of the Construction Management Contract shall not be deemed a waiver of any rights of the County contained in this Agreement. The Construction Management Contract shall include provisions requiring the Construction Manager to comply with Applicable Laws, including the County's Community Small Business Enterprise programs (CSBE, CBE and SBE), responsible wages and benefits as set forth in Section 2-11.16 of the County Code, the Sustainable Buildings Program, Chapter 119 of the Florida Statutes regarding public records laws, the State of Florida and the County's Prompt Payment laws, the County's Inspector General requirements set forth herein, the County's Art in Public places requirements, and provide the requisite bonding in accordance with Section 255.05, Florida Statutes (as provided in Sections 6.02(e) and (f)), the insurance requirements set forth in Article 8 which the Construction Management Contract may be assigned to the County in the event of a default by the Developer under this Agreement and/or the Construction Management Contract. The Construction Management Contract shall state that the County is an express third-party beneficiary of such contract. The CSBE and SBE goals for the Project will be established for each construction trade package. The County shall set such CSBE and SBE goals in consultation with the County's Small Business division. The Developer agrees to include in the Construction Management Agreement a prohibition against imposing any requirements on CSBEs/SBEs that are not customary, not otherwise required by law, or impose a financial burden that intentionally impacts CSBEs and/or SBEs. The Construction Manager shall, at a minimum, use SBD's hiring clearinghouse, to recruit workers to fill needed positions for skilled laborers on the Project. The Developer shall further include in the Construction Management Contract that CSBE and SBE firms shall be paid promptly in accordance with the requirements of Sections 10-33.02 and 2-8.1.1.1.1, respectively, of the Miami-Dade County Code. The Construction Management Contract shall require the Construction Manager to indemnify and hold the County harmless to the same extent as the Developer is agreeing to indemnify and hold the County harmless in this Agreement. The Developer shall not amend the above-referenced provisions or materially amend the substantive provisions of the Construction Management Contract without the consent of the County, through its Board of County Commissioners.

- d) The Construction Management Contract shall require that each subcontractor of the Construction Manager indemnify the Developer and the County in the same manner and to the same extent that the Construction Manager indemnifies the Developer and the County under the Construction Management Contract.
- e) Subject to the applicable provisions of Section 255.20, Florida Statutes, regarding qualification requirements, the Developer shall require the Construction Manager to include the following provision in each subcontract bid package:
 - a. "Any sub-contractor or contractor submitting a bid must acknowledge that in performance of a subcontract, contract or any subcontract thereof, no apprentices or trainees may be utilized in a particular recognized trade/work classification as otherwise provided for in Section 6 A-E, Apprentices and Trainees, of the Supplemental General Conditions to Bidders of the Miami-Dade County Responsible Employer Ordinance, Section 2-11.16 of the Code of Miami-Dade County, unless at the time of bid submission they establish and certify for that particular trade/work classification:
 - b. That the firm participates in an Apprenticeship Program and shall continue to participate in such program or programs for the duration of the project for those trade/work classifications in which apprentices or trainees may be used.
 - c. An Apprenticeship Program is an apprenticeship program that is currently registered with and approved by the U.S. Department of Labor or with a State Apprenticeship Agency and has graduated apprentices to journeymen status for at least two of the past five years.
 - d. The firm shall provide, with this Certification, a list of all trade/work classifications of craft employees it will employ with apprentices on the Project and documentation verifying it participates in an Apprenticeship Program for each trade/work classification listed and that the apprentices are attending school."

The Developer shall cause the Construction Manager to comply with all of the CSBE and SBE requirements set forth in Article 82, paragraph C above during each phase of the construction of the Work. Should the Construction Manager fail to comply with all of the CSBE and SBE requirements set forth in Article 82, paragraph C above, the Developer shall cause the Construction Manager to make up the deficit on future phases of the construction of the Work. If the Construction Manager is unable to make up the deficit on future phases of the construction of the Project and the Construction Manager had failed to exercise reasonable good faith efforts to achieve such goals, then the Developer agrees to make a contribution equal to 150% of the deficit percentage of the construction phase(s) in question into the Department of Business Development's Compliance Trust Fund. In the event any such payment becomes due, the Developer agrees that it will not pass the expense of such payment onto any CSBE or SBE that is in compliance with its contractual obligations.

ARTICLE 83. COMMENCEMENT AND COMPLETION OF CONSTRUCTION

The Developer shall be responsible for the construction of the Project substantially in accordance with the approved Final Plans; the quality and workmanship shall meet or exceed the specifications; and the work shall comply with all applicable regulatory permits, authorizations and laws. The construction shall not be materially changed without the PM's approval, which approval shall not be unreasonable withheld or delayed. Such approval shall not be deemed as a substitute for approval from any agency which issues permits and whose approval of modifications is required.

All construction shall be performed by licensed contractors and subcontractors approved by the County, such approval shall not to be unreasonably withheld. The Developer shall provide the County with a true copy of the Developer's contract with the general contractor showing a breakdown of costs and including all the requisite insurance and bonding criteria. Such contract shall give the County the right, but not the obligation, to assume the Developer's obligations and rights, if the Developer should default thereunder.

During the construction phase, the PM shall attend weekly/monthly construction meetings, as needed, and periodically visit the site to review the progress of construction to ensure adequate performance and conformity with the approved Final Plans. The PM shall review all shop drawing submittals for conformance with the Final Plans. In addition to the regular construction meetings, the Developer shall schedule and coordinate a pre-construction meeting, a 50% progress meeting, a 75% progress meeting and a 100% substantial completion walk-through meeting with the PM.

The PM shall provide input to the construction punch-list items and shall coordinate with the Developer for the Final Acceptance of the Project once all work has been completed and all permits have been approved and closed by all regulatory agencies having jurisdiction.

Upon completion of construction of the Project, Developer shall, at its cost, obtain a survey of the Project and surrounding impacted areas and deliver said survey to the Department, along with one copy of the "as built" drawings and a CAD file in compliance with the Department's CAD Standards, accurately reflecting the constructed Project, its supporting infrastructure, and off-site improvements at the Park. An as-built survey, showing the exact location of the Project at the Park shall be incorporated into the Agreement and provided by the County to the Developer.

The "warranty period" warrants the work be free from faulty materials and workmanship for a period of not less than one (1) year from the date of final acceptance. Within 30 days after the one (1) year warranty period, the Developer shall schedule a walk-thru of the Project with the PM and Developer's contractor, to inspect all construction systems and ensure its intended functionality and life expectancy. After the warranty inspection is completed with satisfactory results as determined by the PM, the close-out period is concluded except as provided for under Florida Statue 95.11 (3) (c).

ARTICLE 84. CHANGE ORDERS

Change Orders by the Developer relating to the Work shall not require advance notice or approval by the County provided that: (a) the Change Order does not delay or further delay the Substantial Completion date beyond the Targeted Completion Date for each Phase of the Work; (b) the Change Order does not pose a material risk to public safety; (c) the Change Order does not (i) eliminate, alter, revise or otherwise modify an element from the Project Program Statement, or (ii) materially alter the design of the Haulover Park Elements, or any part thereof, as depicted in the most recent approved Design Documents for that Phase; (d) the Change Order does not exceed the Developer Funds and/or the Project Budget for the Phase in question, and (e) the Change Order does not conflict with, and is fully consistent with the PM, the Resolution, Applicable Law and this Agreement. In addition, the Developer shall make any Change Orders that are required to comply with the final permitted set of Construction Documents and Applicable Law. Any Change Order that is not permissible as provided in clauses (a) through (e) above shall be subject to the written approval of the PROS Capital Project Manager, which approval shall not be unreasonably withheld, delayed or conditioned. The PROS Capital Project Manager shall review any such Change Order within five (5) Business Days from receipt of written notice of the Change Order. In the event that the PROS Capital Project Manager does not deliver written objections to the proposed Change Order within such five (5) Business Day period, then the Developer may send the County a notice of second request for approval of the Change Order, with copies of the notice to each of the Director of Parks, the Assistant Director of Parks and the PROS Project Coordinator. If, within five (5) Business Days after delivery of such second request bearing such caption, the County does not provide written notice of disapproval, identifying its reasons for disapproval, then the proposed Change Order shall be deemed approved. In the event the PROS Capital Project Manager rejects the proposed Change Order, such representative shall provide to the Developer; within said five (5) Business Day period, detailed comments outlining the reason why such PROS Capital Project Manager rejected the proposed Change Order.

ARTICLE 85. RIGHT TO INSPECT AND RECEIVE INFORMATION

The PROS Capital Project Manager shall be given an opportunity to attend all project meetings, visit the site, monitor and inspect the Work and materials and to review construction documents to verify that the Work and materials are in conformance with this Agreement, the Project Program Statement and the Design Documents. In addition, the County shall be given the opportunity to review any and all documents reasonably necessary to verify compliance with the CSBE, SBE and CBE programs and responsible wages. The PROS Capital Project Manager shall receive in writing from the Developer on a regular basis, and within the time frames expressly set forth elsewhere in this Agreement or no less than monthly, information regarding the progress of the Work through each design phase and the construction of the Park Elements. Further, the Developer shall provide the PROS Capital Project Manager with monthly progress reports, in a form acceptable to the PROS Capital Project Manager, relating to the budget for the Work, including all expenditures by the Developer during the preceding month. During construction, the PROS Capital Project Manager shall receive advance notice of and have the right to attend all scheduled Project meetings, and the right to visit the Site, monitor and inspect the Haulover Park Elements at all reasonable times, subject to reasonable restrictions imposed by the Developer or the Construction Manager. The Developer shall make itself available to the PROS Capital Project Manager throughout the duration of the Work in order to keep the PROS Capital Project Manager informed throughout the duration of the Work.

Any rights that the PROS Capital Project Manager has under this Section shall not be the basis for any liability to accrue to the County from the Developer or third parties for such monitoring or investigation or for the failure to have conducted such monitoring or investigation.

ARTICLE 86. PROJECT SCHEDULES

The Parties have attached a preliminary Project Schedule for the Park Elements as Exhibit "D." The Developer shall, prior to preparing the final Construction Documents, obtaining permits, commencing construction or purchasing any supplies or materials, prepare or cause its Construction Manager to prepare, and submit to the County a Critical Path Method schedule for the entire scope for the Phase of the Work to be performed ("Master Project Schedule"). The County shall have the right to approve or disapprove the Master Project Schedule which approval shall not be unreasonably withheld, delayed or conditioned. In the event that the County does not deliver written objections to the proposed Project Schedule within ten (10) Business Days after the Developer's written request for approval, then the Developer may send the County a notice of second request for approval of the Project Schedule, with copies of the notice to each of the Director of Parks, the Assistant Director of Parks and the PROS Project Coordinator. If, within five (5) Business Days after delivery of such second request bearing such caption, the County does not provide written notice of disapproval, identifying its reasons for disapproval, then the proposed Project Schedule shall be deemed approved. The Parties shall act reasonably in reaching agreement on the Project Schedule and shall give due consideration to the recommendations of the Construction Manager. The Developer shall update the Project Schedule monthly to reflect changes to the milestone dates reflected in the respective construction schedules relating to the Work. Copies of the monthly updates shall be provided to the PROS Capital Project Manager and PROS Project Coordinator for review. The Developer shall provide the PROS Capital Project Manager and PROS Project Coordinator with a copy of any proposed amendments to any milestone date contained in the Project Schedule and the County shall have the right to disapprove and reject any modifications to the Project Schedule which would, in the County's belief, materially and negatively impact the County's operation of Haulover Park and/or the public's access to Haulover Park, or which would otherwise have a significant impact on the proper functioning of Haulover Park. Other than for extensions resulting from Force Majeure, neither the Targeted Completion Date nor the date set forth in the Project Schedule for Substantial Completion of the applicable phase of the Park Elements shall be extended without the prior written approval of the PROS Capital Project Manager, which approval shall not be unreasonably withheld, delayed or conditioned.

