BILL BIRD MARINA RESTAURANT AT HAULOVER PARK

Contract No. RFP763

THIS LEASE AGREEMENT made and entered into as of this 1st day of January, 2013 ("Effective Date"), by and between FLORIDA SE, INC., a corporation organized and existing under the laws of the State of Florida, having its principal office at 1000 Darden Centre Drive, Orlando, FL 32837 (hereinafter referred to as the "Lessee"), and Miami–Dade County (the County), a political subdivision of the State of Florida, having its principal office at 111 NW 1st Street, Miami, Florida 33128, (herein referred to as the "Landlord"),

WITNESSETH:

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

WHEREAS, the Lessee has offered to develop and operate the Bill Bird Marina Restaurant as a Seasons 52 restaurant (the "Restaurant') in a manner that shall conform to the Scope of Services and the Development Rider (Appendix A and Exhibit F, respectively), Miami-Dade County's Request for Proposals (RFP) No.763 and all associated addenda and attachments, incorporated herein by reference; and the requirements of this Lease Agreement;

WHEREAS, the Lessee has submitted a written proposal dated June 8, 2011, hereinafter referred to as the "Lessee's Proposal", which is incorporated by reference herein; and

WHEREAS, the Lessee's Proposal is recommended as being in the best interest of the County, and formed the basis for award of this Lease Agreement,

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

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

a) The words "Lease Agreement" or "Agreement" to mean collectively these terms and conditions, the Scope of Services (Appendix A), RFP No. 763 and all associated addenda and attachments, the Lessee's Proposal, and all other attachments hereto and all amendments issued hereto.

b) The words "Lease Agreement Effective Date" or "Effective Date" to mean the commencement date of this Lease Agreement, and shall begin on the date indicated in the first page of this Lease Agreement.

c) The words "Lease Agreement Year" to mean each twelve month period starting from the Lease Agreement Effective Date and the first Lease Agreement Year shall commence immediately upon the Lease Agreement Effective Date. Each new Lease Agreement Year begins on the one year anniversary of the Lease Agreement Effective Date.

d) The words "Contract Manager" to mean Miami-Dade County's Director, Internal Services Department or the duly authorized representative designated to manage the Lease Agreement.

e) The word "Landlord" to mean Miami-Dade County.

f) The word "Lessee" to mean the corporate entity Florida SE, Inc. and its permitted successors and assigns.

g) The word "Days" to mean Calendar Days.

h) The words "Date of Beneficial Occupancy" to mean the date on which substantial completion of the Restaurant has occurred and the appropriate code enforcement agency has issued a Certificate of Occupancy (CO) or a Temporary Certificate of Occupancy (TCO) that enables the Lessee to occupy or utilize the Restaurant in a manner for its intended use.

i) 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 Landlord's 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 Landlord's Project Manager.

j) The words "Project Manager" to mean Miami-Dade County's Park, Recreation and Open Spaces Director or the duly authorized representative designated to manage the Project.

k) The words "Restaurant Area" to mean the specific area upon which the foodservice and administrative operations take place.

l) The words "Scope of Services" to mean the document appended hereto as Appendix A, which details the work to be performed by the Lessee.

m) The words "Development Rider" to mean the document appended here to as Exhibit F,

which details the process to be followed by the Lessee to accomplish the work as defined in the Scope of Services.

n) The word "subcontractor" or "sub-consultant" to mean any person, entity, firm or corporation, other than the employees of the Lessee, who furnishes labor and/or materials, in connection with the Services, whether directly or indirectly, on behalf and/or under the direction of the Lessee and whether or not in privity of Lease Agreement with the Lessee.

o) The words "Work", "Services", or "Project" to mean all documentation and any items of any nature submitted by the Lessee to the Landlord's Project Manager for review and approval pursuant to the terms of this Lease Agreement, and all matters and things required to be done by the Lessee in accordance with the provisions of this Lease Agreement.

f) p) The words "Lease Operations Year" to mean each twelve month period starting from the Date of Beneficial Occupancy and the first Lease Operations Year shall commence immediately upon the Date of Beneficial Occupancy. Each new Lease Operations Year begins on the one year anniversary of the Date of Beneficial Occupancy.

2. Use:

(a) Leased Premises. The County hereby grants unto the Lessee, and the Lessee hereby accepts from the County for the term, at the rate and upon the covenants and conditions as set forth, a Lease Agreement to develop and operate the Restaurant within Haulover Park (Exhibit A) on the real property illustrated in the Site Plan (Exhibit B) and described in the Legal Description (Exhibit C) attached to this Lease (hereafter referred to as the "Premises" or "Demised Area"). Lessee shall use the Premises and the Restaurant only for the use permitted. The Lessee shall not conduct any business nor provide any services nor sell any item or product without the prior written approval of Landlord, and any sales by the Lessee of services or items not specifically authorized in writing by Landlord may constitute a default. Lessee shall conduct its business at all times in accordance with this Lease Agreement.

The Restaurant within Haulover Park is located at 10800 Collins Avenue, Miami Beach, FL. 33154 . The Restaurant Area is expected to not exceed 11,900 square feet. The Restaurant Area is to be used solely for the purpose of providing food service to Park patrons who are residents and visitors to the County. The Demised Area of the Lease which is larger than the Restaurant Area, shall be used to construct a Seasons 52 restaurant, inclusive of additional landscaping, buffer and back of house spaces immediately in support of this foodservice function, as is illustrated in the Site Plan (Exhibit B) and described in the Legal Description (Exhibit C).

(b) Parking Area. In support of the Restaurant, the County grants to Lessee a license for (i) the non-exclusive use of certain parking areas and spaces immediately adjacent to the Premises ("Non-Exclusive Spaces") and (ii) during the hours of operations of Lessee, the exclusive use of certain other parking areas consisting of 108 parking spaces immediately adjacent to the Premises ("Valet/Employee Parking Area"), both as shown on Exhibit B as the Valet/Employee Parking Spaces and the Non-Exclusive Spaces. The license granted herein is non-revocable by the County during the term of this Lease and any options to renew to the extent exercised by Tenant. The Parking Area described in this subsection is not part of the Leased Premises. The County has the express authority to institute and manage a parking charge in the area of the Non-Exclusive Spaces, which shall not constitute any diminishment of use by the Lessee; subject

however to the limitations set forth in Appendix A as to parking after 5:00 p.m. The Lessee may make parking improvements to these areas that do not adversely impact Landlord's operations, all at the prior written approval of the Landlord and at the sole expense of the Lessee.

(c) Promenade. The Promenade Area is that 22 foot wide concrete paved walking area immediately between the Demised Area and the seawall. The Lessee shall have a license for the non-exclusive use of the promenade for its patrons, but shall not use or extend foodservice operations into the Promenade without the advance written approval of the County. The Promenade Area described in this subsection is not part of the Leased Premises. The license granted herein is non-revocable by the County during the term of this Lease and any options to renew to the extent exercised by Tenant.

(d) Common Areas. In addition to the foregoing, Lessee shall have a non-exclusive license for itself and its guests and employees to use the common areas of the Park, which common areas shall include but not be limited to the non-exclusive parking areas, access drives, sidewalks, promenade and such other public areas of the Park generally available to the public (hereinafter the "Common Area"). The license granted herein is non-revocable by the County during the term of this Lease and any options to renew to the extent exercised by Tenant.

3. **Operations:** Except when and to the extent that the Restaurant may be untenantable by reason of damage by hurricane, fire or other casualty, Lessee shall continuously and uninterruptedly use, occupy and operate for purposes outlined herein all of the Restaurant other than such minor portions thereof as are reasonably required for storage and office purposes, and such storage and office space shall only be used in connection with the business conducted by Lessee in the Restaurant; and will have on the premises adequately trained uniformed personnel for efficient service to customers.

4. **Limitations on Use:** Subject to Lessee's right to use the Restaurant for the purposes specified in this Lease Agreement, Lessee shall not suffer or permit the Restaurant or any part thereof or any part of the Premises 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 Restaurant or any part thereof; (iii) constitute a public or private nuisance; (iv) impair the appearance of the Restaurant; (v) materially impair or interfere with the proper and economic cleaning, heating, ventilating or air-conditioning of the Restaurant or the proper and economic functioning of any other common service facility or common utility of the Restaurant; (vi) impair or interfere with the physical convenience of any of the occupants of the Restaurant; or (vii) impair any of the Lessee's other obligations under this Lease Agreement.

5. **Governmental Approvals:** If any governmental license, approval or permit shall be required for the proper and lawful conduct of Lessee's business in the Restaurant, or any part thereof, Lessee, at its expense, shall duly procure and thereafter maintain such license, approval or permit and submit the same to inspection by the County. Lessee shall at all times comply with the terms and conditions of each license and permit required for the proper and lawful conduct of Lessee's business in the Restaurant.

(a) Sovereign Rights:

It is expressly understood that notwithstanding any provisions of this Lease Agreement and the County's status hereunder:

i. The County retains all of its sovereign prerogatives and rights and regulatory authority (quasi-judicial or otherwise) as a county or city 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 applicable to the planning, design, construction and development of Haulover Park and the Restaurant or the operation thereof, or be liable for the same; and,

ii. The County shall not by virtue of this Lease Agreement be obligated to grant any approvals of applications for building, zoning, planning or development under present or future laws and ordinances of whatever nature applicable to the planning, design, construction, development and/or operation of Haulover Park and the Restaurant; .

iii. Notwithstanding and prevailing over any contrary provision in this Lease Agreement, any County covenant or obligation that may be contained in this Lease Agreement shall not bind the Board, the County's Planning and Zoning Department, DERM, 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 police power

(b) Public Meeting

Immediately after the County Mayor issues his recommendation of contract award, but prior to the Lease being presented to the Board of County Commissioners for approval, the Lessee will participate in a public meeting designed to present the proposed design of the Restaurant to the public, in a form reflective of Exhibit E, as one in a series of Haulover Park General Plan implementations. The presentation at the public meeting is not part of any required governmental approvals, but it will be scheduled by the County to advance the public's knowledge of the project.

6. **Non-Exclusivity:** This Lease Agreement is non-exclusive in character and in no way prevents the Landlord from authorizing or offering competitive services, products or items by other vendors or others in other premises owned and operated by the Landlord or from authorizing other unrelated concession services within the Park. The Lessee shall have no rights to any other location that may be made available by the Landlord. Notwithstanding the foregoing, Landlord agrees during the term of this Lease Agreement not to permit the operation of any full-service casual or fine dining restaurant in that part of the Bill Bird Marina area of the Park identified on Exhibit B attached hereto as the "Exclusive Area."

7. **Proposal Incorporated:** The Lessee acknowledges that it has submitted to the County a proposal ("Lessee's Proposal") that was the basis for the award of this Lease Agreement and upon which the County has relied.

8. **Order of Precedence:** If there is a conflict between or among the provisions of this Lease Agreement, the order of precedence is as follows: 1) these terms and conditions, 2) Appendices to these terms and conditions (the Scope of Services, Development Rider and Price Schedule) 3) the Miami-Dade County's RFP No. 763 and any associated addenda and attachments thereof, and 4) the Lessee's Proposal.

9. Appendices and Attachments:
The Appendices and Attachments listed in this Paragraph and attached to RFP 763 are hereby incorporated in and made a part of this Lease Agreement:

Appendix A:	Scope of Services
Exhibit A:	Legal Description of Parent Parcel
Exhibit B:	Site Plan (Premises, Valet and Employee Parking, Guest Parking, Non-Exclusive Spaces)
Exhibit C:	Legal Description of Demised Area
Exhibit D:	Memorandum of Lease
Exhibit E:	Photosimulation of Property upon Construction
Exhibit F:	Development Rider
Exhibit G	CADD Standards
Exhibit H	Order of Magnitude Cost Estimate
Exhibit I	Development Schedule

10. Nature of the Lease Agreement:

A. This Lease Agreement incorporates and includes all prior negotiations, correspondence, conversations, agreements, and understandings applicable to the matters contained in this Lease Agreement. The parties agree that there are no commitments, agreements, or understandings concerning the subject matter of this Lease Agreement that are not contained in this Lease Agreement or the documents referenced and specifically incorporated herein, and that this Lease 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 Lease Agreement shall be of no force or effect, and that this Lease Agreement may be modified, altered or amended only by a written amendment duly executed by both parties hereto or their authorized representatives.

The Lessee 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.

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

C. The Lessee shall furnish all labor, materials, tools, supplies, and other items required to complete the Scope of Services in accordance with Appendix A and the Development Rider that are necessary for the completion of the construction of the Restaurant and this Lease Agreement. All Services addressed by the Development Rider (Exhibit F) shall be accomplished in coordination and to the satisfaction of the County's Project Manager.

11. Term: The County hereby grants a Lease Agreement to develop, manage, and operate for an initial term of ten (10) years, the Premises described in this Lease Agreement to be used and operated as a Restaurant, but which Restaurant structure itself shall not exceed 11,900 square feet. The term and commencement date of this Lease Agreement, herein referred to as the Lease Agreement Effective Date, shall begin on the date indicated in the first page of this Agreement, and shall end ten (10) years thereafter.

12. **Option to Renew:** This Lease Agreement may be renewed for four (4) - five (5) year periods as follows: Provided that there has been no default of the Lease Agreement by the Lessee, which default is continuing past any applicable cure period provided herein, the Lessee may by written notice to, and upon approval by, the Department at least six (6) months before the end of the then current term but in no event earlier than one year prior to the end of the then current term, renew the Lease Agreement for additional five (5) year periods. All renewal periods shall run consecutively so as to make this Agreement continuous in its operation, from beginning to its termination, for a period up to thirty years.