The Developer shall use commercially reasonable efforts to achieve Substantial Completion prior to the Targeted Completion Date, subject to extensions resulting from Force Majeure.

ARTICLE 87. CONSTRUCTION

Within thirty (30) days from the date that the Developer obtains all permits, the Developer shall submit to the PROS Capital Project Manager evidence of compliance with the requisite contractor selection process, SBD Schedule Of Intent, and satisfy the requirements in 6.02(e), (f), and (g) and Schedule of Values for the Work ("Compliance Evidence"). Within ten (10) Business Days after the County receives same, the PROS Capital Project Manager shall either approve them or deliver to the Developer specific written corrective comments. The County shall not be unreasonable in exercising their approval rights hereunder. If corrective comments are issued as provided above, then once all comments have been satisfactorily addressed by the Developer, the County shall issue a Notice-to-Proceed to the Developer. In the event that the PROS Capital Project Manager does not deliver written corrective comments to the proposed Compliance Evidence within such ten (10) Business Day period, then the Developer may send the County a notice of second request for approval of the Compliance Evidence, with copies of the notice to each of the Director of Parks, the Assistant Director of Parks and the Project Manager. If, within five (5) Business Days after delivery of such second request bearing such caption, the County does not provide written notice of disapproval, identifying its reasons for disapproval or corrective comments, then the proposed Compliance Evidence shall be deemed approved.

The Developer shall schedule a pre-construction meeting between its Construction Manager and the PROS Capital Project Manager prior to mobilization. The pre-construction meeting shall serve to review and discuss the upcoming construction activities and its impact to any operations. Upon agreement between the Developer, its Construction Manager and the County as to all construction work activities and the associated logistics and timing, the County will issue an authorization to occupy the Site. Upon issuance of the authorization to occupy the Site, the Developer shall be fully responsible for securing the Site and all construction activities occurring therein.

The Developer shall be responsible for the construction of the Work in accordance with the approved Construction Documents, and the quality and workmanship shall meet or exceed the specifications. Further, all Work shall comply with all Applicable Laws. All construction shall be performed by licensed contractors and subcontractors approved by the County, and such approval shall not to be unreasonably withheld, conditioned or delayed.

The Developer shall work closely with the County in scheduling and engaging in the construction activity so as not to disrupt Miami-Dade Regional special events outside of the Site, including but not limited to Special Events, as such term is defined in Implementing Order 8-3. Where conflict may occur, then the PROS Director shall reasonably make the determination as to the Developer's right to continue the Work and the necessity of temporarily halting or continuing activity by the Developer. The County shall provide the Developer with thirty (30) days prior notice of all special events. The Developer shall be liable for any damage, loss, action, costs (including costs to defend any action) caused by the Developer's failure to cease work after written notice from the County.

ARTICLE 88. PUNCH LIST

The Architect and the Developer, in consultation and with input from the PROS Capital Project Manager, shall cause to be prepared a punch list of items to be completed by the Construction Manager after Substantial Completion so that the Work will be in general conformity with the Construction Documents. The Developer shall provide the PROS Capital Project Manager with a copy of the punch list and shall incorporate all comments from the County into the punch list. The Developer shall use reasonable efforts to cause the Construction Manager to complete the punch list items as soon as reasonably practicable in accordance with Construction Management Contract. All work shall be performed by the Construction Manager in a good and workmanlike manner in conformity with the Construction Documents so that on the Final Completion date the Haulover Park Elements are in good working order and condition and ready for immediate use. The PROS Capital Project Manager shall be provided with a copy of the punch list items by the Construction Manager upon completion of all work items.

ARTICLE 89. WARRANTIES

To the extent practicable, all the Construction Manager warranties and the relevant subcontractor, supplier and manufacturer warranties with respect to the Haulover Park Elements shall name the Developer and the County as intended beneficiaries of the warranties. The Developer shall not knowingly take any action negating the Construction Manager and any subcontractors', suppliers' and manufacturers' warranties, except for emergencies, matters of public safety and, with the prior consent of the PROS Capital Project Manager (which shall not be unreasonably withheld, denied or delayed), in connection with the settlement of warranty claims. One original document of each warranty shall be delivered to the PROS Capital Project Manager upon the earlier of the date of Final Completion or within sixty (60) days of the date of completion of punch list items.

ARTICLE 90. LIENS

The Developer shall cause the Park Elements to be constructed in accordance with the Construction Documents free and clear of any and all Liens arising from the Work that encumber the property comprising the Site or the Haulover Park Elements. In the event any such Lien is filed by the Architect, the Construction Manager, or any subcontractors or suppliers, the Developer shall cause said Lien to be discharged or transferred to appropriate bond within thirty (30) days of recording. If the Developer does not discharge or transfer to appropriate bond any such Lien within thirty (30) days of recording, then the County shall have the right, but not the obligation, to cause the Lien to be released by any means the County reasonably deems proper, including payment of the Lien and the Developer shall immediately reimburse County for same. The Developer shall have the right to contest any such Lien in good faith.

ARTICLE 91. PERFORMANCE AND PAYMENT BOND

The Developer shall have 15 days from the date of NTP-1 to submit all required insurances, pursuant to the Agreement, and bonds to the Department prior to any construction work on the Project Site, and prior to the purchase of any materials, equipment or supplies for construction. The Developer shall deliver to the County and record in the public records of Miami-Dade County, Florida, a performance and payment bond which satisfies the requirements of Section 255.05 of the Florida Statutes with a surety insurer authorized to do business in the State of Florida as a surety in the full amount of the construction cost of the Project. Such bond shall be submitted in a form acceptable to the County, and shall name the

Developer as the principal and the County as the obligee; and shall address the entirety of the construction areas (Subject Area, and other work and staging areas) within the Project Location.

Prior to commencing any construction and/or repairs to the Site, or any structure or improvements on or about the Site, Contractor shall obtain and deliver to the County, at its sole cost and expense, both a payment bond and performance bond, or such other alternate form of security, any or all of which meets the requirements of Section 255.05, Florida Statutes, as set forth below, not less than ten (10) days prior to the anticipated commencement date of the construction and/or repairs. Said payment and performance bonds shall be in favor of the County, the form of such bonds shall be as provided by Section 255.05, Florida Statutes, and each shall be in the amount of the entire cost of the construction of the Project, or any addition thereto, or in instances of repair, the total cost associated with the repair project regardless of the source of funding. The payment and performance bonds shall name the County as an obligee on the multiple obligee rider attached to the payment and performance bond, and shall be issued by a surety insurer authorized to do business in the State of Florida. The bonds shall be subject to review and approval by Miami-Dade County, Internal Services Department, Risk Management Division, as well as to the Parks, Recreation, and Open Spaces Department. The selected Proposer shall be responsible for recording the bonds in the public records of Miami-Dade County and providing notice to subcontractors and suppliers, as required by Section 255.05 of the Florida Statutes. Said payment and performance bonds shall be maintained in full force and effect for the duration of any construction and/or repair project.

ARTICLE 92. SURETY BOND QUALIFICATIONS

The following specifications shall apply to bid, performance, payment, maintenance, and all other types of bonds.

All bonds shall be written through surety insurers authorized to do business in the State of Florida as a surety, with the following qualifications as to management and financial strength according to the latest edition of Best's Insurance Guide, published by A.M. Best Company, Oldwick, New Jersey:

<u>Bond Amount</u>	<u>Best's Rating</u>
\$500,001 to \$1,500,000	B V
\$1,500,001 to \$2,500,000	A VI
\$2,500,001 to \$5,000,000	A VII
\$5,000,001 to \$10,000,000	A VIII
Over \$10,000,000	A IX

On bond amounts of \$500,000 or less, the provisions of Section 287.0935, Florida Statutes (1985) shall be in effect and surety companies not otherwise qualifying with this paragraph may optionally qualify by:

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

ARTICLE 93. SURETY INSURERS

Surety insurers shall be listed in the latest Circular 570 of the U.S. Department of the Treasury entitled "Surety Companies Acceptable on Federal Bonds", published annually. The bond amount shall not exceed the underwriting limitations as shown in this circular.

ARTICLE 94. CONTRACT BOND

The attorney-in-fact or other officer who signs a Contract Bond for a surety company must file with such bond a certified copy of his power of attorney authorizing him to do so. The Contract bond must be countersigned by the surety's resident Florida Agent.

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

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

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

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

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

ARTICLE 95. BONDS

The bonds shall provide the following, without limitation:

- That a payment bond in an amount not less than one-hundred percent (100%) of the cost of construction of the Project is obtained that is conditioned to secure the completion of the Project free from all liens and claims of contractors, subcontractors, mechanics, laborers and material men in a County approved bond form to be provided by Developer;
- That a performance bond in an amount not less than one-hundred percent (100%) of the cost of construction of the Project is obtained that insures that the construction work shall be effected by the general contractor or, on their default, the surety in a County approved bond form to be provided by Developer; and,
- That the surety will defend and indemnify Miami-Dade County and Developer against all loss, cost, damage, expense and liability arising out of or connected with the construction of the Project, up to the maximum bond requirement amount.

ARTICLE 96. BOND LAPSES

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

ARTICLE 97. FORCE MAJEURE

If any Party shall be delayed in the performance of any obligation hereunder as a result of a Force Majeure, then the performance of such obligation shall be extended by the length of such delay. In response to and during any delay caused by a Force Majeure, the Parties shall at all times act diligently and in good faith to bring about the termination or removal of the Force Majeure as promptly as reasonably possible and any party seeking an excuse of performance due to such Force Majeure shall work diligently and in good faith to reduce or eliminate any damage, cost or delay caused by such Force Majeure. Without limiting the foregoing, if a Party fails to meet a deadline specified in this Agreement due to another Party's failure to meet a prior and related deadline, such subsequent deadline shall be extended by the number of days the delay was attributable to the prior deadline failure, and the Party failing to meet the prior deadline shall not be relieved of liability for such breach.

ARTICLE 98. HOURS OF OPERATION

The Park Area, as developed, shall be required to operate xxx (x) days a week Monday through Friday from x:00AM to x:00PM and weekends and holidays x:00AM to x:00PM. The Developer shall provide sufficient staff to provide customer service. The County may require a change in hours of operation if, in the reasonable discretion of the County, such a change is desirable in providing the best service to the public.

ARTICLE 99. PERSONNEL

The Developer shall provide the Department with the name and telephone number of a management person of the Developer who will be on call, at all time, for emergencies or other matters related to the operations under this Agreement. The Developer shall ensure that all its personnel are courteous and cooperative and present a neat, clean and professional appearance at all times. The Developer shall ensure that all employees having public contact are able to understand and communicate in spoken English.

ARTICLE 100. SIGNS

The nature, size, shape and installation of Developer's business signs within the Park Area or in, on or adjacent to the Park Area or the building must first be approved in writing by County. Said signage must also be approved by all governmental authorities having jurisdiction over the Park Area. All signs shall be removed by the Developer at the termination of this 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 Developer. Signage must be maintained in good condition and appearance.

ARTICLE 101. ON-SITE MANAGEMENT

On-site management is important to the County as it pertains to the efficient operation of the facility and the effective accessibility of the public.

The County and Developer agree that _____ shall undertake the exclusive management and operations of the Site in accordance with the terms and conditions of this Agreement. Developer agrees to manage and operate the Site for and on behalf of the County throughout as a public park and recreation facility. All expenses that Developer incurs under this Agreement for operations and management shall be paid by Developer and Developer shall be entitled to no compensation from the County.

Developer agrees to diligently and in good faith, manage, operate and maintain the Site as a "first class" facility. Developer shall continuously and uninterruptedly manage, operate, and maintain the Site open to the public as a public park and recreation facility. The management and operation of the Site shall be in accordance with Applicable Law, including but not limited to Chapter 26 of the County Code and Article 7 of the Home Rule Charter.

Pricing for the Site shall be specified in Schedule 1, and may vary from time to time with the prior written consent and approval of the County. Such consent will not be unreasonably withheld, delayed or conditioned. The County may require a change in the pricing at the Site if, in the reasonable discretion of the County, such a change is desirable in providing the best service to the public. Developer shall not discriminate among County residents with respect to user fees, access, or availability based upon where a County resident resides or in a manner contrary to Applicable Law. With the prior written approval from the County, Developer may establish reasonable rules and regulations for the use of the Site for recreation by the general public. Developer shall be responsible for booking, managing, and overseeing the Site, and all of its components and amenities. The rules and regulations adopted by Developer shall be consistent with, and comparable to (but need not be identical to), the general rules and regulations applicable to all County parks and recreation facilities.

The Developer shall employ and retain a qualified full-time on-site manager having experience in the management of this type of operation, who shall be available during normal business hours, and be delegated sufficient authority to ensure the competent performance and fulfillment of the responsibility of the Developer under this Agreement and to accept service of all notices provided for herein.

The County may employ and retain a qualified full-time on-site manager having experience in the management of this type of operation, who may also generally be available during normal business hours, and be delegated sufficient authority to

ensure the competent performance and fulfillment of the responsibility of the County under this Agreement and to accept service of all notices provided for herein.

ARTICLE 102. QUALITY OF DEVELOPER'S SERVICE

The Developer 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 Developer 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, Developer shall immediately take all necessary steps to correct the cause of such objection.

Developer shall take good care of said premises, shall use the same in a careful manner and shall, at its own cost and expense, keep, maintain, and repair and, upon the expiration of this Agreement or its termination in any manner, shall deliver said premises to the County in the same condition as at the commencement of this Agreement, with the exception of loss by fire or other casualty and with the exception of leaving those interior improvements so agreed upon by the County to remain in place. Developer shall furnish good, prompt and efficient service, adequate to meet all reasonable demands therefore.

It is expressly understood and agreed that the Developer's 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 Developer 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 Developer will fully comply with any decisions on this matter.

ARTICLE 103. MONITORING SERVICES

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

ARTICLE 104. EQUIPMENT AND SERVICES PROVIDED BY DEVELOPER

The Developer, at its sole cost, shall provide the Park with janitorial, security, and pest extermination services.

Developer shall, at its sole cost and expense, keep and maintain the Park Area in a clean and good condition. This includes buildings, grounds and equipment. The provision of landscape and janitorial services and all other maintenance within the Park Area are the sole and exclusive responsibility of the Developer. Upon failure of the Developer to maintain the Park Area as required in this Paragraph, the Department may, after fifteen (15) days written notice to the Developer, enter upon the Park Area and perform all cleaning, maintenance and repairs which may be necessary and the cost thereof, plus 25% for administrative costs, shall constitute additional rental(s), and shall be billed to and paid by the Developer.

The Developer 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 Park outside of standard security measures supplied by the County in general. Developer may provide its own specialized security for the Park, subject to the County's written approval.

The Developer shall follow the guidelines of the County's Integrated Pest Management program.

ARTICLE 105. EQUIPMENT INSTALLED BY DEVELOPER

The Developer shall furnish and install all furnishings, fixtures, and equipment necessary for the operation of the facility. All furnishings, fixtures and equipment acquired for the facility 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 approve all furnishings, fixtures and equipment for the facility.

Following the installation of any additional equipment, furnishing and improvements which the County may approve from time to time, Developer shall provide to the County a statement setting forth the cost of such equipment, furnishings or improvements and the date upon which the installation of such equipment, furnishings and improvements was completed.

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

Developer shall not alter or modify any portion of the Facility, the Park Area or the Elements constructed therein without first obtaining written approval from the County.

ARTICLE 106. HURRICANE PREPAREDNESS

The Developer shall follow the County's emergency evacuation and hurricane plan as set forth for the South Dade Government Center in conjunction with the Park Area emergency evacuation and hurricane plan.

ARTICLE 107. SAFETY PLAN

- a) The Developer is responsible for conditions of the Site in connection with the Work over which they reasonably exercise control pursuant to this Agreement, including the safety and security of all persons, property, equipment and operations therein; and all surrounding persons, property and operations that may be impacted.
- b) The Developer shall permit only those employees qualified by training or experience to be on premises, or to operate equipment and machinery.
- c) The Developer is fully responsible for the safety and security of all surrounding areas that may be directly or indirectly impacted by this Agreement. This includes the public and public access areas that may be directly or indirectly impacted.
- d) The Developer must have a written Site Safety Program to address the comprehensive safety and security issues at the Site. The Site Safety Program must be followed by all parties and must be routinely reviewed and updated by the Developer to address current, new, or unexpected safety and site issues that may arise or are reported.
- e) The Developer must designate at least one employee as the Site Safety officer. The Site Safety Officer must be a competent person, capable and responsible for inspecting the job site and surrounding areas, identifying hazards, implementing prompt corrective actions of identified or reported hazards, and enforcing the Site Safety Program.
- f) It shall be the responsibility of the Developer to provide for frequent and regular inspections of the job site, materials, operations, and equipment by competent persons designated by the Contractor. It shall be the responsibility of the Developer to allow access to the Site and inspections by County employees or their designees for the purpose of inspecting the safety and security measures at the site.
- g) The County may add provisions to the Development Agreement that specify the steps to be taken by the Contractor to avoid certain risks, depending on the project, that may exceed requirements imposed by law or regulation.
- h) The Developer is solely and completely responsible for conditions of the Site in connection with this Agreement, including the safety and security of all persons and property, preparatory to and during performance of the Agreement. This requirement applies continuously and is not limited to normal working hours. The Developer shall promptly correct any deficiencies identified or reported that may impact the safety and wellbeing of persons on the Site or in areas impacted by the Work or Site.
- i) The Developer shall be solely responsible for initiating, maintaining, and supervising all safety precautions and programs in connection with this Agreement. The Developer shall take all necessary precautions for the safety of, and shall provide the necessary protection to prevent damage, injury, or loss to all persons or property on the Site or impacted by the Site. The Developer shall erect and properly inspect and maintain all necessary safeguards for such safety and protection.
- j) The Developer shall comply with all applicable Federal, State, and Local laws, regulations, and all best industry practices or standards relating to the safety of persons, work, operations, or property at the Site or impacted by the Site.
- k) Should an Imminent Danger be identified or reported, operations in the affected area must be suspended immediately until the condition has been corrected. The Developer will not be entitled to future claims alleging impacts caused by stoppage of the Work due to safety reasons.

ARTICLE 108. UTILITY SERVICES

Subject to the Developer constructing or causing to construct such services on County lands, the Developer later shall not place any unacceptable load or burden on the capacity of the applicable building systems and utility lines of the building as determined either by the public utility providing such service or by the Department in the exercise of reasonable judgment. Developer shall make all repairs caused by Developer's negligence.

ARTICLE 109. PAYMENT OF UTILITY SERVICES

Developer agrees to pay for all charges for utility service used or consumed in or upon the Park including, but not limited to: electricity, gas, water, cable, internet, and sewerage charges.

ARTICLE 110. CURTAILMENT OR INTERRUPTION OF SERVICE

The County reserves the right to interrupt, curtail or suspend the provision of any utility service to which Developer 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 Developer 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 Developer 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 Developer's obligations hereunder be affected or reduced thereby.

ARTICLE 111. DAMAGES

Developer shall repair all damages to the Park caused by the Developer, its employees, agents, or independent contractors.

ARTICLE 112. INSPECTION BY COUNTY

The County shall have the authority to make periodic reasonable inspections of all the Park, equipment, and operations during the normal operating hours thereof to determine if such are being maintained in a neat and orderly condition. The Developer shall be required to 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 Developer is operating in compliance with the terms and provisions of this Agreement.

ARTICLE 113. RIGHT OF ENTRY

The County shall have the right to enter upon the Park Area 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 Park Area as the County deems necessary, but the County assumes no obligation to make repairs in the Park Area other than those expressly provided for in this Agreement. The County agrees, however, that any such repairs, alterations, replacements, or improvements shall be made with minimum amount of inconvenience to Developer 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 Park Area at reasonable times to show them to actual or prospective mortgagees or Developers.

During the one hundred and eighty (180) days prior to the expiration of the term of this Agreement, the County may show the Park Area to prospective Developers. If, during the last ninety (90) days of the term of this Agreement, Developer shall have removed all or substantially all of Developer's property there from, the County may immediately enter, alter, renovate, and redecorate the Park Area without elimination or abatement of payment or other compensation and such action shall have no effect upon this Agreement.

ARTICLE 114. DAMAGE OR DESTRUCTION OF PREMISES

If either the Park Area or the building is partially damaged, but not rendered unusable for the purposes of this Agreement, the same shall with due diligence be repaired by the Developer from proceeds of the insurance coverage and/or at its own cost and expense.

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 Developer from the proceeds of the insurance coverage policy and/or at its own cost and expense, and for the period of Developer's business interruption a pro-rata adjustment shall be made as to the Monthly Guarantee.

In the event the said premises are completely destroyed or so damaged that it will remain unusable for more than thirty (30) days, the Developer and the County shall be under no obligation to repair and reconstruct the premises, and adjustment of the payment 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.

ARTICLE 115. DEVELOPER'S REPAIR, FACILITY REPAIRS, ALTERATIONS AND ADDITIONS

The Developer, as its responsibility, and at its expense (except if the damage is caused by Developer), 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 Park Area and the Common Areas. There shall be no allowance to Developer for a diminution of monthly guarantee value for interruption of business and no liability on the part of the County by reason of inconvenience, annoyance, or injury to business arising from the County, Developer or others making any repairs, alterations, addition, improvements, restorations, or replacements, in or to any portion of the Park Area or to fixtures, appurtenances, or equipment thereof. The County shall have the absolute right to make repairs, alterations, and additions to any structures and facilities, including the Park Area under this Agreement, free from any and all liability to the Developer for loss of business or damages of any nature whatsoever during the making of such repairs, alterations, and additions. In making such repairs, alterations, and additions, the County shall take such reasonable measures as are necessary to minimize interference with Developer's operations of the Park Area, for short term disruption of one week or less to Developer's business where adequate accommodations can be made to minimize the inconvenience and injury to Developer's business.