    The County reserves the right to exercise its option to extend this Lease Agreement for up to one hundred-eighty (180) calendar days beyond the current Lease Agreement period and will notify the Lessee in writing of the extension no later than one hundred-fifty (150) calendar days beyond the end of the then current term. This Lease Agreement may be extended beyond the initial one hundred-eighty (180) calendar day extension period by mutual agreement between the County and the Lessee, upon approval by the Board of County Commissioners.

13. **Security Deposit:** Prior to the Effective Date of the Lease Agreement, the Lessee shall furnish a Security Deposit in cash or cashier's check payable to the Board of County Commissioners, equal to three (3) months Guaranteed Monthly Rent. Such Security Deposit is eligible to be redeemed at the expiration of the Lease Agreement except for such conditions or events that warrant the County drawing upon a portion or all of the Security Deposit as provided in this Lease or under applicable law If the Landlord must draw upon any amount of the Security Deposit owed to the Landlord for this Lease Agreement, Lessee hereby agrees to restore the Security Deposit to its original amount within seven (7) days of receiving notice by the Landlord that the Security Deposit was drawn upon. In the event the Lessee abandons its performance, the Landlord will retain the security deposit.

14. **Initial Rent:** Lessee, in consideration of the use of the land does hereby covenants and agrees to pay to the County without deduction or set off of any kind the sum of $500.00 per month as the Initial Rent for a period of time commencing on the first day of each month beginning with the first full month after the Effective Date, without billing. The obligation to pay the Initial Rent shall commence on the Lease Effective Date and shall terminate upon the Date of Beneficial Occupancy, as defined in the Guaranteed Monthly Rent Article.

15. **Guaranteed Monthly Rent:** In consideration of the use of the Restaurant, Lessee does hereby covenant and agree to pay to the County without deduction or set off of any kind the sum of $110,000.00 per year or $9,166.67 per month as Guaranteed Monthly Rent. Payment of the Guaranteed Monthly Rent shall commence on the Date of Beneficial Occupancy which shall be, as determined by the County, the date on which substantial completion of the Restaurant has occurred and the appropriate code enforcement agency has issued a Certificate of Occupancy (CO) or a Temporary Certificate of Occupancy (TCO) that enables the Lessee to occupy or utilize the Restaurant in a manner for its intended use.

    Failure of the Tenant to attain the Date of Beneficial Occupancy before the end of the Third Lease Agreement Year shall be deemed a breach of this Lease Agreement. The County Mayor or Mayor's designee has the authority to extend the aforementioned deadline by up to one (1) year for events of force majeure.

    The Guaranteed Monthly Rent shall be adjusted upward on the first day of each new Lease Operations Year by 2.5% annually, including each year during any renewal period pursuant to Section 12 of this Lease.

16. **Percentage of Monthly Gross Receipts – Percentage Fee:** In addition to the Guaranteed Monthly Rent, Lessee agrees to pay to the Landlord, monthly, an amount described in the table below based on monthly Gross Receipts hereinafter referred to as "Percentage Fee" within ten (10) days following the end of each month during the term of this Lease Agreement, which payment is to commence immediately after the Date of Beneficial Occupancy:

    Initial Annual Breakpoint: $6,100,000.00. The Breakpoint shall increase by 3% on the first day of the 6th Lease Operations Year and again by 3% on the first day of the 11th, 16th, 21st, and 26th Lease Operations Year.

    Percentage Fee Calculations

Lease Operations Year:	Percentage Fee
1 - 3:	1% of Gross Receipts up to Breakpoint plus 2% of Gross Receipts over Breakpoint
4 – Termination:	1.5% of Gross Receipts up to Breakpoint plus 2.0% of Gross Receipts over Breakpoint

17. **Sales Tax:** The Lessee shall be liable for the prevailing State of Florida Sales and Use Tax imposed on rent (currently at the rate of 7%) on the amounts payable to the Landlord, including the Guaranteed Monthly Rent and Percentage Fee payments, under this Lease Agreement. This Sales and Use Tax shall be payable to the Landlord, when applicable rent is due. The Landlord will remit same, less authorized handling deductions, to the State.

18. **Additional Taxes:** If at any time during the term of this Lease Agreement or any renewal thereof, under the laws of the State of Florida, or any political subdivision thereof, a tax, charge (if applicable), capital levy, or excise on rents (fixed minimum or additional) or percentage fees, or other tax (except income tax), however described, against the Landlord on account of the rent or percentage fees payable herein, such tax, charge, capital levy, or excise on rents or other taxes shall be deemed to constitute real estate taxes on the Restaurant and the premises for the purposes of this Paragraph and Lessee shall be liable for payment thereof.

19. **Taxes on Lessee's Property:** Under current law, and as County-owned land, the land underlying the Leased Premises is immune from ad valorem real property taxes. However, Lessee shall be responsible for, and shall pay before delinquency, all municipal, county, or state taxes assessed against any lease improvements, occupancy interest and/or personal property of any kind, owned by or placed in, upon or about the Restaurant by Lessee and other costs assessed against its leasehold interest in the Leased Premises and in connection with its operations under this Lease Agreement (collectively, the "Impositions"). Provided, however, that Lessee shall not be deemed to be in default of its obligations under this Lease Agreement for failure to pay such Impositions pending the outcome of any legal proceedings instituted to determine the validity of such taxes and/or other costs.

20. **Late Payment Charge:** In the event that the Lessee fails to make any payments on time, by the due date, as required to be paid under the provisions of this Lease Agreement, a late payment charge of $100.00 per month shall be assessed. The right of the County to require payment of such late payment charge and the obligation of the Lessee to pay same shall be in addition to and not in lieu of the Landlord's rights to enforce other provisions herein, including termination of this Lease Agreement, or to pursue other remedies provided by law.

21. **PM Fee Payment**: The Lessee shall remit to the County a fee for the Capital Project Management costs of 1.5% of the Total Development Cost of the Facility provided that such fee shall in no event exceed $60,000.00 (the "PM Fee Payment"). The Total Development Cost of the Facility is projected to approximate $ 6,270,000 plus soft costs. The PM Fee Payment shall begin following the date of execution of the Lease Agreement and be paid on a uniform pro-rata monthly basis over the course of the Development Schedule as set forth in Exhibit "I" up to $60,000.00 and be subject to an adjustment at the end of construction or upon Termination of the Lease Agreement, whichever occurs first, when the actual Total Development Cost is confirmed. Upon completion of construction, Lessee shall provide Landlord with an affidavit of project cost signed by an officer of Lessee.

22. **Application of Payments:** Payments are applied to any unpaid balance in the following manner: Any accrued late fees are first deducted from the payment; The remaining payment balance is then applied proportionately to the Guaranteed Monthly Rent, then Percentage Fee, including the associated sales and use tax. Any remaining balance in the payment will be applied to any other balance due.

23. **Worthless Check or Draft:** In the event that the Lessee delivers a dishonored check or draft to the Landlord in payment of any obligation arising under this Lease Agreement, the Lessee 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 shall be made within not more than five (5) days from written notice of such default. Further, in such event, Landlord may require that future payments required pursuant to this Lease Agreement be made by cashier's check or other means acceptable to Landlord. A second such occurrence of dishonored check during the Lease Agreement term will be a breach of contract and, at the Landlord's option, will constitute a default allowing termination.

24. **Payment of Fees:** The Guaranteed Monthly Rent and Percentage Fee as well as other amounts payable by Lessee to the Landlord, under the terms of this Lease Agreement, shall be paid promptly when due, without notice for any reason whatsoever and without abatement. Guaranteed Monthly Rent and Percentage Fee and all other payments provided for in this Lease Agreement shall be paid or mailed to:

    Miami-Dade County
    Parks, Recreation and Open Spaces Department
    c/o Contract Management Section
    275 N.W. 2nd Street, 3rd Floor
    Miami, FL 33128

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

25. **Notices:** Any notices submitted or required by this Lease Agreement shall be sent by registered or certified mail (or email or fax if provided below, with a hardcopy to the address below) addressed to the parties as follows or to such other address as either party may designate in writing, and where receipt of same is acknowledged by the receiving party.

    1. To the County:

    Prior to Date of Beneficial Occupancy:

Project Manager:

Miami-Dade County
Parks, Recreation and Open Spaces Department
275 N.W. 2nd Street 5th Floor
Miami, Florida 33128
Attn: Director
Phone: (305) 755-7903
Fax: (305) 755-7946

and

After the Date of Beneficial Occupancy

Contract Manager:

Miami-Dade County
Internal Services Department
111 N.W. 1st Street, Suite 1300
Miami, FL 33128-1974
Attention: Director
Phone: (305) 375-5548
Fax: (305) 375-2316

With Copy to:

Project Manager:

Miami-Dade County
Parks, Recreation and Open Spaces Department
275 N.W. 2nd. Street 5th Floor
Miami, Florida 33128
Attn: Director
Phone: (305) 755-7903
Fax: (305) 755-7946

2. To the Lessee:

Prior to Dade of Beneficial Occupancy

Florida SE, Inc.
1000 Darden Center Drive
Orlando, FL 32837
Attention: Bruce Geise
Phone: (407) 245-4000
Fax: (407) 241-5851

With Copy to:

Florida SE, Inc.
1000 Darden Center Drive

Orlando, FL 32837
Attention: Joseph Kern, Division Counsel
Phone: (407) 245-4000
Fax: (407) 872-3774

After Date of Beneficial Occupancy

Florida SE, Inc.
1000 Darden Center Drive
Orlando, FL 32837
Attention: Property Law Administration
Phone: (407) 245-4000
Fax: (407) 241-5851

With Copy to:

Florida SE, Inc.
1000 Darden Center Drive
Orlando, FL 32837
Attention: General Counsel
Phone: (407) 245-4000
Fax: (407) 872-3774

If attempted delivery of such notice by mail is thwarted by any avoidance of receipt or unavailability for receipt by the intended recipient, said notice will have the effect of being constructively received by the recipient.

26. **Interpretations:** This Lease Agreement and the Attachments hereto, and other documents specifically referred to herein, constitute the entire, fully integrated Lease Agreement between the parties with respect to the subject matter hereof and supersede all prior or contemporaneous verbal or written Lease Agreements between the parties with respect thereto, excepting any past or contemporaneous written or verbal Agreements expressly and clearly incorporated by reference within the four corners of this Lease Agreement. This Lease Agreement may be amended only by written document, properly authorized, executed, and delivered by both parties hereto. For the County, appropriate authorization shall be construed to mean the County Mayor (or designee) or the Contract Manager (or designee) within this Lease Agreement shall have approval authority or the Board of County Commissioners (as applicable). For the Lessee, appropriate authorization shall be construed to mean an officer of the Lessee. This Lease Agreement shall be interpreted as a whole unit and paragraph headings are for convenience only. The Lease Agreement shall not be construed in favor of one party or the other. All matters involving the Lease Agreement shall be governed by laws of the State of Florida.

27. **Accord and Satisfaction:** No payment by Lessee or receipt by Landlord of a lesser amount than any payment of Guaranteed Monthly Rent or Percentage Fee herein stipulated shall be deemed to be other than on account of the earliest stipulated Guaranteed Monthly Rent or Percentage Fee 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 Fee be deemed an accord and satisfaction. The Landlord may accept such check or payment without prejudice to Landlord's right to recover the balance of such Guaranteed Monthly Rent or Percentage Fee or pursue any other remedy provided in this Lease

Agreement, at law or in equity. No covenant, term, or condition of this Lease Agreement shall be deemed to have been waived by Landlord, unless such waiver be in writing by Landlord, nor shall there be any accord and satisfaction unless expressed in writing and signed by both Landlord and Lessee.

28. Gross Receipts:

A. Gross Receipts Defined: "Gross Receipts" means all monthly receipts collected by the Lessee from the sale of services or merchandise by Lessee, concessionaires of Lessee and sub-Lessee(s) of Lessee, sold in, upon or from the Restaurant, including such sales as shall in good faith be credited by Lessee, its concessionaires, and sub-Lessees in the regular course of its or their business to personnel employed at the time of sale at the Restaurant, including sub-concession Agreements or contract employee payments to the Lessee and mail and telephone orders received at the Restaurant and off-premises sales and valet services (excluding tips or compensation received by employees of the valet services) on the Premises; but shall not be deemed to mean or include the following: amounts credited by Lessee or its concessionaires or sub-concessionaires for returned or defective merchandise; sales, excise and similar taxes; or the proceeds of sales of Lessee's trade fixtures, operating equipment or other property used by Lessee or its concessionaires in the operation of its business and not acquired or held by it for the purpose of sale. Sales shall be deemed to have been made when services or merchandise has been served, shipped or delivered or when charged against the purchaser on the books of Lessee, or its concessionaires, whichever of such events shall first occur.

B. Lessee's Certification of Receipts: Lessee shall submit to Landlord on or before the 10th business day following the end of each month during the term of this Lease Agreement and on or before the 10th business day following the expiration or earlier termination of this Lease Agreement, a written statement, signed by Lessee and certified by it to be true and correct, showing the amount of Gross Receipts during the preceding month. Lessee shall submit to Landlord on or before the 60th day following the end of each Lease Agreement year an Annual Written Statement, signed by a Financial officer of the Lessee and certified by it to be true and correct, setting forth the amount of Gross Receipts during the preceding Lease Agreement Year, which statement shall also be duly certified by a Certified Public Accountant. The statement referred to herein shall be in such form and style and contain such details and breakdowns as Landlord may reasonably determine or require.