ARTICLE 116. DIMINUTION FOR COUNTY'S REPAIR

Except as elsewhere specifically provided in this Agreement, there shall be no allowance to Developer for a diminution of monthly guarantee value and no liability on the part of the County by reason of inconvenience, annoyance or interference with Developer'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 Area, 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 Developer's use of the Park Area.

ARTICLE 117. INGRESS AND EGRESS

Subject to rules and regulations, statutes and ordinances, and terms of this Agreement governing the use of the Park Area, Developer, his agents and servants, patrons and invitees, and his suppliers of service and furnishers of materials shall have right of ingress and egress to and from the premises.

ARTICLE 118. OWNERSHIP OF DEVELOPMENT TEAM

The ownership of the Development Team 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 Development Team has not been specifically approved by the County. The County may withhold approval of any proposed new owner for any reason it believes is in the best interests of the public. Developer agrees to provide on 24-hour notice to the County an accurate list of all owners of the Development, showing the percentage of ownership of each owner, and, any change of corporate name or corporate ownership. If Developer's stock is listed on a major stock exchange, Developer may be wholly or partially exempted from the list requirement of this paragraph at the discretion of the County.

ARTICLE 119. NONRECOURSE LIABILITY OF THE DEVELOPER PERSONNEL

Notwithstanding and prevailing over any contrary provision or implication in this Agreement and except for their criminal acts with respect to this Agreement (i.e., acts which would constitute crimes were they prosecuted for and convicted of such acts), the officers, directors, partners, shareholders, members, employees and agents of the Developer (the "Developer Personnel") shall not in any way be liable under or with respect to this Agreement; and no deficiency or other

monetary or personal judgment of any kind shall be sought or entered against any of the Developer Personnel with respect to liability under or with respect to this Agreement. The limitations of this Section 15.06 shall in no way limit the County's rights as provided in this Agreement (a) to specific performance of each and every provision of this Agreement or in any other instrument or document executed in connection with this Agreement (provided that specific performance shall in no event require the Developer or the Developer Personnel to make additional capital contributions), (b) to recover damages against the Developer for any breaches of this Agreement (provided that collection of damages is subject to the restrictions of this provision), or (c) to enforce remedies against all assets of the Developer.

ARTICLE 120. NON-RECOURSE LIABILITY OF COUNTY PERSONNEL

Notwithstanding and prevailing over any contrary provision or implication in this Agreement or in any other instrument or document executed in connection with this Agreement, except for their criminal acts with respect to this Agreement (i.e., acts which would constitute crimes were they prosecuted for and convicted of such acts), no member, elected or appointed official, officer, employee, agent, independent contractor or consultant of the County ("County Personnel") shall be liable for any of the County's obligations under this Agreement or any instrument or document executed in connection with this Agreement. Except for their criminal acts with respect to this Agreement (i.e., acts which would constitute crimes were they prosecuted for and convicted of such acts), no County Personnel shall be liable to the Developer, or any successor in interest to the Developer, for any amount which may become due to the Developer or any successor in interest to the Developer, or for any other obligation, under the terms of this Agreement. The limitations of this Section shall in no way limit the Developer's rights as provided in this Agreement (a) to specific performance of each and every provision of this Agreement or in any other instrument or document executed in connection with this Agreement, (b) to recover damages against the County for any breaches of this Agreement (provided that collection of damages is subject to the restrictions of this provision), or (c) to enforce remedies against the County.

ARTICLE 121. COUNTY REPRESENTATIONS, WARRANTIES, AND COVENANTS

The County represents, warrants and covenants to the Developer that the County has full power and authority to enter into this Agreement, and the execution, delivery, and performance of this Agreement by the County have been duly authorized by all necessary governmental action (other than all of the other various customary regulatory approvals, licenses and permits which are required for the development, construction, use and operation of the Haulover Park Elements). The County Mayor or his designee is the party duly authorized to execute and deliver this Agreement on behalf of the County and has so executed and delivered this Agreement. All necessary governmental action required by the County has been taken to duly authorize the execution, delivery and performance by the County pursuant to this Agreement. This Agreement is a valid and binding obligation of the County, enforceable against the County in accordance with its terms. The ISD Contract Manager has been duly authorized to act on behalf of the County as provided in this Agreement.

ARTICLE 122. DEVELOPER REPRESENTATIONS, WARRANTIES, AND COVENANTS

The Developer represents, warrants and covenants to the County that:

- The Developer is a corporation, duly formed and validly existing under the laws of the State of Florida, and has all requisite limited liability company power and authority to enter into this Agreement. This Agreement is a valid and binding obligation of the Developer, enforceable against the Developer in accordance with its terms.
- The execution, delivery and performance by the Developer of this Agreement have been duly authorized by all necessary limited liability company action of the Developer and will not violate the Developer's certificate of formation or result in the breach of or constitute a default under any loan or credit agreement, or other agreement or instrument to which the Developer is a party or by which the Developer or its assets may be bound or affected. All consents and approvals of any Person required in connection with the Developer's execution of this Agreement have been obtained.
- The Developer has not paid or given, and will not pay or give, any third person any money or other consideration for obtaining this Agreement other than normal costs of conducting business and costs of professional services such as the services of architects, engineers and attorneys.
- The execution, delivery and performance of this Agreement are not prohibited by and do not conflict with any other agreements, instruments, judgments or decrees to which the Developer is a party or is otherwise subject.

- The Developer has received no notice as of the date of execution of this Agreement asserting any noncompliance in any material respect by the Developer with any Applicable Laws with respect to the transactions contemplated in and by this Agreement and the other Haulover Park Element Agreements.
- The Developer is not in default with respect to any judgment, order, injunction or decree of any Governmental Authority which is in any respect material to the transactions contemplated in and by this Agreement and the other Haulover Park Element Agreements.

ARTICLE 123. MUTUAL COVENANTS

The Parties, whenever and as often as each shall be reasonably requested to do so by the other Party shall execute or cause to be executed any further documents and take any further actions as may be reasonably necessary or expedient in order to consummate the transactions provided for in, and to carry out the purpose and intent of, this Agreement, subject, however, in all instances to any necessary Board approvals. In exercising its rights and fulfilling its obligations under this Agreement, each of the Parties shall act in good faith.

No Party shall terminate this Agreement on the ground of ultra vires acts or for any illegality or on the basis of any challenge to the enforceability of this Agreement, except as otherwise permitted in this Agreement subject to the preceding sentence, no such challenge may be asserted by any Party except by the institution of a declaratory action in which the Parties are parties.

Should either Party receive knowledge about any matter which may constitute a breach of any of its warranties or covenants set forth in this Agreement which arises after the date of this Agreement, it shall promptly notify the other Party of the same in writing.

During the term of this Agreement, the Parties shall comply with all Applicable Laws relating to its ownership of the Site and the Haulover Park Elements, and comply with Applicable Laws with respect to the use, operation, development, occupancy and/or construction of the Haulover Park Elements by the Developer. The Parties shall comply with all Applicable Laws relating to the exercise of their rights and performance of their obligations under the Agreement, but not with respect to the use, operation, development, occupancy and/or construction of the Haulover Park Elements by the Developer (which shall be the responsibility of the Developer). The County in its capacity as owner of the Haulover Park Elements and Site shall execute such documents and file such documents and reports as may be reasonably necessary to enable the Developer to obtain and maintain all necessary permits and licenses that are required of an owner of the Haulover Park Elements and/or Site.

All covenants, representations and warranties contained in this Agreement shall survive the execution and delivery of this Agreement. No action taken pursuant to or related to this Agreement, including any investigation by or on behalf of a Party shall be deemed to constitute a waiver by the Party taking such action of compliance with any representation, warranty, condition or agreement in this Agreement.

In exercising its rights and fulfilling its obligations under this Agreement, the County and the Developer shall act in good faith. Notwithstanding the foregoing, each Party acknowledges that in each instance under this Agreement where a party is obligated to exercise good faith or to use good faith efforts, such party shall not be required to expend any funds, or grant any other consideration of any kind, in the performance of such undertaking, and each party further acknowledges that the obligation of any party to act in good faith, or undertake good faith efforts does not constitute a warranty, representation or other guaranty that the result which the Parties are attempting to achieve will be successfully achieved and no Party shall be liable for any failure to achieve the result or results intended so long as the Party has complied with its obligation to act in good faith.

By execution of this Agreement, the County hereby authorizes the County Mayor or his designee to execute on behalf of the County any additional documents, subject to Board approval where required by Applicable Law or where, in the discretion of the County Mayor or his designee, in consultation with the County Attorney's Office, the County Mayor or his designee determines that Board approval is necessary or desirable. Notwithstanding the foregoing, (a) each Party shall have reasonable approval rights over the form and substance of all documents which it is asked to execute; (b) no Party shall be required to fundamentally change any rights, duties or obligations of such Party under this Agreement or any other

agreement; and (c) such documents may, if required by Applicable Law or the County Mayor or his designee, after consultation with the County Attorney's Office, deems necessary or desirable, require approval of the Board.

ARTICLE 124. ABSENCE OF THIRD-PARTY BENEFICIARIES

Nothing in this Agreement, express or implied, is intended to (a) confer upon any Person other than the Parties and their permitted successors and assigns any rights or remedies under or by reason of this Agreement as a third-party beneficiary or otherwise except as specifically provided in this Agreement; or (b) authorize anyone not a party to this Agreement to maintain an action pursuant to or based upon this Agreement.

ARTICLE 125. SOVEREIGN RIGHTS

The County retains all of its sovereign prerogatives and rights as a county under State law with respect to the planning, design, construction, development and operation of the Haulover Park Elements. It is expressly understood that notwithstanding any provisions of this Agreement and the County's status thereunder:

The County retains all of its sovereign prerogatives and rights and regulatory authority (quasi-judicial or otherwise) as a county under State law and shall in no way be stopped from withholding or refusing to issue any approvals of applications for building, zoning, planning or development under present or future laws and regulations whatever nature of general applicability which is applicable to the planning, design, construction and development of the Haulover Park Elements, the Site, or the operation thereof, or be liable for the same, including any approvals needed under a Government Facilities hearing; and

The County shall not by virtue of this Agreement be obligated to grant the Developer any approvals of applications for building, zoning, planning or development under present or future laws and ordinances of whatever nature of general applicability which is applicable to the planning, design, construction, development and/or operation of the Haulover Park Elements or the Site, including any necessary Governmental Facilities hearing.

Notwithstanding and prevailing over any contrary provision in this Agreement, any County covenant or obligation that may be contained in this Agreement shall not bind the Board of County Commissioners, the County's Planning and Zoning Department, RER, or any other County, federal or state department or authority, committee or agency to grant or leave in effect any zoning changes, variances, permits, waivers, contract amendments, or any other approvals that may be granted, withheld or revoked in the discretion of the County or other applicable governmental agencies in the exercise of its policy power.

ARTICLE 126. NO CONVEYENCE

Nothing in this Agreement conveys, or shall be construed as conveying, any estate or interest in Haulover Park, or in any of the property described in this Agreement, from the County to the Contractor, nor does this Agreement surrender absolute control over and possession of Haulover Park to the Contractor. The County, by this Agreement, conveys, and the Contractor, by this Agreement, received only such authority as is set forth in this Agreement, and that may be necessary and appropriate to use Haulover Park in a manner that is consistent with the Work to be performed under this Agreement.