C. Examination of Lessee's Books and Records: Such books and records as are necessary to determine the amount of any Percentage Fee payable to Landlord shall be subject to examination by the County or its authorized representatives at reasonable times during Lessee's business hours, and in such manner as not to interfere unreasonably with the conduct of Lessee's business; provided, however, Landlord acknowledges the original financial records for the Restaurant will be maintained at Lessee's restaurant support center in Orlando, Florida and made available at such offices or electronically for the Landlord, whichever the County selects. All information obtained by the County or its authorized representatives from Lessee's books and records shall be kept confidential by the County and all such representatives except in connection with any mortgage or assignment of this Lease Agreement for financing purposes or if subject to the requirements of Florida Public Records Act.

D. Lessee's Receipts Records: For the purpose of computing and verifying the Percentage Fee due hereunder, Lessee shall prepare and keep, for a period of not less than three (3)

years following the end of each Lease Agreement Year, adequate books and records, including but not limited to those relating to inventories, purchases, and receipts of merchandise, and all sales and other pertinent transactions by Lessee. Such records shall subsequently conform to Generally Accepted Accounting Principles requirements, as applicable, and shall only address those transactions related to this Lease Agreement. Lessee 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. Lessee shall keep, for at least three (3) years following the end of each Lease Agreement 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 with subtenants, concessionaires, and licensees; (vi) records showing that merchandise returned by customers was purchased by such customers; (vii) receipts or other records of merchandise taken out on approval; (viii) income and sales tax returns; and (ix) such other records which would normally be examined and required to be kept by an independent accountant pursuant to generally accepted auditing standard in performing an audit of Lessee's Gross Receipts.

The acceptance by County of payments of Percentage Fee or reports thereon shall be without prejudice and shall in no case constitute a waiver of County's right to examination of Lessee's books and records of its Gross Receipts and inventories of merchandise.

E. Audit of Lessee's Business Affairs and Records: Landlord shall have the right to cause, upon five (5) business days' written notice to Lessee, a complete audit to be made by a designated external auditing firm or other certified public accounting firm selected by Landlord, or the Audit and Management Services Department of the County. Lessee shall make all such records available for said examination at the corporate headquarters of Lessee in Orlando, Florida or electronically for the Landlord, whichever the County selects or at some other mutually agreeable location. If the result of such audit shall show that Lessee's statement of Gross Receipts for any period has been understated, Lessee shall pay Landlord the amount due. If such understatement is three percent (3%) or more, Lessee shall pay Landlord the cost of such audit in addition to any deficiency payment required, plus ten percent (10%) of any such deficiency, all of which shall be collectible hereunder as rent. A report of the findings of said accountant shall be binding and conclusive upon Landlord and Lessee. The furnishing by Lessee of any grossly inaccurate statement shall constitute a breach of this Lease Agreement. Any information, excluding written documents, obtained by Landlord as a result of such audit shall be kept confidential by the County except if such information is subject to the requirements of Florida Public Records Act.

F. If Lessee fails to record, maintain, or make available sales supporting documentation as specified above, then Lessee may be deemed by the County to be in default of this Lease Agreement.

29. **New Construction:** The Landlord's approval is required prior to all construction, all installation and all use of facilities. All improvements shall be owned by the Lessee during the term of the Agreement and will become the property of the Landlord at the termination of this Agreement. All construction shall be accomplished in accordance with all regulatory agencies permitting requirements.

30. **Condition of Leased Property:** Lessee hereby accepts the leased property in the condition it is as of the date of this Lease Agreement.

31. **Assumption, Parameters, Projections, Estimates and Explanations:** The Lessee

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

32. **Landlord Approval:** The Lessee agrees that it will obtain prior written approval from the Landlord in all of the following matters:

A. Changes from originally approved specifications, , activities, signage, and graphics.
B. Equipment Lessee plans to install requiring any building modifications after initial construction of the Restaurant building.
C. Aesthetics of the Restaurant.
D. Any use of the Landlord's facilities.
E. Hours of Operation except as provided in Section 33 below.

Should any of the above items be disapproved, Lessee may offer alternative solutions. The Landlord reserves the right with stated just cause to require the Lessee to change within a stated time any and all items contained in this paragraph it deems in need of change, despite previous approval of same.

33. **Hours of Operation:** Landlord and Lessee agree that once initially open for business as provided in this Lease, Lessee shall keep the Restaurant open the following minimum hours:

A. Sunday through Thursday: 11:30 am – 10:00 pm
B. Friday and Saturday: 11:30 am – 11:00 pm
C. Saturday and Sunday: Commencing at 8:00 am, coffee/tea/juice service only to be provided in a portion of the Restaurant as determined by Lessee, until the regular Restaurant hours above commence.

When required to be open, the Lessee shall provide sufficient staff to provide outstanding service.

34. **Pricing:** Lessee shall maintain the pricing schedule and menu reasonably consistent with the menu submitted with its Proposal, Landlord acknowledging and agreeing that Tenant shall have the right to change its menu in accordance with Lessee's standard operating practices without Landlord's consent provided such menu mix and pricing is reasonable consistent with other Seasons 52 restaurants then operated in Florida and subject to Lessee's rights to offer a limited number of daily specials and special menu items from time to time in accordance with Lessee's standard operating practices. Tenant agrees to provide Landlord with its current menu at any time upon request of Landlord.

35. **Personnel:** The Lessee shall provide Landlord with the name and telephone number of a management person of the Lessee who will be on call, at all times, for emergencies or other matters related to the operations under this Lease Agreement. The Lessee shall ensure that all its personnel performing services under this Lease Agreement are courteous and cooperative and present a neat, clean and professional appearance at all times. Failure of an employee to do so shall be grounds for the Landlord to demand his or her removal from duties

in the Restaurant. The Lessee shall ensure that all employees having public contact are able to understand and communicate in spoken English. Lessee's employees will not be considered agents of the County.

In the event the Lessee wishes to substitute personnel for the key personnel identified by the Lessee's Proposal, the Lessee must notify the Landlord in writing and request written approval for the substitution at least ten (10) business days prior to effecting such substitution, such approval not to be unreasonably withheld, conditioned or delayed.

The Lessee shall provide the County with the name and telephone number of a project manager during the design and construction phase of the development that will represent the Lessee on all matters pertaining to the development of the project.

36. **Signs:** The nature, size, shape and installation of Lessee's business signs within the Restaurant or in, on or adjacent to the Restaurant or The Park must first be approved in writing by Landlord as otherwise provided in this Lease Agreement and the schedules attached hereto. Said signage must also be approved by all governmental authorities having jurisdiction and must conform to the requirements set forth in the Article 7 of the Miami-Dade Home Rule Charter. All signs shall be removed by the Lessee at the termination of this Lease 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 Lessee.

37. **On-Site Manager:** Throughout the term of this Lease Agreement once initially open for business as provided in this Lease Agreement, the Lessee shall employ a qualified full-time on-site restaurant 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 Lessee under this Lease Agreement and to accept service of all notices provided for herein.

38. **Quality of Lessee's Service:** The Lessee 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 Lessee shall control the conduct, demeanor and appearance of its officers, members, employees, agents, representatives, and upon the reasonable objection of the Landlord concerning the conduct, demeanor or appearance of any such person, Lessee shall immediately take all necessary steps to correct the cause of such objection.

Lessee 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 Lease Agreement or its termination in any manner, shall deliver said Premises to the Landlord in the same condition as at the Date of Occupancy, with the exception of loss by fire or other casualty.

Lessee shall furnish good, prompt and efficient service in the Restaurant, adequate to meet all reasonable demands therefore.

It is expressly understood and agreed that the operation of the Restaurant 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 Lessee agrees that a determination by the Landlord will be accepted as final in evaluating whether its activities infringe on the rights of others and that Lessee will fully comply with any decisions on

this matter; provided, however, Landlord agrees to be reasonable in any such determination, both parties acknowledging that this Lease Agreement contemplates the operation of the Restaurant adjacent to public areas and the mere operation of a Restaurant in such location may not be deemed in itself an interference 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 Restaurant

39. **Monitoring Services:** The Landlord shall have the right to monitor and test the quality of services of the Lessee, through the use of the shopping service and other reasonable means.

40. **Services/Equipment Provided by County:** The County shall provide access to the following as existing: (all separately metered and billed).

A. Electrical as existing.
B. Water facilities as existing.
C. Sewage collection facilities as existing.
D. Waste collection

Lessee may be permitted to connect to such existing utilities if feasible and approved by the appropriate regulatory agencies. All of the aforementioned utilities and services shall be metered and/or billed separately from the County and directly to the Tenant.

41. **Equipment and Service Provided by Lessee:** The Lessee, at its sole cost, shall provide at the Restaurant:

A. Janitorial service within the Restaurant. The Lessee shall keep the Restaurant and equipment clean at all times. If the Restaurant and equipment are not kept clean in the opinion of the Landlord, the Lessee will be so advised and if corrective action if not immediately taken, the Landlord will cause the same to be cleaned and the Lessee shall assume responsibility and liability for such cleaning.
B. Maintenance service to air conditioning. The Lessee shall contract a licensed air conditioning contractor to perform monthly maintenance and necessary repairs to the separate air conditioning unit servicing the Restaurant.
C. All other commercially reasonable and customary services, maintenance and repairs necessary for the proper operation of a Restaurant.

42. **Equipment Installed by Lessee:** The Lessee shall furnish and install all furnishings, fixtures and equipment necessary for the operation of the Restaurant. All furnishings, fixtures and equipment acquired for the Restaurant shall be of a high quality as good as or better than that found at similar facilities. The Landlord shall be afforded the opportunity to approve all furnishings, fixtures and equipment for the Restaurant, such approval not to be unreasonably withheld, conditioned or delayed.

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

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

Lessee shall not alter or modify any portion of the Park, the Restaurant or the improvements constructed therein without first obtaining written approval from the Landlord.

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

44. **Hurricane Preparedness:** The Lessee shall follow the County's emergency evacuation and hurricane plan as set forth for the Restaurant or Haulover Park, including Lessee's emergency evacuation and hurricane plan as set forth in Lessee's Proposal.

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

Lessee will have no maintenance responsibility of the restroom building constructed by the Lessee as provided in this Lease Agreement. Once initially constructed, the restroom building shall be owned, operated and maintained by the Landlord.

The area shown on Exhibit B to this Lease Agreement as the "Promenade" shall not be part of the Premises. Lessee shall have no responsibility for the operation, maintenance and repairs to the Promenade except that Lessee will have custodial cleaning responsibility for that portion of the Promenade that is directly contiguous to the western boundary of the Restaurant. Custodial cleaning responsibility shall mean only keeping such area swept and reasonably free of trash on a regular basis. Except as set forth above, Landlord shall maintain the Promenade Area.

46. **Utility Services:** The County has caused utility lines and services to be brought to the Restaurant. Lessee shall not place any unacceptable load or burden on the capacity of the applicable building systems and utility lines of The Park as determined either by the public utility providing such service or by Landlord in the exercise of reasonable judgment. Lessee shall make all repairs caused by Lessee's negligence.

47. **Independent Lessee Relationship:** The Lessee is, and shall be, in the performance of all work services and activities under this Lease Agreement, an independent contractor, and not an employee, agent or servant of the Landlord. All persons engaged in any of the work or services performed pursuant to this Lease Agreement shall at all times, and in all places, be subject to the Lessee's sole direction, supervision and control. The Lessee shall exercise control over the means and manner in which it and its employees perform the work, and in all respects the Lessee's relationship and the relationship of its employees to the Landlord shall be that of an independent contractor and not as employees and agents of the Landlord.

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

48. **Curtailment or Interruption of Service:** The Landlord reserves the right to interrupt, curtail or suspend the provision of any utility service to which Lessee may be entitled hereunder when necessary by reason of accident or emergency or for repairs, alterations, or improvements in the judgment of the Landlord 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 Landlord. The work of such repairs, alterations, or improvements shall be prosecuted with reasonable diligence. The Landlord shall in no respect be liable for any failure of the utility companies or governmental authorities to supply utility service to Lessee 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 Lessee by reason of the Landlord's or other individual's interruption, curtailment or suspension of a utility service, nor shall this Lease Agreement or any of Lessee's obligations hereunder be affected or reduced thereby.

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

50. **Right of Entry:** The Landlord or any of its agents shall have the right to enter upon the Restaurant 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 Restaurant as the Landlord deems necessary and which are permitted to be made by Landlord pursuant to this Lease Agreement after the expiration of any applicable cure period, but the Landlord assumes no obligation to make repairs in the Restaurant other than those expressly provided for in this Lease Agreement. The Landlord agrees, however, that any such repairs, alterations, replacements, or improvements shall be made with minimum amount of inconvenience to Lessee and that the Landlord will diligently proceed therewith to completion. The Landlord or the Landlord's agents shall also have the right to enter upon the Restaurant at reasonable times to show them to actual or prospective mortgagees of the Restaurant. During the one hundred and eighty (180) days prior to the expiration of the term of this Lease Agreement, the Landlord may show the Restaurant to prospective tenants. If, during the last ninety (90) days of the term of this Lease Agreement, Lessee shall have removed all or substantially all of Lessee's property there from, the County may immediately enter, alter, renovate, and redecorate the Restaurant without elimination or abatement of Fee or other compensation and such action shall have no effect upon this Lease Agreement.