ARTICLE 127. LIMITATION OF LIABILITY

Notwithstanding anything else in this Agreement, in no event shall any Party be liable under any provision of this Agreement for any lost profits, special, indirect, incidental, consequential, exemplary, treble or punitive damages, in contract, tort or otherwise, whether or not provided by statute and whether or not caused by or resulting from the sole or concurrent negligence or intentional acts of such Party or any of its affiliates or related parties. Further, in no event shall the County ever be liable for repayment of any financing obtained by the Developer for the development and construction of the Haulover Park Elements nor for the direct nor depreciated cost of those Haulover Park Elements. This provision shall survive the expiration or earlier termination of this Agreement.

ARTICLE 128. COUNTY BOND FUNDING

General Obligation Bond (GOB) funding provided by the County shall be the last source of funds to fund Site development. The GOB funding will be provided on a reimbursement basis in accordance with the GOB Administrative Rules and only

after (a) all of the Developer's funds have been used, (b) the County has confirmed that the GOB funding is sufficient to complete the development of the Site, and (c) the County has verified all required documentation provided by Contractor.

IN WITNESS WHEREOF, the parties have executed this Agreement effective as of the contract date herein above set forth.

Contractor

Miami-Dade County

By: _____

By: _____

Name: _____

Name: Carlos A. Gimenez

Title: _____

Title: Mayor

Date: _____

Date: _____

Attest: _____
Corporate Secretary/Notary Public

Attest: _____
Clerk of the Board

Corporate Seal/Notary Seal

Approved as to form
and legal sufficiency

Assistant County Attorney

- Appendix A – Scope of Services
- Appendix B – Revenue Schedule
- Exhibit A – Site Plan
- Exhibit B – Proposed Development Plan
- Exhibit C – Project Renderings
- Exhibit D – Project Schedule
- Exhibit E – Project Cost Estimate
- Exhibit F – CAD Standards, PDF, and CD-DVD Requirements

APPENDIX A – SCOPE OF SERVICES

To be Completed During Negotiations

DRAFT

APPENDIX B – REVENUE SCHEDULE

To be Completed During Negotiations

DRAFT

EXHIBIT A - SITE PLAN

To be Completed During Negotiations

DRAFT

EXHIBIT B - PROPOSED DEVELOPMENT PLAN

To be Completed During Negotiations

DRAFT

EXHIBIT C – PROJECT RENDERINGS

To be Completed During Negotiations

EXHIBIT D - PROJECT SCHEDULE

To be Completed During Negotiations

EXHIBIT E - PROJECT COST ESTIMATE

To be Completed During Negotiations

EXHIBIT F - CAD STANDARDS, PDF, AND CD-DVD REQUIREMENTS

This document describes the Miami-Dade Parks, Recreation, and Open Spaces (PROS) Department standards for Computer Aided Design (CAD) drawings, Portable Document Format (PDF) documents, and Compact Disc/Digital Versatile Disc/Universal Serial Bus (CD/DVD/USB) submittals.

CAD Standards**CAD Compliance Submittal Review Requirements (format and content):**

- All CAD files are to be submitted as an AutoCAD .DWG format (version 2009) and AutoCAD DWF.
- Custom menus or arx applications are not allowed if it creates a requirement for the drawing to be used. No menus, custom user interface (cui) files or arx applications are to be submitted.
- Each CAD drawing should represent a single printed sheet where the file name conspicuously identifies the sheet number using PROS File naming conventions.
- No .zip files are allowed.

CAD Standards (For a complete reference, please review PROS CAD Standards Manual – December 2011):

- Title block
 - All sheets are to have a title block.
 - Title block information is to be on the right side of the sheet.
 - Title blocks shall contain the following information, as appropriate:
 - Date
 - Project Number
 - Park Facility Number
 - Project Name
 - Sheet Name
 - Sheet Number
 - A Key Plan
 - List of Revisions
 - Consultant Company Name
 - The A/E's Seal
- Layering Format
 - Use PROS CAD Standards
- Scale and Units
 - All objects are to be drawn at full scale for the assigned unit of measure.
 - All drawings are to have a unit of measure assigned and not set to "unitless". External references usage in CAD Documents.
- Area of Work
 - CAD drawings shall include a boundary to define the Area of Work encompassing all areas, and only those areas where work is to be performed.

PDF Requirements:

- All documents are to be created as PDF files from the original source files, unless approved otherwise in writing by Owner.
- PDF Files shall reside in the same folder as the CAD version of the sheet.
- The CAD printer shall be Autodesk DWG to PDF.pc3 print configuration.
- Layer information shall not be included.
- All documents are to be created with a resolution of not less than 300 dpi.
- All fonts are to be embedded in the PDF.
- When compression is used, the algorithm must be LZW, CITT Group 4, or PackBits.
- The PDF document size must be the same as the original document size if the document were printed (e.g., a 24x36 print should have a PDF sheet size of 24x36).
- Each document must be submitted as a single file, as follows:
 - A single document, such as a pre-design report or design calculations is one file.
 - A single drawing is one file.

- A document larger than 11x17 inches is defined as a single document and is one file.
- No .zip files are allowed.

CD/DVD/USB Requirements:

- All CD/DVD/USB Drive document submittals required by the Agreement will be reviewed and approved by the Owner for CAD compliance and to determine completeness of the documents provided.
- The Contractor may request a CAD drawing compliance review at any time during the Project through the PROS Capital Project Manager.
- All CAD drawings shall be provided electronically to the PROS Capital Project Manager for review.

Contact Information:

Please direct all compliance-related questions to:

CAD & Survey Manager
Miami-Dade Parks, Recreation, and Open Spaces Department
275 NW 2 Street, Miami, FL 33128
(P)
(E)

PROPOSER INFORMATION

Qualification Requirements

1. Provide documentation that demonstrates Proposer's ability to satisfy the qualification requirements. The qualification requirements for this Solicitation are:
 - A. Architect(s) licensed and registered in the State of Florida as required by Chapter 481, Part I of the Florida Statutes, Architecture.
 - B. Landscape Architect(s), licensed and registered in the State of Florida as required by Chapter 481, Part II, Landscape Architecture, of the Florida Statutes.

Proposer's Relevant Experience and Past Performance

2. Provide the legal name of Proposer's organization.
3. Describe Proposer's capabilities to develop, manage, and operate Haulover Park proposed Elements.
4. Which of the following best describes the Proposer's Ownership?
 - Privately Owned
 - Publicly Traded
 - Other, please describe:
5. List owners and ownership percentage of each.
6. Provide an organization chart which clearly illustrates all key personnel proposed to accomplish the management, design, construction, and administrative services required under this solicitation (including subcontractors/subconsultants). Personnel's qualifications, their roles in the project, availability, resumes which shall include educational background, work experience, employment history, and any other pertinent information is required. Where applicable, the proposed personnel should include current and valid certifications and/or licenses for their individual scope of supervision. Proposer should also include any minority business enterprise certifications if possible.

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.

7. Provide a staffing plan that clearly illustrates the key elements of the organizational structure proposed to accomplish the management, design, construction, and administrative services required under this solicitation. The staffing plan should include the availability of the personnel proposed for this project. The staffing plan should also indicate the individual who will serve as the primary contact. Proposer is to also clearly detail the role of all its proposed subcontractors/subconsultants.
8. 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, Proposal Team, subcontractors/subconsultants, and/or any of its employees is, or has been, involved within the last three (3) years.
9. Submit reference letters from at least three (3) separate government or commercial entities for the design, construction, and management firms to whom you have provided similar services as those required in this solicitation.
10. List all contracts which have been, or currently being, performed for Miami-Dade County by the Proposer, Proposal Team, and/or subcontractors/subconsultants. 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 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:
 - a. contract number;

- b. name of the County Department which administers or administered the contract,
- c. description of work,
- d. total dollar value of the contract,
- e. dates covering the term of the contract,
- f. County contact person and phone number,
- g. statement of whether Proposer was the prime consultant/contractor or subconsultant/subcontractor (if the Proposer was a subconsultant/subcontractor, please provide name of prime contractor and contact information) and
- h. the results of the project.

Design Firm(s)

11. Describe the firm in general and state the number of years of existence, the current number of employees, applicable licenses held and the primary markets served.
12. Provide information supporting years of experience in design and construction of sport venues areas, sport fields, or other comparable destinations of equal size and complexity.
13. Include qualification and experience information for the individuals used to meet minimum qualifications outlined in Question 1.
14. Describe any direct involvement and experience in similar design projects for the past ten (10) years (excluding any County contracts). The description should identify for each project (as applicable):
 - a. client name, address, phone number, and email
 - b. scope of work
 - c. role of each firm and responsibilities
 - d. project start and completion dates
 - e. total cost and/or fees paid to the firm
 - f. total cost of the project overall
 - g. Was the work delivered on time and on budget?
15. Describe recent, current, and projected workloads for each firm being proposed.

Construction

16. Describe Proposer's involvement and experience in the construction of similar projects for the past ten (10) years (excluding any County contracts). The description should identify for each project (as applicable):
 - a. client name, address, phone number, and email;
 - b. scope of work;
 - c. role of each firm and responsibilities;
 - d. project start and completion dates;
 - e. total cost and/or fees paid to the firm; and
 - f. total cost of the project overall.

Management Firm(s)

17. Describe the firm(s) in general and state the number of years of existence, the current number of employees, applicable licenses held and the primary markets served.
18. Provide information supporting years of experience in the management of successful operation of athletic training and development facilities, and/or other comparable destinations of equal size and complexity. Proposer must demonstrate the requisite expertise in training/fitness/rehabilitation facilities, food services, retail operations and event management through projects with similar scopes and complexities, as identified in the project objectives. Project description should include the following:

- a. the client,
- b. description of project,
- c. total U.S. Dollar value of the investment amount, including the percentage of Proposer's investment of the total project costs and the Proposer's project financing structure and financing sources,
- d. investment duration,
- e. client contact person and contract phone number,
- f. statement or notation of Proposer's role and whether Proposer is/was the prime investor or contractor or subcontractor, or only investor, and whether the Proposer was part of a Joint Venture,
- g. types of project participation by Proposer:
 - (1) Financing only;
 - (2) Development and/or Construction only;
 - (3) Acquisition only;
 - (4) Operate and Manage only;
 - (5) A combination of all items in this item vii, (1) through (4), identified by percentage of Proposer's participation in each item;
 - (6) Proposer's participation as Joint Venture partner in any of the above items (1-5); and
- h. project outcome.

Proposed Approach to Providing the Services

19. Provide a description of the proposed development approach. The narrative shall address the overarching approach to the project, the player target markets, resident and tourist use/viewing accessibility, local economic development, and how field sport players can be trained and developed. Approach should clearly identify any additional components (*items outside of General Plan*), however such component will not be used for evaluation and scoring purposes and may be considered for negotiation purposes only.
20. Provide a description of proposed Elements. The plan(s) shall illustrate the entire Haulover Park Elements development approach on all portions of the Site in compliance with all relevant conditions imposed by plan approvals and site conditions to include all fields, facilities, and amenity areas, along with existing improvements, common roads and parking areas. All such plans shall indicate the size, location, dimensions and configuration of buildings to be developed at scale. The improvement plan should be based on compliance with any requirements of the approved General Plan, Land Use Compliance and/or all state, federal and local requirements. Note where the Proposer's plans may differ from approved County plans.
21. Provide a summary marketing and operations and management plan for each Haulover Park Element proposed. Consideration should be given to how the management of this facility will integrate and complement other Miami-Dade County Park services and uses. Include provisions for County sponsored events and incorporate all elements listed within Attachment P – Operations and Management Plan
22. Provide a proposed Site Plan including proposed improvement costs for all Elements proposed. The estimates, inclusive of the infrastructure costs of the Project, shall be complete and realistic in that general quantities and prices used in developing the estimate. Proposer's submission should reflect actual market level or best estimates of future price levels and credible in that the estimating methodology used is consistent with applicable industry standards and practices. It is particularly important that the Proposer review all information related to Site conditions and adjust where necessary all construction practices and costs. Proposers shall clearly identify the variance rate used in calculating costs.
23. Provide a proposed Element construction schedule/timeline including, but not limited to, platting, permitting, as well general and expected Element construction schedule for the Site. The schedule shall include all variously phased improvements from start to finish. Proposer shall follow the County provided timeline estimate and should notate any additional steps or deviations from the County provided timeline if applicable.
24. Provide renderings, including photo simulations of the proposed project, showing views of the overall improvements, as well as, at-grade views from the front of Haulover Park, an aerial perspective, and key architectural elements/features including parking, plazas, greenways, open spaces, pedestrian walkways, Art in Public Places, and signage.

25. Provide a proposed safety plan that includes comprehensive safety and security for the Site from construction through the management and operations of the Site. Plan should also identify a Site Safety Officer.
26. Provide Proposer's approach to addressing current Site conditions and making Site usable for Services required under this Solicitation.
27. Provide Proposer's approach to utilizing County funds for Site development. Include specific project tasks and estimated dollar amount for said tasks.
28. Provide Proposer's approach to ensuring that the proposed Elements are consistent with Streamline Moderne architectural style of the Park.
29. Provide Proposer's approach to maximize opportunities to improve landscape features within the Park to create a more lush shade canopy envisioned in the General Plan.
30. Provide Proposer's approach to ensuring adequate public parking spaces within the Pier and Pier Restaurant area that do not displace existing beach and picnic parking users.
31. Provide Proposer's approach to utilizing the waterfront dining, recreational fishing, pier, and beach activity area to increase visitation, promote cross-recreation usage, extend stay time, and increase visitor enjoyment.
32. Provide Proposer's approach to increasing evening use of public areas, including the Promenade, Pier, Pier Restaurant while also addressing safety and security of patrons.
33. Provide Proposer's approach to creating a unified activity area composed of the Pier, Pier Restaurant, and Pier Beach.
34. Provide Proposer's approach to maximizing the outdoor casual dining, recreational dining, sightseeing, and park related retail for tourists and residents.
35. Provide Proposer's approach to addressing noise impact on nearby/adjacent residential areas.
36. Provide Proposer's approach to ensuring all Element lighting does not impact turtle populations on the beach.
37. Provide Proposer's approach to advancing the County's USGBC's Leadership in Energy and Environmental Design (LEED) Green Building initiatives.
38. Provide Proposer's approach to ensuring that the proposed complementary uses in its Proposal further enhance the public's ability to use and enjoy the park by providing added access to and along the waterfront.
39. If a Proposal is considering Bill Bird Marina management, describe Proposer's approach to an expansion and operation of the Marina to be considered and demonstrate that an expansion is viable with respect to environmental and navigable regulations and challenges. Proposer shall include an Operations and Management Plan if including this Element in its proposal.
40. If a Proposal is considering Boat Ramp management, describe Proposer's approach to improving the Boat Ramp area and nearby parking lot. Proposer shall include an Operations and Management Plan if including this Element in its proposal.

Financial Information

41. Describe and show all Elements and components of the capital plan that require financing. Proposer shall describe in sufficient detail the Proposer's ability to access and provide all sources of capital and the necessary funding to complete proposed Elements (development, operations and maintenance, and all start-up costs and activities proposed).
42. Provide documentation demonstrating Proposer's financial strength and financial capability to provide services. Such documentation should include Proposer's most recent certified financial statements as of a date not earlier than the end of the Proposer's preceding official tax accounting period, 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. If certified financial statements are not available provide latest available financial statements (balance sheet and income statement) and letters of credit availability from accredited financial institutions, or other relevant documentation.
43. Provide a pro forma that generally provides a financial analysis integrating revenues, operating expenses, improvement costs, and debt services for a minimum start-up period and seven (7) years of the project's operation and projected sales and expenses. The financial analysis and feasibility of the project shall be presented in a fashion which enables a clear understanding of the financial feasibility and financial inflows and outflows of the project period, and allow the County to evaluate all items. Include all sources of revenue, inclusive of miscellaneous fees, and all expenses including any pre-rent, land rent and participation rent paid to the County.
 44. Provide evidence of possession and/or access to equity capital and financing resources, where required, to carry out the proposed Project, to include but not be limited to the following:
 - a. **References:** A minimum of three (3) financial references that have provided Proposer with development financing.
 - b. **Credit Report:** A credit report generated no earlier than a month prior to proposal due date for the Proposer.
 - c. **Financial Commitments:** The Proposer shall describe in detail all sources of capital funds for the Project, including but not limited to, i) private sector equity contributions and, ii) debt related financing.
 45. Provide a cash flow pro forma analysis integrating revenues, operating expenses, renovation/improvement costs, and debt service for a minimum startup period inclusive of the first seven (7) years of the Project's operation. The financial analysis and feasibility of the Project shall be presented to enable a clear understanding of financial feasibility and financial inflows and outflows both on any phased basis and an integrated total basis over any phased schedule, and shall also enable a clear understanding of the projected rents and any other financial returns to the County anticipated over the projection period.
 46. Provide evidence of Proposer financial capacity to complete the Project, which may include but not be limited to, Letter(s) of Intent from, and term sheet(s), for each source of capital.
 47. Provide details of resources to be utilized as equity for the Project.
 48. Provide a credit report generated by a reputable and recognized independent source no earlier than one month prior to Proposal submission, as applicable for existing companies or Development Teams and/or all members of the proposed Management/Operations Team.
 49. Provide a financial statement originating from a bank, financial institution or Certified Public Accountant (CPA) certifying that the Proposer has a private net worth or access to private equity in excess of the amount necessary to develop, manage and/or operate the Project, as may be applicable to their participation.
 50. Provide detailed information on the level of private financial commitments to fund the primary Project and, if planned, any limited dependence upon any public funds; subsidies, public credit enhancements, loans, loan guarantees, or other publically sponsored financial mechanism for infrastructure or other Project costs. The Proposer should describe in detail all sources of capital funds for the Project including, but not limited to, the following:
 - a. **Private Sector Equity Contributions** - The Proposer shall estimate the amount of expected equity contributions and shall describe the expected sources of these equity funds based on its past experience to raise and invest similar capital for projects of a similar scale. Any terms and conditions relating to these commitments shall be identified. Where possible, Proposer is encouraged to substantiate equity commitments through an informal banker's letter of credit or other appropriate banking instrument. The formal letter of equity commitment shall not be required until the end of a financial due diligence period, commencing after execution of an agreement with the selected Proposer.
 - b. **Debt Related Financing** - The Proposer shall identify the amounts of debt related financing and shall describe the methods for obtaining such financing. The Proposer(s) shall also identify the risks associated with this debt financing, including the

terms and maturity of such debt, and describe any guarantees or other securities pledged to the repayment of such debt and any restrictions and covenants associated with this debt. The cost associated with underwriting and issuing this debt instrument as well as the method of issuance (e.g., public offering or private placement) shall be discussed under this Section.

- c. Public Funding – The Proposer shall identify the amount of public debt financing in the form of bonds, grants or trust allocations it will seek to complete financing of the Project. Proposer shall identify the public agency and the manner through which such funding shall be allocated and approved. The public cost associated with underwriting and issuing these debt instruments, as well as the method of issuance (e.g., bond allocation or trust fees), shall be discussed under this Section.

Additional Information

51. Identify if Proposer has taken any exception to the terms of this solicitation, to include any of the referenced Attachments. If so, indicate what alternative is being offered and the cost implications of the exception(s) offered. Describe how the exception meets the requirements of the County. Proposer shall submit all exceptions in a separate Exceptions section, to be included in the proposal submission package.

FORM 1 – REVENUE PROPOSAL SCHEDULE

INSTRUCTIONS:

The Proposer’s revenue to the County shall be submitted on this **Form 1 “Revenue Proposal Schedule”** and in the manner stated herein. Proposer is requested to fill in the applicable blanks on this form. Proposer’s proposed revenues in Sections A and B must include all cost elements as expenses shall not be reimbursed separately by the County.

A. PROPOSED REVENUE

The County seeks a revenue structure from Proposers that best offers an equitable return amount to the County through the proposed combination of a Minimum Annual Guaranteed Rent, Percentage of Monthly Gross Revenue, and Miscellaneous Fees as described below.

1. INITIAL RENT – MINIMUM ANNUAL GUARANTEED RENT:

The selected Proposer shall pay the County Initial Rent monthly on the first day of each month without billing for the period between the Agreement Effective Date and the Date of Beneficial Occupancy on any or all of the respective improvement areas. The Proposer shall state its total initial rent per year as a flat, fixed amount on the table provided below.

<u>Year</u>	<u>Annual Amount</u>
Initial Rent – Year 1	\$ Click here to enter text.
Initial Rent – Year 2	\$ Click here to enter text.
Initial Rent – Year 3	\$ Click here to enter text.
Initial Rent – Year 4	\$ Click here to enter text.

2. LAND RENT - MINIMUM ANNUAL GUARANTEED RENT:

After the Date of Beneficial Occupancy and through the termination date of the Agreement, the selected Proposer shall pay the County a Minimum Annual Guaranteed Rent on the first day of each month without billing on any or all of the respective improvement areas. The Proposer shall state its total land rent per year as a flat, fixed amount on the table provided below.