51. **Permits and Regulations:** Lessee covenants and agrees that Lessee will obtain any and all necessary permits and approvals and that all uses of the Restaurant and Premises property will be in conformance with all applicable laws.

52. **Damage or Destruction of Property:** In all events, Lessee shall repair all damages to the property caused by the Lessee, its employees, agents, contractors or sub-consultants. If the Restaurant is partially damaged, but not rendered unusable for the purposes of this Lease Agreement, the same shall with due diligence be repaired by the Lessee from proceeds of the

insurance coverage and/or at its own cost and expense and a pro-rata adjustment of the Guaranteed Monthly Rent payable hereunder for the period of the Lessee's business interruption, shall be made. If the damage shall be so extensive as to render such premises unusable for the purposes intended, but capable of being repaired within thirty (30) days, the damage shall be repaired with due diligence by the Lessee from the proceeds of the insurance coverage policy and/or at its own cost and expense, and for the period of Lessee's business interruption a pro-rata adjustment shall be made as to the Guaranteed Monthly Rent In the event said premises are completely destroyed or so damaged that it will remain unusable for more than thirty (30) days, through no fault of the Lessee, its employee, agents, contractors or sub-consultants, the Lessee and the Landlord shall be under no obligation to repair and reconstruct the premises, and adjustment of the Guaranteed Monthly Rent payable hereunder shall be proportionately made up to the time of such damage or destruction, and the portion of the Lease Agreement which pertains to such destroyed property shall cease and terminate, and all adjustments which are proper including restoration of the site to a clean , neat and usable condition shall be made accordingly. However, at the option of the Landlord, and through negotiations pertaining to all matters for continuing the premises in a Lease Agreement, the Lessee may reconstruct the premises at its own cost.

53. **County's Repair, CSF Repairs, Alterations and Additions by the County:** The Landlord, as its responsibility, and at its expense (except if the damage is caused by Lessee, its employees, agents, or independent Lessees), shall make all repairs and replacements, structural and otherwise, necessary, or desirable in order to keep in good order and repair the Common Areas of the Park, excluding the Restaurant and Premises, all at no cost to Lessee, Landlord representing to Lessee that Lessee shall not have any obligation under this Lease Agreement, any recorded document or otherwise to pay any Common Area maintenance fee or similar charge to Landlord or the County

Except as otherwise provided herein in this Lease Agreement, the Landlord shall have the absolute right to make reasonable repairs, alterations, and additions to any structures and facilities, including the Restaurant under this Lease Agreement, free from any and all liability to the Lessee for loss of business or damages of any nature whatsoever during the making of such repairs, alterations, and additions, except for such damage caused by the sole negligence of the Landlord and where not otherwise indemnified by the Lessee, subject to the limitations of Section 768.28, Florida Statutes. In making such repairs, alterations, and additions, the Landlord shall take such reasonable measures as are necessary to minimize interference with Lessee's operations of the Restaurant, for short term disruption of one week or less to Lessee's business where adequate accommodations can be made to minimize the inconvenience and injury to Lessee's business. If the Lessee's business is interrupted for more than one week, as a result of any of the foregoing, a pro rata adjustment of the Guaranteed Monthly Rent payable hereunder for the period of such interruption shall be made.

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

55. **Performance of Obligations:** Lessee covenants at all times to perform promptly all of the obligations of Lessee set forth in this Lease Agreement.

56. **Ingress and Egress:** Subject to rules and regulations, statutes and ordinances, and terms of this Lease Agreement governing the use of the Restaurant, Lessee it's agents and servants, patrons and invitees, and his suppliers of service and furnishers of materials shall have right of vehicular and pedestrian ingress and egress to and from the Premises.

57. **Assignment, Sub-Contracting and Successors in Interest:**

A. Lessee shall not assign, mortgage, pledge nor otherwise encumber this Lease Agreement or any portion thereof, nor any property associated with this Lease Agreement without prior written approval of the Landlord. Unapproved assignment, mortgaging, pledging or encumbering shall be grounds for immediate termination of this Lease Agreement. It is agreed that all terms and conditions of this Lease Agreement shall extend to and be binding on assignees and other successors as may be approved by the Landlord.

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

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

C. Should the Restaurant reside in a geographic area that incorporates, becoming an independent municipality, the rights and obligations granted the Landlord under this Lease Agreement will automatically be assigned, if, and upon the Park's conveyance to the municipality.

58. **Ownership of Lessee:** The ownership of the Lessee is very important to the Landlord. Therefore, the Landlord reserves the right to terminate this Lease Agreement at any time if more than l0% of the ownership of the Lessee changes and has not been specifically approved by the Landlord. The Landlord shall reject any proposed new owner for any reason it believes is in the best interests of the public. Lessee agrees to provide on 24-hour notice to the Landlord an accurate list of all owners of the Lessee, showing the percentage of ownership of each owner, and, any change of corporate name or corporate ownership. Lessees, for which stock is listed on a major stock exchange, may be wholly or partially exempted from the list requirement of this paragraph at the discretion of the Landlord.

59. **Proprietary Information:** As a political subdivision of the State of Florida, Miami-Dade County is subject to the requirements of Florida's Public Records Law.

60. **County's Property Insurance:** Any insurance the Landlord may maintain shall not cover Lessee's improvements and betterments, contents, or other property of Lessee. Lessee shall

not violate, or permit the violation of, any condition imposed by any of the Landlord's insurance policies, and shall not do, or permit anything to be done, or keep or permit anything to be kept in the Restaurant which would increase the fire or other property or casualty insurance rate on the building or buildings in which the Restaurant is located or the property therein over the rate which would otherwise then be in effect (unless Lessee pays the resulting increased amount of premium as provided under the further terms hereof), or which would result in insurance companies of good standing refusing to insure the same or any of such property in amounts and at normal rates reasonably satisfactory to the Landlord. If, by reason of any act or omission on the part of Lessee, the rate of property insurance on the Restaurant or Haulover Park or equipment or other property of the Landlord shall be higher than it otherwise would be, Lessee shall reimburse the Landlord, on demand, for that part of the premiums for property insurance paid by the Landlord because of such act or omission on the part of Lessee, which sum shall be deemed Percentage Fee for purposes of collection only.

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

Upon Landlord's notification, the Lessee shall furnish to the Department of Procurement Management, Certificates of Insurance that indicate that insurance coverage has been obtained, which meets the requirements as outlined below:

Design Phase

Professional Liability Insurance in the name of the Contractor or the licensed design professional employed by the Contractor in an amount not less than $250,000.00.

Construction Phase

A. Worker's Compensation Insurance for all employees of the Contractor 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. Insurance shall include coverage for Explosion Collapse and Underground Hazards. **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 $500,000 combined single limit per occurrence for bodily injury and property damage.

D. Completed Value Builders' Risk Insurance on an "all risk" basis in an amount not less than one hundred (100%) percent of the contract amount. The policy shall be in the name of Miami-Dade County and the Contractor.

E. Flood Insurance 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.

Operation Phase

A. Worker's Compensation Insurance for all employees of the Contractor as required by Florida Statute 440.

B. Commercial General Liability Insurance, including Liquor Liability coverage and Product Liability, in an amount not less than $1,000,000 combined single limit 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 $500,000 combined single limit per occurrence for bodily injury and property damage.

D. Property Insurance coverage on an "All Risk" basis in an amount not less than one hundred (100%) percent of the replacement cost of the real property. **Miami-Dade County must be shown as a Loss Payee A.T.I.M.A.**

E. Flood Insurance 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. **Miami-Dade County must be shown as a Loss Payee A.T.I.M.A.**

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 Insurance and are members of the Florida Guaranty Fund.

Certificates of Insurance must indicate that for any cancellation of coverage before the expiration date, the issuing insurance carrier will endeavor to mail thirty (30) day written advance notice to the certificate holder. In addition, the Lessee hereby agrees not to modify the insurance coverage without thirty (30) days written advance notice to the County.

NOTE: MIAMI-DADE COUNTY CONTRACT NUMBER AND TITLE MUST APPEAR ON EACH CERTIFICATE OF INSURANCE.

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

Award of this Lease Agreement is contingent upon the receipt of the insurance documents, as required, within fifteen (15) calendar days after Landlord's notification to Lessee to comply before the award is made. If the insurance certificate is received within the specified time frame but not in the manner prescribed in this Lease Agreement, the Lessee shall be verbally notified of such deficiency and shall have an additional five (5) calendar days to submit a corrected certificate to the Landlord. If the Lessee fails to submit the required insurance documents in the manner prescribed in this Lease Agreement within twenty (20) calendar days after Landlord's notification to comply, the Lessee shall be in default of the contractual terms and conditions and award of the Lease Agreement will be rescinded, unless such time frame for submission has been extended by the Landlord.

The Lessee shall be responsible for assuring that the insurance certificates required in conjunction with this Section remain in force for the duration of the contractual period of the Lease Agreement, including any and all option years or extension periods that may be granted by the Landlord. If insurance certificates are scheduled to expire during the contractual period, the Lessee shall be responsible for submitting new or renewed insurance certificates to the Landlord 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 Landlord shall suspend the Lease Agreement until such time as the new or renewed certificates are received by the Landlord in the manner prescribed herein; provided, however, that this suspended period does not exceed thirty (30) calendar days. Thereafter, the Landlord may, at its sole discretion, terminate this Lease Agreement.

62. **Liability for Damage or Injury:** The Landlord shall not be liable for damage or injury which may be sustained by any party or persons at the Restaurant other than the damage or injury if and to the extent caused solely by the negligence of the Landlord, its agents and employees while in the course of County business, and as limited by Section 768.28, Florida Statutes.

63. **No Liability For Personal Property:** All personal property placed or moved in the leased property above described shall be at the risk of Lessee or the owner thereof. Landlord shall not be liable to Lessee or any third party for any damage to said personal property unless caused by or due to negligence of Landlord, Landlord's agents or employees, subject to all limitations of Florida Statutes, Section 768.28.

64. **Patent and Copyright Indemnification:**

A. The Lessee warrants that all Work furnished hereunder, including but not limited to, wall murals, and the like, do not infringe upon or violate any patent, copyrights, service marks, trade secret, or any other third party proprietary rights.

B. The Lessee shall be liable and responsible for any and all claims made against the Landlord for infringement of patents, copyrights, service marks, trade secrets or any other third party proprietary rights, by the use or supplying of any wall murals, and the like, in the course of performance or completion of, or in any way connected with, the Works, or the Landlord's continued use of the Work furnished hereunder. Accordingly, the Lessee at its own expense, including the payment of attorney's fees, shall indemnify, and hold harmless the Landlord and defend any action brought against the Landlord with respect to any claim, demand, cause of action, debt, or liability.

C. In the event any Work or anything provided to the Landlord hereunder, or portion thereof is held to constitute an infringement and its use is or may be enjoined, the Lessee shall have the obligation to, at the Landlord'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 Landlord, at the Lessee's expense, the rights provided under this Lease Agreement to use the item(s).

D. The Lessee shall be solely responsible for determining and informing the Landlord 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 Work hereunder. The Lessee shall enter into agreements with all suppliers and subcontractors at the Lessee's own risk. The Landlord may reject any Work that it believes to be the subject of any such litigation or injunction, or if, in the Landlord's judgment, use thereof would delay the Work or be unlawful.

E. The Lessee shall not infringe any copyright, trademark, service mark, trade secrets, patent rights, or other intellectual property rights in the performance of the Work.

65. Manner of Performance:

A. The Lessee agrees to defend, hold harmless and indemnify the Landlord 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 Landlord, occurring on account of, arising from or in connection with the removal and replacement of any Lessee's personnel performing services hereunder at the behest of the Landlord. Removal and replacement of any Lessee's personnel as used in this Paragraph shall not require the termination and or demotion of such Lessee's personnel.

B. The Lessee 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 Lessee agrees to adjust its personnel staffing levels or to replace any of its personnel if so directed upon reasonable request from the Landlord, should the Landlord 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.

C. The Lessee 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.

D. The Lessee shall at all times cooperate with the Landlord and coordinate its respective work efforts to most effectively and efficiently maintain the progress in performing the Services.

E. The Lessee shall comply with all provisions of all Federal, State and local laws, statutes, ordinances, and regulations that are applicable to the performance of this Lease Agreement.

66. Severability:

If this Lease 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 Lease Agreement without affecting the binding force of this Lease Agreement as it shall remain after omitting such

provision.

67. Termination by Landlord: The occurrence of any of the following may cause, this Lease Agreement to be terminated by the Landlord upon the terms and conditions also set forth below.

A. Automatic Termination upon written notice by the Landlord if any of the following occurs:
   i. Institution of proceedings in voluntary bankruptcy or reorganization by the Lessee.
   ii. Institution of proceedings in involuntary bankruptcy against the Lessee if such proceedings continue for a period of ninety (90) days.
   iii. Assignment by Lessee for the benefit of creditors. Abandonment or discontinuation of operations for more than a 24 hour period without prior written approval from the Landlord.
   iv. The discovery of any misstatement in the Lessee's Proposal leading to award of this Lease Agreement, which in the determination of the Landlord significantly affects the Lessee's qualifications to perform under the Lease Agreement
   v. Unapproved change of ownership interest in Lessee and/or failure to submit the ownership list within 24 hours upon the request of the Landlord.
   vi. Failure to cease any activity which may cause limitation of Landlord's use of The Park as provided in this Lease.
   vii. A final determination in a court of law in favor of the Landlord in litigation instituted by the Lessee against the Landlord or brought by the Landlord against Lessee.

B. Termination after seven (7) calendar days written notice by the Landlord by certified or registered mail to any known address of Lessee set forth in this Lease Agreement hereof for doing any of the following:
   i. Non-payment of any sum or sums due hereunder after the due date for such payments; provided, however, that such termination shall not be effective if Lessee makes the required payment(s) during the seven (7) calendar day period following mailing of the written notice. Additionally, the Landlord may sue for Guaranteed Monthly Rent and Percentage Fee for the unexpired term of this Lease Agreement.
   ii. Notice of any condition posing a threat to health or safety of the public or patrons and not remedied within the seven (7) calendar day period from receipt of written notice. Abandonment or discontinuation of the design phase for a period of more than ninety (90) days. Abandonment or discontinuation of work during the construction phase for a period of fourteen (14) days, subject to force majeure.

C. Termination after fourteen (14) days from receipt by Lessee of written notice by certified or registered mail to the address of the Lessee set forth in this Lease Agreement:
   i. Non-performance of any covenant of this Lease Agreement other than non-payment of rent or performance fees and others listed in A and B above, and failure of the Lessee to remedy such breach within the fourteen (14) calendar day period from receipt of the written notice.

D. Revenue Control and Audit Defaults: The inability or failure of the Lessee to provide the Landlord with an unqualified certified statement of Gross Sales, or to strictly adhere to the revenue control procedures established in this Lease Agreement shall constitute a non-curable default and in such event the Landlord shall have the right to terminate this Lease Agreement upon seven (7) calendar days written notice to the Lessee. In addition to termination for such default, the Landlord shall be entitled to collect damages in the full

amount of the payments of the security deposit required in this Lease Agreement.

E. Habitual Default: Notwithstanding the foregoing, in the event that the Lessee has repetitively defaulted or breached four (4) times within a 12 month period, in the performance of or breached any of the terms, covenants and conditions required herein to be kept and performed by the Lessee, regardless of whether the Lessee has cured each individual condition of breach or default as provided herein above, the Lessee may be determined by the Landlord to be an "habitual violator". At the time that such determination is made, Landlord shall issue to the Lessee a written notice advising of such determination and citing the circumstances therefore. Such notice shall also advise the Lessee that there shall be no further notice or grace periods to correct any subsequent breaches or defaults and that any subsequent breach(es) or default(s), of whatever nature, taken with all previous breaches and defaults, shall be considered cumulative and, collectively, shall constitute a condition of non-curable default and grounds for immediate termination of this Lease Agreement. In the event of any such subsequent breach or default, Landlord may cancel this Lease Agreement upon the giving of written notice of termination to the Lessee, such cancellation to be effective upon the tenth (10th) day following the date of receipt thereof and all payments due hereunder shall be payable to said date, and the Lessee shall have no further rights hereunder. Immediately upon receipt of said notice of termination, the Lessee shall discontinue its operations at the Restaurant, and proceed to remove all its personal property in accordance with this Lease Agreement.

In the event that the Landlord terminates this Lease Agreement by operation of any of the provisions as stated in this Lease Agreement, then in addition to other rights and remedies available to the Landlord under the law, the Landlord may accelerate the rental payments under this Lease Agreement, whereupon the entire balance owed by the Lessee under this Lease Agreement shall become immediately due and payable without further notice or demand.

68. Event of Default:

A. An Event of Default shall mean a breach of this Lease Agreement by the Lessee. Without limiting the generality of the foregoing and in addition to those instances referred to herein as a breach, an Event of Default, shall include the following:

i. the Lessee has not delivered Work on a timely basis;

ii. the Lessee has refused or failed, except in case for which an extension of time is provided, to supply enough properly skilled personnel to operate the Restaurant;

iii. the Lessee has failed to make prompt payment to subcontractors or suppliers for any Services;

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

v. the Lessee has failed to obtain the approval of the Landlord where required by this Lease Agreement;

vi. the Lessee has failed to provide "adequate assurances" as required under section "B" below;

vii. the Lessee has failed in the representation of any warranties stated herein.

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

i. treat such failure as a repudiation of this Lease Agreement;

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

C. In the event the Landlord shall terminate this Lease Agreement for default, the Landlord or its designated representatives, may immediately take possession of all applicable equipment, materials, products, documentation, reports and data.

69. **Notice of Default – Opportunity to Cure:** If an Event of Default occurs, in the determination of the Landlord, the Landlord may so notify the Lessee ("Default Notice"), specifying the basis for such default, and advising the Lessee that such default must be cured immediately or this Lease Agreement with the Landlord may be terminated as provided in Section 67 and 68 above. Notwithstanding, the Landlord may, in its sole discretion, allow the Lessee to rectify the default to the Landlord's reasonable satisfaction within a thirty (30) day period. The Landlord may grant an additional period of such duration as the Landlord shall deem appropriate without waiver of any of the Landlord's rights hereunder, so long as the Lessee has commenced curing such default and is effectuating a cure with diligence and continuity during such thirty (30) day period or any other period which the Landlord prescribes. The default notice shall specify the date the Lessee shall discontinue the Services upon the Termination Date.

70. **Remedies in the Event of Default:** If an Event of Default occurs, the Lessee shall be liable for all damages resulting from the default as well as subject to any equitable relief available to the Landlord, including but not limited to:

A. lost revenues;

B. the difference between the cost associated with procuring Services hereunder and the amount actually expended by the Landlord for reprocurement of Services, including procurement and administrative costs; and,

C. All costs associated with securing the facility, and any additional costs to secure the construction site and return the "Premises" to its original condition, at the sole discretion of the Landlord, if construction of the Restaurant has not been completed.

D. Such other direct damages.

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

71. Termination and Suspension of Work:

A. The Landlord may immediately terminate this Lease Agreement if an individual or corporation or other entity attempts to meet its contractual obligation with the Landlord through fraud, misrepresentation or material misstatement.

B. The Landlord may, as a further sanction, terminate or cancel any other contract(s) that such individual or corporation or other entity has with the Landlord 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 Landlord 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 Lessee 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 the event that the Landlord exercises its right to terminate this Lease Agreement pursuant to this Paragraph the Lessee will be compensated as stated in the payment Paragraphs, herein, for the:

i. portion of the Services completed in accordance with the Lease Agreement up to the Effective termination date; and

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

E. All compensation pursuant to this Paragraph is subject to audit.

Following the termination of this Lease Agreement the Lessee, within fifteen (15) calendar days, or earlier if determined by the Landlord, shall forthwith remove all of its personal property not acquired under the terms of this Lease Agreement. Any personal property of Lessee not removed in accordance with this paragraph may be removed by the Landlord for storage at the cost of the Lessee or shall constitute a gratuitous transfer of title thereof to the Landlord for whatever disposition is deemed to be in the best interests of the Landlord. The Landlord shall not be liable to Lessee for the safekeeping of Lessee's personal property during or after termination of this Lease Agreement. Subject to the other provisions in this Section, the Lessee shall not remove any of the Landlord's equipment, supplies, or fixtures from the Restaurant at any time without pre-approval in writing from the Landlord. Lessee shall be liable for any expenses incurred by the Landlord in prosecuting any action against Lessee following unapproved item removal described above. Lessee shall also be liable to the Landlord for any expenses incurred by the Landlord in replacing any items wrongfully removed by Lessee. It is the intention of the parties to this Lease Agreement that all furnishings and equipment purchased or leased by the Lessee except those permanently affixed to buildings, as defined under the laws of the State of Florida, shall be the personal property of the Lessee.

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

A. A breach by the Landlord of any of the terms, covenants or conditions contained in this Lease Agreement and the failure of the Landlord to remedy such breach for a period of ninety (90) calendar days after receipt of written notice sent by registered or certified mail, return receipt requested, from the Lessee, of the existence of such breach.

B. The assumption by the United States Government or any authorized agency thereof, or any other governmental agency, of the operation, control, or use of The Park, or any substantial part, or parts, thereof in such a manner as substantially to restrict Lessee's operations for a period of ninety (90) calendar days or more.

C. Lessee has found, within the forty-five (45) day period to conduct due diligence (including environmental and title review) and inspect the Premises to determine the suitability of the Premises for the construction and operation of the Restaurant (the "Due Diligence Period") has, at it's sole discretion, determined the Premises are not suitable for its use.

D. Notwithstanding anything contained in this Agreement to the contrary, if at the time that the Lessee:

1. Has completed and received approval on its Final Plans; and
2. Has obtained all required development approvals and permits necessary to commence construction of the Restaurant and other required improvements within Haulover Park; and
3. Is otherwise ready to commence construction on the Restaurant and other required improvements within Haulover Park, but for the existence of the lawsuit described below,

(such time being referred to herein as "Construction Ready"),

the Landlord has not received and provided to Lessee reasonable evidence and/or a final non-appealable order and/or judgment in all civil actions pending with the former tenant or its affiliates, where the prior tenant has waived, or lost by court order, any rights of injunctive relief and/or claims of possession of the Premises or Restaurant against Lessee or Landlord which could result in injunctive relief or possession of the Premises or Restaurant in favor of the prior tenant and/or damages against Lessee (the "Lawsuit Resolution"). In the event that Lessee elects to terminate this Agreement at the time it is Construction Ready, pursuant to this Subsection 72 D., Landlord agrees to compensate and reimburse Lessee for Actual Expenses incurred by Lessee as of the date of termination in developing the Restaurant and other contractually required improvements within Haulover Park, but in no event shall the Landlord be required to reimburse the Lessee an amount in excess of $150,000.00. For purposes of this Subsection 72 D., the term "Actual Expenses Incurred" shall mean only those expenditures incurred and paid for by Lessee after the Effective Date until the date of termination for the planning, design and permitting of the Restaurant and the other contractually required improvements within Haulover Park, and in no event shall any compensation or reimbursement include any costs incurred prior to the Effective Date, any consequential damages, and/or any claims for lost profits. Landlord shall pay the foregoing reimbursement to Lessee within forty-five (45) days of Landlord's receipt of reasonable evidence of the Actual Expenses Incurred. The obligation to make the foregoing payment shall survive a termination of this Agreement pursuant to this Subsection 72 D.

E. Rather than exercising its right of termination, Lessee shall have the right, but not the obligation, prior to such termination to meet with Landlord in order to discuss, negotiate and

document in writing signed by Landlord and Lessee further terms, conditions or protections that would address Lessee's concerns in electing to proceed with construction or to give Landlord additional time to resolve the litigation prior to Lessee's commencement of construction while still preserving the foregoing termination right. However, absent (i) such written agreement, or (ii) Lessee's termination of the Lease pursuant to this Subsection 72(D.), or (iii) the Lawsuit Resolution or (iv) Lessee's waiver of such termination right the Lease shall automatically terminate on the three hundred sixty-fifth (365th) day after the date Lessee is Construction Ready.

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

74. **Termination of Contract:** Following the termination of this Lease Agreement the Lessee, within fifteen (15) calendar days, or earlier if determined by the Landlord, shall forthwith remove all of its personal property not acquired under the terms of this Lease Agreement. Any personal property of Lessee not removed in accordance with this paragraph may be removed by the Landlord for storage at the cost of the Lessee or shall constitute a gratuitous transfer of title thereof to the Landlord for whatever disposition is deemed to be in the best interests of the County. The Landlord shall not be liable to Lessee for the safekeeping of Lessee's personal property during or after termination of this Lease Agreement. The Landlord shall have the senior interest in the Lessee's personal property. Lessee shall not remove any equipment, supplies in bulk, or fixtures within the Restaurant at any time without pre-approval in writing from the Landlord. Lessee shall be liable to the Landlord for the fair market value of any equipment, supplies in bulk, or fixtures removed without Landlord pre-approved written permission. Lessee shall also be liable for any expenses incurred by the Landlord in prosecuting any action against Lessee following unapproved item removal described above. Lessee shall also be liable to the Landlord for any expenses incurred by the Landlord in replacing any items wrongfully removed by Lessee. It is the intention of the parties to this Lease Agreement that all furnishings and equipment purchased or leased by the Lessee except those permanently affixed to buildings, as defined under the laws of the State of Florida, shall be the personal property of the Lessee. Upon the termination of this Lease Agreement and the removal of all personal property by Lessee, the Lessee shall deliver said premises to the Landlord in the condition set forth in this Paragraph. The Landlord reserves the right to avail itself of all remedies and procedures contained in Chapter 83 of the Florida Statutes regarding County/Tenant provisions for eviction and Chapter 51 of Florida Statutes regarding summary proceeding.

75. **Holding Over:** If Lessee continues to use and operate the Restaurant after the expiration of the term of this Lease Agreement, or any option period, without a new Lease Agreement reduced to writing and duly executed and delivered (even if Lessee shall have paid, and Landlord shall have accepted, payment in respect to such unauthorized operations), Lessee shall be deemed to be operating and using the Restaurant only from month-to-month, subject to all covenants, conditions, and agreements of this Lease Agreement. If Lessee fails to

surrender the Restaurant upon the termination of this Lease Agreement, then Lessee, in addition to any liabilities to Landlord accruing there from, shall indemnify and hold harmless the Landlord and its assigns and agents from loss or liability resulting from such failure, including, without limiting the generality of the foregoing, any claims made by any succeeding Lessee on such failure.