<u>Year</u>	<u>Annual Amount</u>	<u>Year</u>	<u>Annual Amount</u>
Land Rent – Year 1	\$ Click here to enter text.	Land Rent – Year 24	\$ Click here to enter text.
Land Rent – Year 2	\$ Click here to enter text.	Land Rent – Year 25	\$ Click here to enter text.
Land Rent – Year 3	\$ Click here to enter text.	Land Rent – Year 26	\$ Click here to enter text.
Land Rent – Year 4	\$ Click here to enter text.	Land Rent – Year 27	\$ Click here to enter text.
Land Rent – Year 5	\$ Click here to enter text.	Land Rent – Year 28	\$ Click here to enter text.
Land Rent – Year 6	\$ Click here to enter text.	Land Rent – Year 29	\$ Click here to enter text.
Land Rent – Year 7	\$ Click here to enter text.	Land Rent – Year 30	\$ Click here to enter text.
Land Rent – Year 8	\$ Click here to enter text.	Land Rent – Year 31	\$ Click here to enter text.
Land Rent – Year 9	\$ Click here to enter text.	Land Rent – Year 32	\$ Click here to enter text.
Land Rent – Year 10	\$ Click here to enter text.	Land Rent – Year 33	\$ Click here to enter text.
Land Rent – Year 11	\$ Click here to enter text.	Land Rent – Year 34	\$ Click here to enter text.
Land Rent – Year 12	\$ Click here to enter text.	Land Rent – Year 35	\$ Click here to enter text.
Land Rent – Year 13	\$ Click here to enter text.	Land Rent – Year 36	\$ Click here to enter text.
Land Rent – Year 14	\$ Click here to enter text.	Land Rent – Year 37	\$ Click here to enter text.
Land Rent – Year 15	\$ Click here to enter text.	Land Rent – Year 38	\$ Click here to enter text.
Land Rent – Year 16	\$ Click here to enter text.	Land Rent – Year 39	\$ Click here to enter text.
Land Rent – Year 17	\$ Click here to enter text.	Land Rent – Year 40	\$ Click here to enter text.
Land Rent – Year 18	\$ Click here to enter text.	Land Rent – Year 41	\$ Click here to enter text.
Land Rent – Year 19	\$ Click here to enter text.	Land Rent – Year 42	\$ Click here to enter text.
Land Rent – Year 20	\$ Click here to enter text.	Land Rent – Year 43	\$ Click here to enter text.
Land Rent – Year 21	\$ Click here to enter text.	Land Rent – Year 44	\$ Click here to enter text.
Land Rent – Year 22	\$ Click here to enter text.	Land Rent – Year 45	\$ Click here to enter text.
Land Rent – Year 23	\$ Click here to enter text.	Land Rent – Year 46	\$ Click here to enter text.

3. PERCENTAGE OF MONTHLY GROSS REVENUE:

In addition to the Minimum Guaranteed Rent, the selected Proposer shall pay the County on a monthly basis a Percentage of Gross Revenue, for revenue from the sale of all fees, goods, and services provided at Haulover Park, as of Date of Beneficial Occupancy. Please enter the Proposer’s proposed Percentage of Gross Receipts below.

<u>Year</u>	<u>% of Gross Revenue</u>	<u>Year</u>	<u>% of Gross Revenue</u>
Gross Revenue – Year 1	Click here to enter text. %	Gross Revenue – Year 24	Click here to enter text. %
Gross Revenue – Year 2	Click here to enter text. %	Gross Revenue – Year 25	Click here to enter text. %
Gross Revenue – Year 3	Click here to enter text. %	Gross Revenue – Year 26	Click here to enter text. %
Gross Revenue – Year 4	Click here to enter text. %	Gross Revenue – Year 27	Click here to enter text. %
Gross Revenue – Year 5	Click here to enter text. %	Gross Revenue – Year 28	Click here to enter text. %
Gross Revenue – Year 6	Click here to enter text. %	Gross Revenue – Year 29	Click here to enter text. %
Gross Revenue – Year 7	Click here to enter text. %	Gross Revenue – Year 30	Click here to enter text. %
Gross Revenue – Year 8	Click here to enter text. %	Gross Revenue – Year 31	Click here to enter text. %
Gross Revenue – Year 9	Click here to enter text. %	Gross Revenue – Year 32	Click here to enter text. %
Gross Revenue – Year 10	Click here to enter text. %	Gross Revenue – Year 33	Click here to enter text. %
Gross Revenue – Year 11	Click here to enter text. %	Gross Revenue – Year 34	Click here to enter text. %
Gross Revenue – Year 12	Click here to enter text. %	Gross Revenue – Year 35	Click here to enter text. %
Gross Revenue – Year 13	Click here to enter text. %	Gross Revenue – Year 36	Click here to enter text. %
Gross Revenue – Year 14	Click here to enter text. %	Gross Revenue – Year 37	Click here to enter text. %
Gross Revenue – Year 15	Click here to enter text. %	Gross Revenue – Year 38	Click here to enter text. %
Gross Revenue – Year 16	Click here to enter text. %	Gross Revenue – Year 39	Click here to enter text. %
Gross Revenue – Year 17	Click here to enter text. %	Gross Revenue – Year 40	Click here to enter text. %
Gross Revenue – Year 18	Click here to enter text. %	Gross Revenue – Year 41	Click here to enter text. %
Gross Revenue – Year 19	Click here to enter text. %	Gross Revenue – Year 42	Click here to enter text. %
Gross Revenue – Year 20	Click here to enter text. %	Gross Revenue – Year 43	Click here to enter text. %
Gross Revenue – Year 21	Click here to enter text. %	Gross Revenue – Year 44	Click here to enter text. %
Gross Revenue – Year 22	Click here to enter text. %	Gross Revenue – Year 45	Click here to enter text. %
Gross Revenue – Year 23	Click here to enter text. %	Gross Revenue – Year 46	Click here to enter text. %

4. PERCENTAGE OF MISCELLANEOUS FEE REVENUE

In addition to the Minimum Guaranteed Rent and Percentage of Monthly Gross Revenue, PROS anticipates the Haulover Park Elements will also produce additional fees that will accrue to the selected Proposer in the form of event parking revenues, corporate sponsorships, licenses, television and possibly advertising revenues, etc., as of the Agreement Effective Date. The Contractor shall pay the County on a monthly basis a Percentage of Miscellaneous Fee Revenue, for revenue generated at Haulover Park from event parking revenue, corporate sponsorships, licenses, advertising revenues, etc., as of the Agreement Effective Date. Please enter the Proposer’s proposed Percentage of Gross Miscellaneous Fee Revenue below.

<u>Year</u>	<u>% of Misc. Fees</u>	<u>Year</u>	<u>% of Misc. Fees</u>
Misc. Fees – Year 1	Click here to enter text. %	Misc. Fees – Year 26	Click here to enter text. %
Misc. Fees – Year 2	Click here to enter text. %	Misc. Fees – Year 27	Click here to enter text. %
Misc. Fees – Year 3	Click here to enter text. %	Misc. Fees – Year 28	Click here to enter text. %
Misc. Fees – Year 4	Click here to enter text. %	Misc. Fees – Year 29	Click here to enter text. %
Misc. Fees – Year 5	Click here to enter text. %	Misc. Fees – Year 30	Click here to enter text. %
Misc. Fees – Year 6	Click here to enter text. %	Misc. Fees – Year 31	Click here to enter text. %
Misc. Fees – Year 7	Click here to enter text. %	Misc. Fees – Year 32	Click here to enter text. %
Misc. Fees – Year 8	Click here to enter text. %	Misc. Fees – Year 33	Click here to enter text. %
Misc. Fees – Year 9	Click here to enter text. %	Misc. Fees – Year 34	Click here to enter text. %
Misc. Fees – Year 10	Click here to enter text. %	Misc. Fees – Year 35	Click here to enter text. %
Misc. Fees – Year 11	Click here to enter text. %	Misc. Fees – Year 36	Click here to enter text. %
Misc. Fees – Year 12	Click here to enter text. %	Misc. Fees – Year 37	Click here to enter text. %
Misc. Fees – Year 13	Click here to enter text. %	Misc. Fees – Year 38	Click here to enter text. %
Misc. Fees – Year 14	Click here to enter text. %	Misc. Fees – Year 39	Click here to enter text. %
Misc. Fees – Year 15	Click here to enter text. %	Misc. Fees – Year 40	Click here to enter text. %

Misc. Fees – Year 16	Click here to enter text. %	Misc. Fees – Year 41	Click here to enter text. %
Misc. Fees – Year 17	Click here to enter text. %	Misc. Fees – Year 42	Click here to enter text. %
Misc. Fees – Year 18	Click here to enter text. %	Misc. Fees – Year 43	Click here to enter text. %
Misc. Fees – Year 19	Click here to enter text. %	Misc. Fees – Year 44	Click here to enter text. %
Misc. Fees – Year 20	Click here to enter text. %	Misc. Fees – Year 45	Click here to enter text. %
Misc. Fees – Year 21	Click here to enter text. %	Misc. Fees – Year 46	Click here to enter text. %
Misc. Fees – Year 22	Click here to enter text. %	Misc. Fees – Year 47	Click here to enter text. %
Misc. Fees – Year 23	Click here to enter text. %	Misc. Fees – Year 48	Click here to enter text. %
Misc. Fees – Year 24	Click here to enter text. %	Misc. Fees – Year 49	Click here to enter text. %
Misc. Fees – Year 25	Click here to enter text. %	Misc. Fees – Year 50	Click here to enter text. %

B. OPTION TO RENEW TERM (OTR) 1 (1 OF 2 TWENTY-YEAR TERMS)

1. LAND RENT - MINIMUM ANNUAL GUARANTEED RENT:

The Proposer shall state its total land rent per OTR year as a flat, fixed amount on the table provided below.

OTR Year	Annual Amount	OTR Year	Annual Amount
Land Rent – OTR Year 1	\$ Click here to enter text.	Land Rent – OTR Year 11	\$ Click here to enter text.
Land Rent – OTR Year 2	\$ Click here to enter text.	Land Rent – OTR Year 12	\$ Click here to enter text.
Land Rent – OTR Year 3	\$ Click here to enter text.	Land Rent – OTR Year 13	\$ Click here to enter text.
Land Rent – OTR Year 4	\$ Click here to enter text.	Land Rent – OTR Year 14	\$ Click here to enter text.
Land Rent – OTR Year 5	\$ Click here to enter text.	Land Rent – OTR Year 15	\$ Click here to enter text.
Land Rent – OTR Year 6	\$ Click here to enter text.	Land Rent – OTR Year 16	\$ Click here to enter text.
Land Rent – OTR Year 7	\$ Click here to enter text.	Land Rent – OTR Year 17	\$ Click here to enter text.
Land Rent – OTR Year 8	\$ Click here to enter text.	Land Rent – OTR Year 18	\$ Click here to enter text.
Land Rent – OTR Year 9	\$ Click here to enter text.	Land Rent – OTR Year 19	\$ Click here to enter text.
Land Rent – OTR Year 10	\$ Click here to enter text.	Land Rent – OTR Year 20	\$ Click here to enter text.

2. PERCENTAGE OF MONTHLY GROSS REVENUE:

The Proposer shall state its percentage of gross revenue per OTR year on the table provided below.

OTR Year	% of Gross Revenue	Year	% of Gross Revenue
Gross Revenue – OTR Year 1	Click here to enter text. %	Gross Revenue – OTR Year 11	Click here to enter text. %
Gross Revenue – OTR Year 2	Click here to enter text. %	Gross Revenue – OTR Year 12	Click here to enter text. %
Gross Revenue – OTR Year 3	Click here to enter text. %	Gross Revenue – OTR Year 13	Click here to enter text. %
Gross Revenue – OTR Year 4	Click here to enter text. %	Gross Revenue – OTR Year 14	Click here to enter text. %
Gross Revenue – OTR Year 5	Click here to enter text. %	Gross Revenue – OTR Year 15	Click here to enter text. %
Gross Revenue – OTR Year 6	Click here to enter text. %	Gross Revenue – OTR Year 16	Click here to enter text. %
Gross Revenue – OTR Year 7	Click here to enter text. %	Gross Revenue – OTR Year 17	Click here to enter text. %
Gross Revenue – OTR Year 8	Click here to enter text. %	Gross Revenue – OTR Year 18	Click here to enter text. %
Gross Revenue – OTR Year 9	Click here to enter text. %	Gross Revenue – OTR Year 19	Click here to enter text. %
Gross Revenue – OTR Year 10	Click here to enter text. %	Gross Revenue – OTR Year 20	Click here to enter text. %

3. PERCENTAGE OF MONTHLY MISCELLANEOUS FEE REVENUE

The Proposer shall state its percentage of gross revenues from miscellaneous fees per OTR year on the table provided below.