76. **Mechanics', Materialmen's and Other Lien:** Lessee agrees that it will not permit any mechanic's, materialmen's or other liens to stand against the Restaurant for work or materials furnished to Lessee; it being provided, however, that Lessee shall have the right to contest the validity thereof. Lessee shall immediately pay any judgment or decree rendered against Lessee, with all proper costs and charges, and shall cause any such lien to be released off record without cost to County.

77. **Lien:** The Landlord shall have a lien upon all personal property of the Lessee on the Restaurant to secure the payment to the Landlord of any unpaid money accruing to the Landlord under the terms of this Lease Agreement.

78. **Limiting Legislative or Judicial Action:** In the event that any municipal, county, state, or federal body of competent jurisdiction passes any law, ordinance, or regulation in any way restricting or prohibiting the use of The Park for the purposes of this Lease Agreement, this Lease Agreement will be null and void and unenforceable by any party to this Lease Agreement and the Landlord shall have no further liability under this Lease Agreement. In the event that a referendum vote of the electorate of the Landlord in any way restricts or prohibits the use of the Restaurant for the purposes of this Lease Agreement, this Lease Agreement will be null and void and unenforceable by any party to this Lease Agreement and the Landlord shall have no further liability under this Lease Agreement. If the Landlord deems the Lease Agreement null and void by function of this Paragraph, the Landlord will not be liable to the Lessee for damages arising there from and the Landlord shall have no further liability under this Lease Agreement.

79. **Non-Discrimination:** Lessee does hereby for itself, its personal representatives, successors in interest, and assigns, as part of the consideration hereof, covenant and agree that:

A. No person on the ground of race, color, religion, national origin, sex, sexual orientation, age, residency within or outside Miami-Dade County, or handicap shall be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination in the use of said Restaurant, except as provided by law.

B. In the construction of any improvements on, over, or under such land and the furnishings of services thereon, no person on the ground of race, color, religion, national origin, sex, sexual orientation, age, residency within or outside Miami-Dade County, or handicap shall be excluded from participation in, be denied the benefits of, or otherwise be subjected to discrimination, except as provided by law.

C. The Lessee shall use the premises in compliance with all other requirements imposed by or pursuant to Title 45, Code of Federal Regulations, Article 80, Non-discrimination under programs receiving Federal Assistance through the County of Health, Education and Welfare - Effectuation of Title VI of the Civil Rights Act of 1964, and as said Regulations may be amended.

D. In the event of breach of any of the above non-discrimination covenants, the Landlord

shall have the right to terminate the Lease Agreement and re-enter and repossess said Restaurant thereon and hold the same as if said Lease Agreement had never been made or issued. This provision shall not be effective, where applicable, until the procedures of Title 45, Code of Federal Regulations, Part 80, are followed and completed including exercise or expiration of appellate rights.

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

80. Conflict of Interest: The Lessee represents that:

A. No officer, director, employee, agent, or other consultant of the Landlord 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 grant of this Lease Agreement.

B. There are no undisclosed persons or entities interested with the Lessee in this Lease Agreement. This Lease Agreement is entered into by the Lessee 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 Landlord, 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 Lessee directly or indirectly in any manner whatsoever in the execution or the performance of this Lease Agreement, or in the services, supplies or work, to which this Lease Agreement relates or in any portion of the revenues; or

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

C. Neither the Lessee nor any officer, director, employee, agency, parent, subsidiary, or affiliate of the Lessee shall have an interest which is in conflict with the Lessee's faithful performance of its obligation under this Lease Agreement; provided that the Landlord, in its sole discretion, may consent in writing to such a relationship, provided the Lessee provides the Landlord 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 Landlord's best interest to consent to such relationship.

D. The provisions of this Paragraph 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 Lease Agreement and those provided by statute, the stricter standard shall apply.

E. In the event Lessee 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, Lessee shall promptly bring such information to the attention of the Landlord's Project Manager. Lessee shall thereafter cooperate with the Landlord's review and investigation of such information, and comply with the instructions Lessee receives from the

Landlord's Project Manager in regard to remedying the situation.

81. **Press Release or Other Public Information:** Under no circumstances shall the Lessee without the express written consent of the Landlord:

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

B. Except as may be required by law, the Lessee and its employees, agents, subcontractors and suppliers will not represent, directly or indirectly, that any product or service provided by the Lessee or such parties has been approved or endorsed by the Landlord.

82. **No Waiver of Right to Enforce:** The waiver by Landlord of any breach of any term, covenant, or condition herein contained shall not be deemed to be a waiver of such term, covenant, or any subsequent breach of the same or any other term, covenant, or condition herein contained. The subsequent acceptance of Guaranteed Monthly Rent and Percentage Fee hereunder by Landlord shall not be deemed to be a waiver of any preceding breach by Lessee of any term, covenant, or condition of this Lease Agreement, other than the failure of Lessee to pay the particular Guaranteed Monthly Rent and Percentage Fee so accepted, regardless of Landlord's knowledge of such preceding breach at the time of acceptance of such Guaranteed Monthly Rent and Percentage Fee.

83. **Rules and Regulations:** The Lessee will observe, obey, and comply with all rules and regulations reasonably adopted by the Landlord provided the same do not unreasonably conflict with the rights and benefits of Lessee otherwise set forth in this Lease. The Lessee will also observe, obey, and comply with all laws, ordinances and/or rules and regulations of other governmental units and agencies having lawful jurisdiction, which may be applicable to Lessee's operations under this Lease Agreement. Failure to do so will constitute a breach of the Lease Agreement.

84. **Bankruptcy:** The Landlord reserves the right to terminate this Lease Agreement, if, during the term of any contract the Lessee has with the Landlord, the Lessee 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 Lessee under federal bankruptcy law or any state insolvency law.

85. **Authority Of The Landlord's Project Manager:**

A. The Lessee hereby acknowledges that the Landlord's Project Manager will determine in the first instance all questions of any nature whatsoever arising out of, under, or in connection with, or in any way related to or on account of, this Lease 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 Lease Agreement; negligence, fraud or misrepresentation before or subsequent to acceptance of the Lessee's Proposal; questions as to the interpretation of the Scope of Services; and claims for damages, compensation and losses.

B. The Lessee shall be bound by all determinations or orders and shall promptly obey and follow every order of the Landlord's Project Manager, including the withdrawal or modification of any previous order and regardless of whether the Lessee agrees with the Landlord's

Project Manager's determination or order. Where orders are given orally, they will be issued in writing by the Landlord's Project Manager as soon thereafter as is practicable.

C. The Lessee must, in the final instance, seek to resolve every difference concerning the Lease Agreement with the Landlord's Project Manager. In the event that the Lessee and the Landlord's Project Manager are unable to resolve their difference, the Lessee may initiate a dispute in accordance with the procedures set forth in this Paragraph. 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 Lease Agreement authorize the County Mayor or designee, who may not be the Landlord's Project Manager or anyone associated with this project, acting personally, to decide all questions arising out of, under, or in connection with, or in any way related to or on account of the Lease Agreement (including but not limited to claims in the nature of breach of the Lease Agreement, fraud or misrepresentation arising either before or subsequent to execution hereof) and the decision of each with respect to matters within the Manager'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 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 Lessee's performance or any Deliverable meets the requirements of this Lease 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 Lease Agreement. All such disputes shall be submitted in writing by the Lessee 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 Paragraph, 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 Lessee. Except as such remedies may be limited or waived elsewhere in the Lease Agreement, Lessee reserves the right to pursue any remedies available under law after exhausting the provisions of this Paragraph.

86. Mutual Obligations:

A. Nothing in this Lease 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.

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

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

reserved to the Landlord.

88. **Waiver:** Invalidation of any portion of this Agreement shall not automatically invalidate the entire Agreement.

89. **No Partnership or Agency**: The County and the Lessee are independent entities and the officers, employees, and agents of one are not, and shall not represent themselves to be, officers, employees, or agents of the other. This Lease Agreement does not constitute and shall not be represented to constitute a partnership between the Landlord and the Lessee.

90. **Choice of Venue and Law** : Any litigation between the Landlord and the Lessee relating in any way to this Lease Agreement shall be brought and presented exclusively in a Court located in Miami-Dade County, Florida, and governed by the laws of Florida.

91. **Audits**: Pursuant to County Ordinance No. 03-2, the Lessee 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 Lessee 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.

92. **Local, State and Federal Compliance Requirements:**
Lessee agrees to comply, subject to applicable professional standards, with the provisions of any and all applicable Federal, State and County orders, statutes, ordinances, rules and regulations which may pertain to the Services required under this Lease 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, Internal Services Department, Participation Provisions, as applicable to this Contract.

C. Environmental Protection Agency (EPA), as applicable to this Contract.

D. Miami-Dade County Code, Chapter 11A, Article 3. All Lessees and subcontractors performing work in connection with this Lease Agreement shall provide equal opportunity for employment regardless of race, religion, color, age, sex, national origin, sexual preference, disability or marital status. The aforesaid provision shall include, but not be limited to, the following: employment, upgrading, demotion or transfer, recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. The Lessee agrees to post in conspicuous place available for employees and applicants for employment, such notices as may be required by the Dade County Fair Housing and Employment Commission, or other authority having jurisdiction over the work setting forth the provisions of the nondiscrimination law.

E. "Conflicts of Interest" Section 2-11 of the County Code, and Ordinance 01-199.

F. Miami-Dade County Code Section 10-38 "Debarment".

G. 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.

H. Miami-Dade County Ordinance 99-152, prohibiting the presentation, maintenance, or prosecution of false or fraudulent claims against Miami-Dade County.

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

93. Inspector General Reviews:

Independent Private Sector Inspector General Reviews

Pursuant to Miami-Dade County Administrative Order 3-20, the Landlord 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 Landlord, the Lessee shall make available to the IPSIG retained by the County, all requested records and documentation pertaining to this Lease Agreement for inspection and reproduction. The Landlord shall be responsible for the payment of these IPSIG services, and under no circumstance shall the Lessee's prices and any changes thereto approved by the Landlord, be inclusive of any charges relating to these IPSIG services. The terms of this provision herein, apply to the Lessee, its officers, agents, employees, sub Lessees and assignees. Nothing contained in this provision shall impair any independent right of the Landlord to conduct an audit or investigate the operations, activities and performance of the Lessee in connection with this Lease Agreement. The terms of this Paragraph shall not impose any liability on the Landlord by the Lessee or any third party.

Miami-Dade County Inspector General Review

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 provided below. 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 Lessee. 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 3-2; (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 is empowered to retain the services of independent private sector inspectors general (IPSIG) 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 Lessee, 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 Lessee from the Inspector General or IPSIG retained by the Inspector General, the Lessee 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 Lessee'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.

94. Vendor Registration and Forms/Conflict of Interest:

A. 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 Ethic 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.

B. Vendor Registration

The Lessee shall be a registered vendor with the County –Internal Services Department, for the duration of this Agreement. In becoming a Registered Vendor with Miami-Dade County, Lessee 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)
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 Miami-Dade Employment Drug-free Workplace Certification** (Section 2-8.1.2(b) of the County Code)
4. **Miami-Dade Disability and Non-Discrimination Affidavit, 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, 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, Miami-Dade County Code of Business Ethics Affidavit** (Section 2-8.1(i) 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** (Ordinance 97-35)
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

95. **Survival:** The parties acknowledge that any of the obligations in this Lease Agreement will survive the term, termination and cancellation hereof. Accordingly, the respective obligations of the Lessee and the Landlord under this Lease Agreement, which by nature would continue beyond the termination, cancellation or expiration thereof, shall survive termination, cancellation or expiration hereof.

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

Lessee	Landlord
FLORIDA SE, INC., a Florida corporation	Miami-Dade County
By: _____	By: _____
Name: Suk Singh	Name: Carlos Gimenez
Title: Senior Vice President	Title: Mayor
Date: October 1, 2012	Date: 12/19/12
Attest: _____	Attest: _____
Corporate Secretary/Notary Public	Clerk of the Board
Corporate Seal/Notary Seal	_____
	Approved by County Attorney as to form and legal sufficiency

Appendix A
Scope of Services

2.1 Introduction

The Lessee shall design, construct and operate a Restaurant at Bill Bird Marina ("Marina") within Haulover Park. The Restaurant will 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 as set forth on the "Conceptual Plans" (as defined herein below) attached to the Lease Agreement as Exhibit E. The Lessee shall also design and construct a Public Restroom in the location shown on the Site Plan attached to this Lease and as generally depicted on the Conceptual Plans, which, after completion, will be maintained by the County.

2.2 Site Description

The Premises is delineated in Exhibit B and legally described on Exhibit C. The Premises is provided in as-is condition. The area allocated for development of the Restaurant is adjacent to the Bill Bird Marina Dock. The Lessee shall avoid any harmful impacts to the dock area. Any damage to the Bill Bird Marina Dock caused by the construction or operation of the Restaurant or by Lessee or any of its agents, employees, officers, or invitees during the term of this Lease Agreement shall be the responsibility of the Lessee.

Though the County will maintain ownership of the land, retain an interest in the Restaurant and its operations, as well as derive financial remuneration from this project, the Restaurant will be privately owned and managed. The County grants Lessee a license for the use of parking spaces by Restaurant patrons and employees, which spaces, some for the exclusive use of Lessee, its guests and employees, and some for the non-exclusive use of Lessee, its guests and employees, are all as more particularly set forth below:

i. Valet and Employee Parking Area shown on Exhibit B attached to this Lease and consisting of 108 parking spaces is licensed by the County to Lessee for the exclusive use of Lessee for its employee and valet parking (the "Valet Spaces") during Lessee's operating hours and may be coned off during hours of restaurant operation or through other means to limit access except for Lessee's valet and employees at no cost (except as may be determined by Lessee) and shall not be subject to any paid parking as may be implemented in the Park; and

ii. Non-exclusive parking on a non-exclusive basis, to be used for parking by Lessee, its guests and invitees at all times in the non-exclusive parking areas shown on Exhibit B (the "Non-Exclusive Spaces", the Valet Spaces and the Non-Exclusive Spaces being sometimes referred to within the Lease Agreement and all the exhibits and attachments thereto as the "Lessee Parking Areas"). In the event Landlord or the County implements any type of paid parking within the Non-Exclusive Spaces, Landlord agrees such paid parking shall cease after 5:00p.m. each day and shall provide signage that indicates the same.

The license granted herein is non-revocable by the County during the term of this Lease and any options to renew to the extent exercised by Tenant.

Specifics to the site description:

a) Demised Area. The square footage of the restaurant building to be constructed on the Premises shall not exceed 11,900 square feet and is referred to herein as the Restaurant Area. The Restaurant Area is to be used solely for the purpose of providing food service to Park patrons. The Premises shall be used to construct a Seasons 52 restaurant, inclusive of additional landscaping, buffer and back of house spaces immediately in support of this foodservice function, as is illustrated in the Site Plan (Exhibit B) and described in the Legal Description (Exhibit C).

b) Non-Demised Area

1) Restroom. Lessee is to construct at its sole cost a 700 SF public restroom building on land immediately adjacent to the Demised Area as illustrated in Exhibit B. The restroom is for the benefit of Park patrons and is unrelated to any restroom facilities provided to Restaurant patrons that is provided within the interior of the Restaurant. The Lessee will adapt a prototype design provided by the Department, all as further set forth in the Conceptual Plans attached to this Lease as Exhibit E.

2) Parking Area. In support of the Restaurant, the Lessee shall have the use of the Lessee Parking Areas as described in this Section 2.2. The Lessee may make parking improvements to this area that does not adversely impact Landlord operations, all at the prior written approval of the Landlord and at the sole expense of the Lessee.

3) Promenade. The Promenade Area is that 22 foot wide concrete paved walking area immediately between the Demised Area and the seawall. The Lessee shall have non-exclusive use of the promenade for its patrons, but shall not use or extend foodservice operations into the Promenade.

2.3 Qualifications

The Lessee and/or its subcontractors (as applicable) should have knowledge and experience in all phases of the design, permitting, construction, restaurant operation and adequate financial strength in the construction and operation of a restaurant preferably located on coastal property in a highly visible location. The Lessee is solely responsible for all costs and work associated with the development, design and construction of the Restaurant and all other required improvements as set forth in the Lease Agreement.

2.4 Design

1. The Restaurant and Public Restroom design shall be consistent with all the design parameters and building requirements in the Haulover Park Design Guidelines (HPDG) (the HPDG is part of the original solicitation which is incorporated to this Agreement). The Lessee shall abide by the restrictions contained in the HPDG which include, but are not limited to:

The Restaurant shall incorporate the Streamline Modern Florida architecture style of the 1930's and be designed to maintain the essence of the unique South Florida character and reminiscent of the Art Deco era. The Restaurant shall

have a total area (Exhibit B, Restaurant Area Map) not exceeding 11,900 square feet:

The Lessee shall:

a. Design and develop an outdoor waterside restaurant of not to exceed 11,900 square feet for restaurant patrons that comply with all applicable building codes.
b. Ensure the Restaurant and the public restroom is fully compliant with all applicable laws, including but not limited to, Florida Building Code Chapter 11 ADA and with Miami-Dade County Implementing Order 8-8 Sustainable Buildings Program.
c. Design and develop the Public Restroom south of the Restaurant pursuant to Exhibit B.
d. Develop that portion of the existing twenty-two feet (22') wide public walkway which runs the entire length of the seawall area adjacent to the Restaurant site in accordance with the County's design plans for the Promenade in the Park, but only for that portion which is contiguous to the Premises. The walkway and all Restaurant dockside areas shall meet all compliance regulations as described in Phase I.

2. The Lessee shall incorporate into the Restaurant and Public Restroom design features of the Leadership in Energy and Environmental Design for New Construction, minimum LEED Silver, (LEED-NC) Green Building Rating System, but shall not be required to seek or obtain LEED certification.

3. The Lessee shall develop site plans, floor plans and elevations of the Restaurant and Public Restroom for Department approval, pursuant to the Development Rider (Exhibit F).

2.5 Construction and Facility Improvements

As part of ongoing redevelopment of the Marina, the County has demolished the existing restaurant and adjacent public restroom facility. A new Restaurant and public restroom facility shall be constructed by the Lessee. The site is provided in as-is condition.

Restaurant and Public Restroom

1. The Lessee shall perform all facility construction and improvements in compliance with all applicable building codes, the Haulover Park Design Guidelines ("HPDG"), and with all necessary permits and approvals. Department approval of the design and plans must be obtained prior to submission to the Building Department and pursuant to the Development Rider (Exhibit F).
2. The Lessee has developed a comprehensive timeline for the start-up of the Restaurant and Public Restroom, the timeline shall include the design and construction phases schedule (Exhibit I) for the Restaurant and Public Restroom. The design, development and construction of the Restaurant and Public Restroom shall be completed, and the Date of Beneficial Occupancy shall be attained by the Lessee, before the end of the third Lease Agreement Year. The Lessee has developed a cost estimate of the construction of the Restaurant and Public Restroom, including the required furnishings, fixtures and applicable equipment (Exhibit H).
3. The Lessee shall bear all costs associated with all improvements and installations of the Restaurant and all such improvements and installations shall become the property

of the County at the termination of the Lease.

4. The Lessee shall complete the construction and begin full operation not later than 365 days after obtaining all required permits. In the case that delays are beyond the control of the Lessee, the County may, at its sole discretion, grant a written extension.
5. The Lessee shall provide landscaping in accordance with the HPDG that enhances the aesthetic beauty and coexists with the natural flora of the Park. The maintenance of all landscaping within the boundaries of the Premises shall be the responsibility of the Lessee.

2.6 Operation Services – Restaurant

The Lessee shall operate the Restaurant in a manner associated with high quality foodservice standards. The Lessee shall provide the following services.

1. The Lessee will have utilization of the Restaurant Premises. The Lessee shall secure the Restaurant and provide twenty-four (24) hour protection service. The County will not be responsible for the loss or damage of the Lessee's equipment or supplies.
2. The Restaurant shall have a family atmosphere which may include live entertainment. Sound levels shall be kept at levels so as not to disturb to the surrounding businesses and neighbors. At no time may the Restaurant be operated as a nightclub and all outside music must cease by 11:00 PM. The County in its sole and absolute discretion shall determine whether the Restaurant is being used as a nightclub.
3. The Lessee shall promote the Restaurant through marketing. The Department will not permit the utilization of outside surfaces for the purpose of commercial advertising (other than building and free-standing signage otherwise provided in the Lease Agreement and attachments thereto) unless otherwise deemed appropriate by the Department and in all events must be compliant with Article 7 of the Home Rule Charter.
4. The Lessee and its staff shall during their work hours be distinctively uniformed so as to be distinguishable as the Lessee's staff and not as employees of the County.
5. The Lessee shall take good care of Restaurant and shall use the same in a careful manner and shall, at its own cost and expense, repair County property or facilities damaged by its operations.
6. The seawall, adjacent sidewalk and dock shall be the responsibility of the Landlord. Between the hours of 11 pm and 7 am, the County reserves the right to rent the dock and associated pilings for transient boaters. The twenty-two foot (22') walkway (sidewalk) shall be maintained in such a way as to allow public access for all, at all times.
7. The Landlord shall maintain all Lessee Parking Areas including providing for lighting at least two (2) hours past Lessee's close of business each day.
8. The Landlord reserves the right to schedule special Department marina events at its discretion, and use other firms to provide catering and/or special event services outside of the boundaries of the Premises. The Department will use reasonable efforts to notify the Lessee as early as possible of these special events, but in no event later than two weeks prior to the special event.
9. At a minimum, foodservice shall be provided during the hours set forth in the Lease Agreement, to include at a minimum coffee/tea/juice service during breakfast hours on weekends and lunch and dinner type service, with alcoholic beverage service seven days a week. The Lessee shall provide any and all licenses associated with operating the Restaurant.
10. The Lessee may not infringe on the rights to sales by other vendors within the Park and Marina.

11. The Lessee shall maintain all foodservice facilities and equipment in a safe and careful manner as outlined in the Minimum Operating Standards for Foodservice originally submitted and incorporated herein with the RFP 763 solicitation.
12. The Lessee shall provide high-quality, prompt and efficient service, adequate to meet all reasonable demands, including establishing minimum schedule and hours of operation as provided in the Lease Agreement.
13. The Lessee shall provide an operation that will be safe, customer oriented with prompt service. The Lessee shall develop a complaint resolution procedure, for restaurant patrons which shall include effective employee performance with a timely and efficient training process.
14. The Lessee shall have access to parking spaces as provided hereinabove.
15. The Lessee 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".

EXHIBIT A

Baker's Haulover Inlet, Park and Marina

Owned by: Miami-Dade County, Florida, a Political Subdivision of the State of Florida.

Folio Nos.: 30-2214-008-0010 and 30-2226-000-0010

Area: 246 ± acres

Legal Description:

The un-numbered Lot lying South of Lot 4; Lots 4 through 75 inclusive; the filled lands lying between the Western limits thereof and the Eastern limits of the submerged lands described in Exhibit "A" in a deed dated 10/28/1998, recorded 3/29/1999, in Official Record Book 18537 at Page 3611, Public Records of Miami-Dade County, Florida; Ocean Drive and Bay Drive; of TATUM'S OCEAN BEACH PARK, according to the plat thereof as recorded in Plat Book 5 at Page 35, of the Public Records of Miami-Dade County, Florida; all of the uplands and submerged lands of Government Lot 1 in Section 26, Township 52 South, Range 42 East, Miami-Dade County, Florida, lying between Biscayne Bay and the Atlantic Ocean, lying North of a line which is 750.00 feet South of the South Line of the aforesaid Lot 4, as same is described in Deeds recorded in Deed Book 1453 Pages 5 and 7, Public Records of Miami-Dade County, Florida; And including, the submerged lands described in said Exhibit "A" in said deed recorded in Official Record Book 18537 at Page 3611, of the Public Records of Miami-Dade County, Florida;

Less the State of Florida Department of Transportation Right-of-Way for State Road A-1-A, according to Plat Book 76 at Page 25 of the Public Records of Miami-Dade County, Florida;

Further, less the uplands and submerged lands conveyed to the United States of America in Official Record Book 3587 at Page 755, of the Public Records of Miami-Dade County, Florida.

Title for Baker's Haulover Inlet, Park and Marina is from the Following Deeds, Final Judgments, Certificates of Payment and other recorded documents copies of which are attached to this Exhibit A

Lot 4, and the un-numbered Lot South of Lot 4, TATUM'S OCEAN BEACH PARK, P.B. 5 Pg. 35 and the North 250.00 feet of Government Lot 1, Section 26-52-42, D.B. 2404-0420, and D.B. 2400-537.
Lot 5, D.B. 2336-0116, 0119.
Lot 6, D.B. 2231-0115.
Lot 7, D.B. 2208-0267.
Lot 8, D.B. 2189-0176, and D.B. 2188-514.
Lot 9, D.B. 2189-0176, and D.B. 2188-514.
Lot 10, D.B. 2205-0032, and D.B. 2204-073.
Lot 11, D.B. 1669-0512,0514.
Lot 12, D.B. 2176-0001.
Lot 13, D.B. 2176-0001.
Lot 14, D.B. 2189-0173, and D.B. 2188-515.
Lot 15, D.B. 2189-0173, and D.B. 2188-515.
Lot 16, D.B. 2221-0019.
Lot 17, D.B. 2221-0017.
Lot 18, D.B. 2235-0121.
Lot 19, D.B. 2226-0149.
Lot 20, D.B. 1627-0086.
Lot 21, D.B. 1627-0086.
Lot 22, D.B. 2035-0414.
Lot 23, D.B. 2035-0414.
Lot 24, D.B. 2130-0230.
Lot 25, D.B. 2205-0032, and D.B. 2204-0073.
Lot 26, D.B. 1758-0098.
Lot 27, D.B. 2205-0278.
Lot 28, D.B. 2205-0278.
Lot 29, D.B. 2198-0492.
Lot 30, D.B. 2218-0130.
Lot 31, D.B. 2201-0272.
Lot 32, D.B. 2201-0272.
Lot 33, D.B. 2044-0389.
Lot 34, D.B. 2044-0389.
Lot 35, D.B. 1689-0401.
Lot 36, D.B. 1689-0401.
Lot 37, D.B. 2161-0082.
Lot 38, D.B. 2211-0013.
Lot 39, D.B. 2186-0050.
Lot 40, D.B. 2186-0050.
Lot 41, D.B. 1856-0284.
Lot 42, D.B. 2218-0127.
Lot 43, D.B. 2208-0468.
Lot 44, D.B. 1945-0295.
Lot 45, D.B. 2021-0001.
Lot 46, D.B. 2235-0119.
Lot 47, D.B. 2201-0270.
Lot 48, D.B. 2205-0032, and D.B. 2204-0073.
Lot 49, D.B. 2218-0124.
Lot 50, D.B. 1921-0076.
Lot 51, D.B. 2040-0094.
Lot 52, D.B. 2217-0338, 0340.