OTR Year	% of Misc. Fees	OTR Year	% of Misc. Fees
Misc. Fees – OTR Year 1	Click here to enter text. %	Misc. Fees – OTR Year 11	Click here to enter text. %
Misc. Fees – OTR Year 2	Click here to enter text. %	Misc. Fees – OTR Year 12	Click here to enter text. %
Misc. Fees – OTR Year 3	Click here to enter text. %	Misc. Fees – OTR Year 13	Click here to enter text. %
Misc. Fees – OTR Year 4	Click here to enter text. %	Misc. Fees – OTR Year 14	Click here to enter text. %
Misc. Fees – OTR Year 5	Click here to enter text. %	Misc. Fees – OTR Year 15	Click here to enter text. %
Misc. Fees – OTR Year 6	Click here to enter text. %	Misc. Fees – OTR Year 16	Click here to enter text. %
Misc. Fees – OTR Year 7	Click here to enter text. %	Misc. Fees – OTR Year 17	Click here to enter text. %

Misc. Fees – OTR Year 8	Click here to enter text. %	Misc. Fees – OTR Year 18	Click here to enter text. %
Misc. Fees – OTR Year 9	Click here to enter text. %	Misc. Fees – OTR Year 19	Click here to enter text. %
Misc. Fees – OTR Year 10	Click here to enter text. %	Misc. Fees – OTR Year 20	Click here to enter text. %

C. OPTION TO RENEW (OTR) TERM 2 (2 OF 2 TWENTY-YEAR TERMS)

1. LAND RENT - MINIMUM ANNUAL GUARANTEED RENT:

The Proposer shall state its total land rent per OTR year as a flat, fixed amount on the table provided below.

<u>OTR Year</u>	<u>Annual Amount</u>	<u>OTR Year</u>	<u>Annual Amount</u>
Land Rent – OTR Year 1	\$ Click here to enter text.	Land Rent – OTR Year 11	\$ Click here to enter text.
Land Rent – OTR Year 2	\$ Click here to enter text.	Land Rent – OTR Year 12	\$ Click here to enter text.
Land Rent – OTR Year 3	\$ Click here to enter text.	Land Rent – OTR Year 13	\$ Click here to enter text.
Land Rent – OTR Year 4	\$ Click here to enter text.	Land Rent – OTR Year 14	\$ Click here to enter text.
Land Rent – OTR Year 5	\$ Click here to enter text.	Land Rent – OTR Year 15	\$ Click here to enter text.
Land Rent – OTR Year 6	\$ Click here to enter text.	Land Rent – OTR Year 16	\$ Click here to enter text.
Land Rent – OTR Year 7	\$ Click here to enter text.	Land Rent – OTR Year 17	\$ Click here to enter text.
Land Rent – OTR Year 8	\$ Click here to enter text.	Land Rent – OTR Year 18	\$ Click here to enter text.
Land Rent – OTR Year 9	\$ Click here to enter text.	Land Rent – OTR Year 19	\$ Click here to enter text.
Land Rent – OTR Year 10	\$ Click here to enter text.	Land Rent – OTR Year 20	\$ Click here to enter text.

2. PERCENTAGE OF MONTHLY GROSS REVENUE:

The Proposer shall state its percentage of gross revenue per OTR year on the table provided below.

<u>OTR Year</u>	<u>% of Gross Revenue</u>	<u>Year</u>	<u>% of Gross Revenue</u>
Gross Revenue – OTR Year 1	Click here to enter text. %	Gross Revenue – OTR Year 11	Click here to enter text. %
Gross Revenue – OTR Year 2	Click here to enter text. %	Gross Revenue – OTR Year 12	Click here to enter text. %
Gross Revenue – OTR Year 3	Click here to enter text. %	Gross Revenue – OTR Year 13	Click here to enter text. %
Gross Revenue – OTR Year 4	Click here to enter text. %	Gross Revenue – OTR Year 14	Click here to enter text. %
Gross Revenue – OTR Year 5	Click here to enter text. %	Gross Revenue – OTR Year 15	Click here to enter text. %
Gross Revenue – OTR Year 6	Click here to enter text. %	Gross Revenue – OTR Year 16	Click here to enter text. %
Gross Revenue – OTR Year 7	Click here to enter text. %	Gross Revenue – OTR Year 17	Click here to enter text. %
Gross Revenue – OTR Year 8	Click here to enter text. %	Gross Revenue – OTR Year 18	Click here to enter text. %
Gross Revenue – OTR Year 9	Click here to enter text. %	Gross Revenue – OTR Year 19	Click here to enter text. %
Gross Revenue – OTR Year 10	Click here to enter text. %	Gross Revenue – OTR Year 20	Click here to enter text. %

3. PERCENTAGE OF MISCELLANEOUS FEE REVENUE

The Proposer shall state its percentage of gross revenues from miscellaneous fees per OTR year on the table provided below.

<u>OTR Year</u>	<u>% of Misc. Fees</u>	<u>OTR Year</u>	<u>% of Misc. Fees</u>
Misc. Fees – OTR Year 1	Click here to enter text. %	Misc. Fees – OTR Year 11	Click here to enter text. %
Misc. Fees – OTR Year 2	Click here to enter text. %	Misc. Fees – OTR Year 12	Click here to enter text. %
Misc. Fees – OTR Year 3	Click here to enter text. %	Misc. Fees – OTR Year 13	Click here to enter text. %
Misc. Fees – OTR Year 4	Click here to enter text. %	Misc. Fees – OTR Year 14	Click here to enter text. %
Misc. Fees – OTR Year 5	Click here to enter text. %	Misc. Fees – OTR Year 15	Click here to enter text. %
Misc. Fees – OTR Year 6	Click here to enter text. %	Misc. Fees – OTR Year 16	Click here to enter text. %
Misc. Fees – OTR Year 7	Click here to enter text. %	Misc. Fees – OTR Year 17	Click here to enter text. %
Misc. Fees – OTR Year 8	Click here to enter text. %	Misc. Fees – OTR Year 18	Click here to enter text. %
Misc. Fees – OTR Year 9	Click here to enter text. %	Misc. Fees – OTR Year 19	Click here to enter text. %
Misc. Fees – OTR Year 10	Click here to enter text. %	Misc. Fees – OTR Year 20	Click here to enter text. %

Notes:

1. Section A (including subsections 1-4) will be used to determine the points for the revenue criteria as indicated in Section 4.2 of this Solicitation.
2. Sections B & C (including subsections 1-3 of each Section) will be used for informational purposes only and will not be scored.
3. Notwithstanding the proposed revenues for the initial term and any option to renew term, the County reserves the right to negotiate the final terms, conditions and revenues, to include inclusion of annualized inflationary adjustment based on Consumer Price Index (CPI), as may be in the best interest of the County.

and Programming Partners and CBOs shall, upon request, provide copies of these documents to Miami-Dade County or to any law enforcement personnel with jurisdiction.

- E. Every child event worker, park vendor, and staff member and volunteer of a Programming Partner or CBO shall wear, in a conspicuous and visible manner, an **identification badge that contains his/her photograph and full name** while working or volunteering on park property owned or operated by Miami-Dade County, except when in costume and during a performance. The identification badge shall be of a size, design, and format approved by the Miami-Dade Park and Recreation Department.
5. I understand that the following Penalties and Enforcement shall take place for a violation of any provision of the ordinance.
 - a. It shall be unlawful for an employer of child event workers, an employer of park vendors, or a Programming Partner or CBO to knowingly permit or allow any child event worker, park vendor, staff member, or volunteer to work or volunteer on park property owned or operated by Miami-Dade County in violation of Section 26-38.
 - b. It shall be unlawful for any child event worker, park vendor, or staff member or volunteer of a Programming Partner or CBO to work or volunteer on park property owned or operated by Miami-Dade County in violation of Section 26-38.
 - c. Any person who shall violate a provision of Section 26-38, or who shall knowingly or willingly provide false or erroneous information to his/her employer, or fail to comply therewith, or with any of the requirements thereof, shall upon conviction thereof in the County Court, be punished by a fine not to exceed five hundred dollars (\$500.00) or by imprisonment in the County Jail for not more than sixty (60) days, or by both such fine and imprisonment.
 - d. Any person who violates or fails to comply with Section 26-38 may be subject to civil penalties in accordance with Chapter 8CC of this Code. Each day of violation or noncompliance shall constitute a separate offense.
 6. I understand that any costs or fees associated with the required background screening will be borne by my organization/agency/firm.
 7. I hereby certify that the foregoing statement is true and correct in relation to the company for which I am submitting this affidavit. I further certify that this statement is being given knowingly and voluntarily by me on behalf of the company. The organization/agency/firm submitting this affidavit recognizes and acknowledges that it's subject to the provisions of Code of Miami-Dade County, Chapter 26, Article III, the Shannon Melendi Act and agrees to comply therewith.

_____ (Signature)
 Date _____ Title _____

SUBSCRIBED AND SWORN TO (or affirmed) before me this _____

by _____ He/She is personally known to me or has

presented _____ as identification.
(Type of Identification)

_____ (Signature of Notary) _____ (Serial Number)

_____ (Print or Stamp Name of Notary) _____ (Expiration Date)

Notary Public _____ Notary Seal
(State)

FORM 4 – DISABILITY NONDISCRIMINATION AFFIDAVIT

DISABILITY NONDISCRIMINATION AFFIDAVIT

CONTRACT REFERENCE: _____

NAME OF FIRM, CORPORATION, OR ORGANIZATION: _____

AUTHORIZED AGENT COMPLETING AFFIDAVIT: _____

POSITION: _____ PHONE NUMBER: (____) _____

I, _____, being duly first sworn state:

That the above named firm, corporation or organization is in compliance with and agrees to continue to comply with, and assure that any subcontractor, or third party contractor under this project complies with all applicable requirements of the laws listed below including, but not limited to, those provisions pertaining to employment, provision of programs and services, transportation, communications, access to facilities, renovations, and new construction.

The Americans with Disabilities Act of 1990 (ADA), Pub. L. 101-336, 104 Stat 327, 42 U.S.C. 12101-12213 and 47 U.S.C. Sections 225 and 611 including Title I, Employment; Title II, Public Services; Title III, Public Accommodations and Services Operated by Private Entities; Title IV, Telecommunications; and Title V, Miscellaneous Provisions.

The Rehabilitation Act of 1973, 29 U.S.C. Section 794

The Federal Transit Act, as amended 49 U.S.C. Section 1612

The Fair Housing Act as amended, 42 U.S.C. Section 3601-3631

Signature

Date

SUBSCRIBED AND SWORN TO (or affirmed) before me on _____

(Date)

by _____
(Affiant)

He/She is personally known to me or has

presented _____
(Type of Identification)

as identification.

(Signature of Notary)

(Serial Number)

(Print or Stamp Name of Notary)

(Expiration Date)

Notary Public _____
(State)

Notary Seal