Lot 53, D.B. 2217-0336, 0342.
Lot 54, D.B. 2208-0043.
Lot 55, D.B. 2208-0050.
Lot 56, D.B. 2208-0053.
Lot 57, D.B. 2208-0053.
Lot 58, D.B. 2202-0172 and D.B. 2204-0074.
Lot 59, D.B. 2230-0542, 0545.
Lot 60, D.B. 2231-0136.
Lot 61, D.B. 2224-0044.
Lot 62, D.B. 1616-0301.
Lot 63, D.B. 2221-0014.
Lot 64, D.B. 2208-0047.
Lot 65, D.B. 2221-0124.
Lot 66, D.B. 2130-0232.
Lot 67, D.B. 1945-0295.
Lot 68, D.B. 1616-0301.
Lot 69, D.B. 1925-0207.
Lot 70, D.B. 2201-0126.
Lot 71, D.B. 2208-0327.
Lot 72, D.B. 1965-0507.
Lot 73, D.B. 2208-0267.
Lot 74, D.B. 2208-0043,0053.
Lot 75, D.B. 1925-0348.

Baker's Haulover Cut

1. D.B. 1453-5 (Now Submerged)
2. D.B. 1453-7 (Now Mostly Submerged)

Bay Drive:

D.B. 2167-407

Ocean Drive:

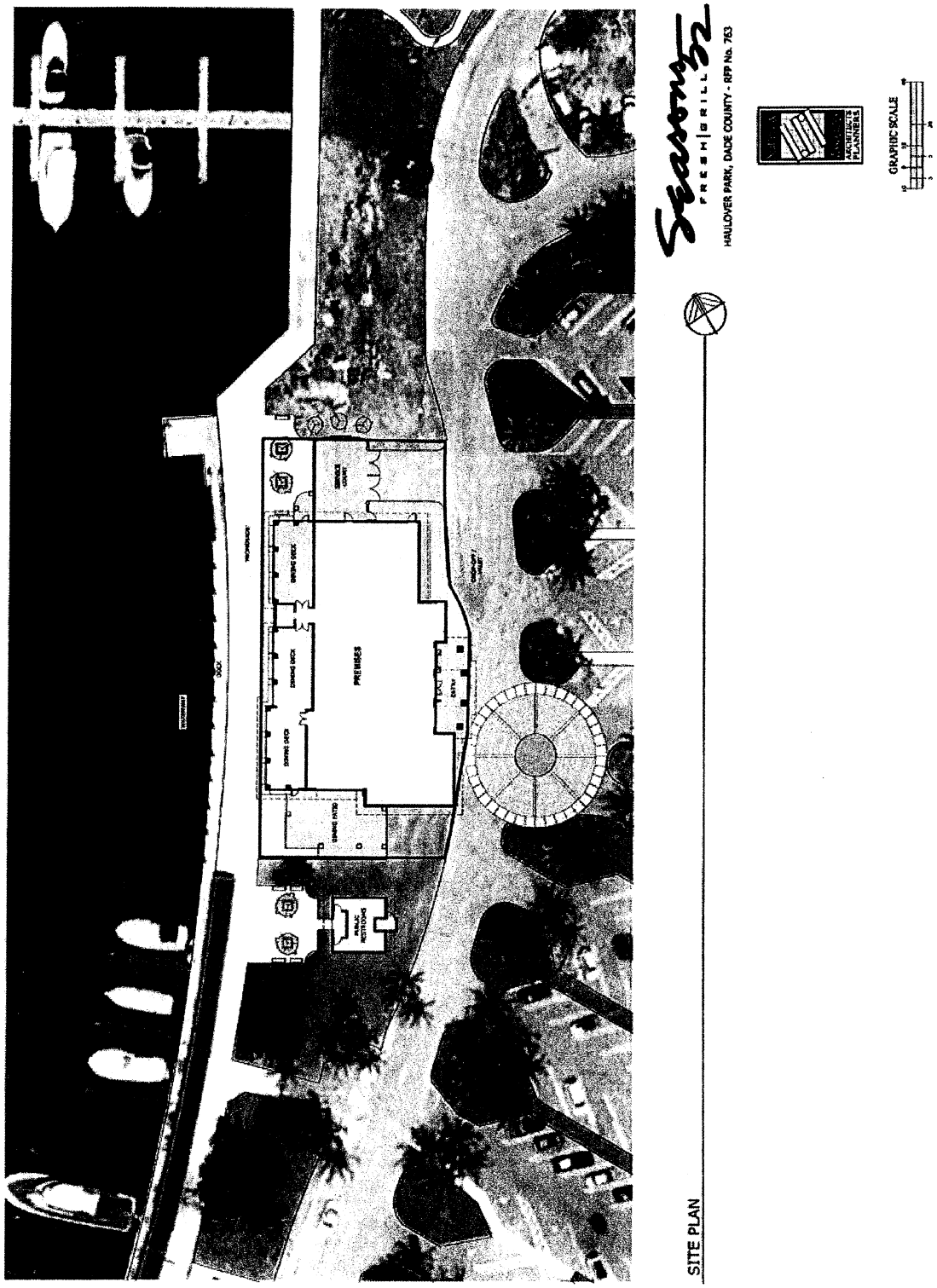
D.B. 3001-0251

Submerged Lands East of Intracoastal Waterway and West of Seawall:
O.R.B. 18537-3611

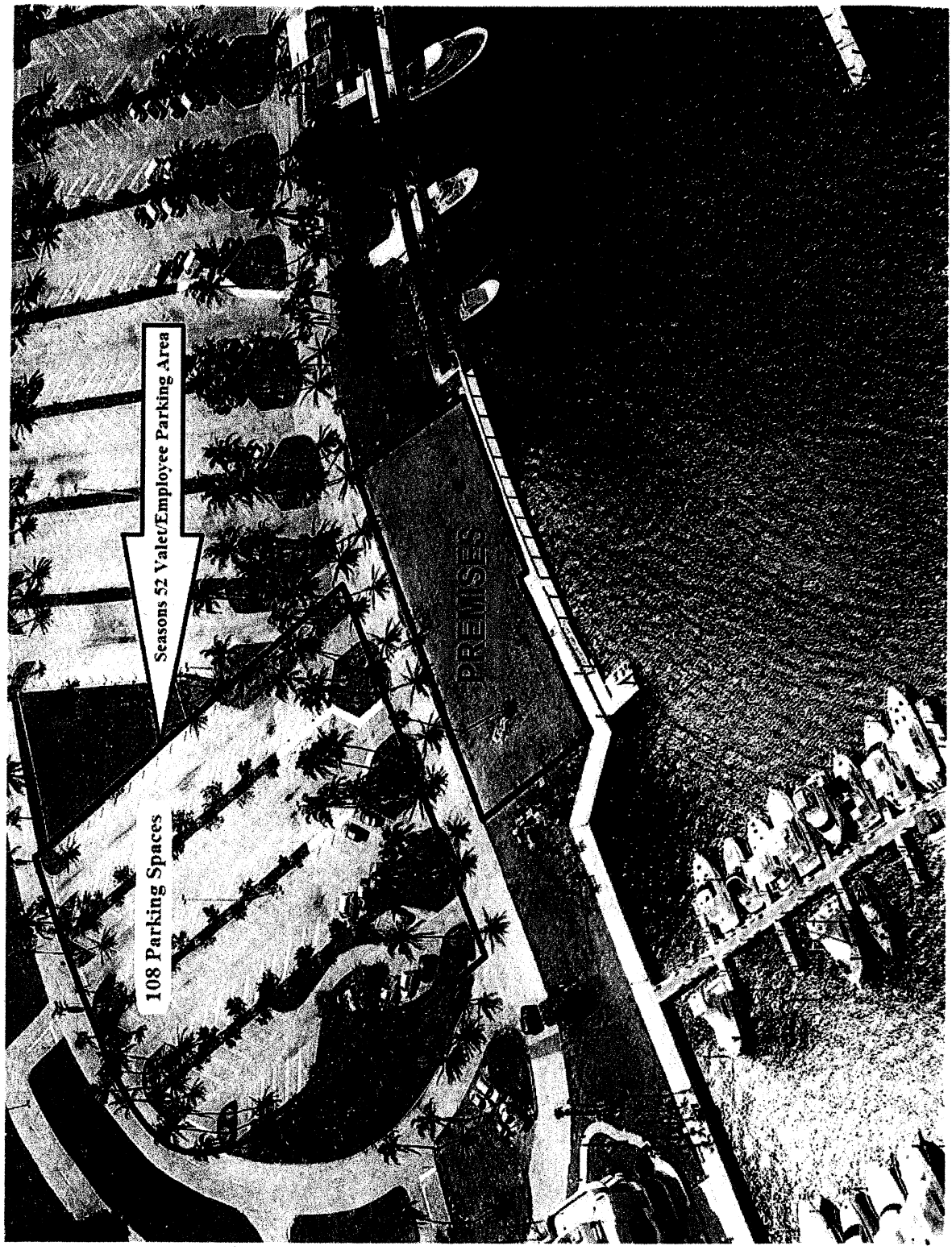
A Deed as to the whole park north of Lot 4

D.B. 2896-0022

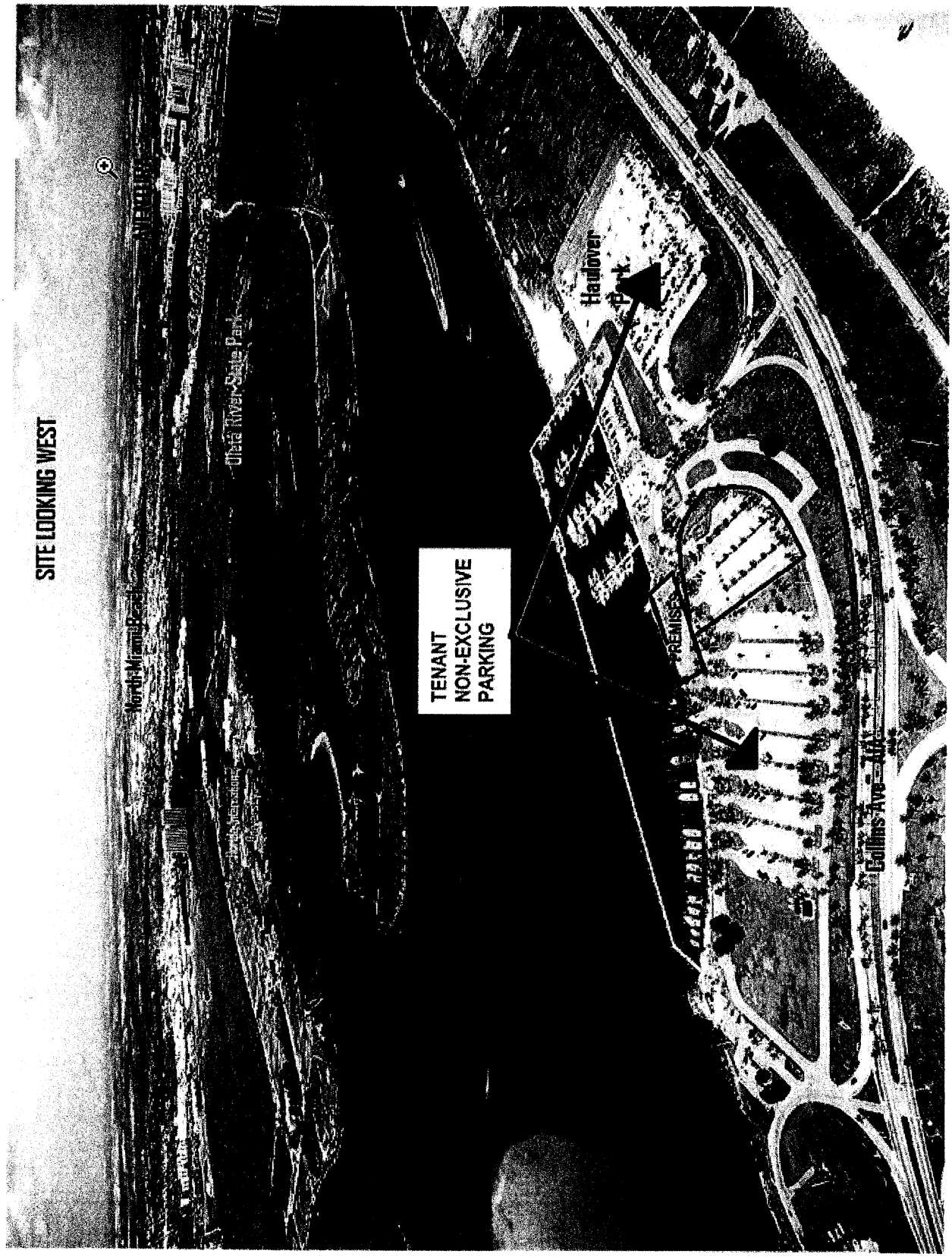
EXHIBIT B
SITE PLAN
(see attached pages)



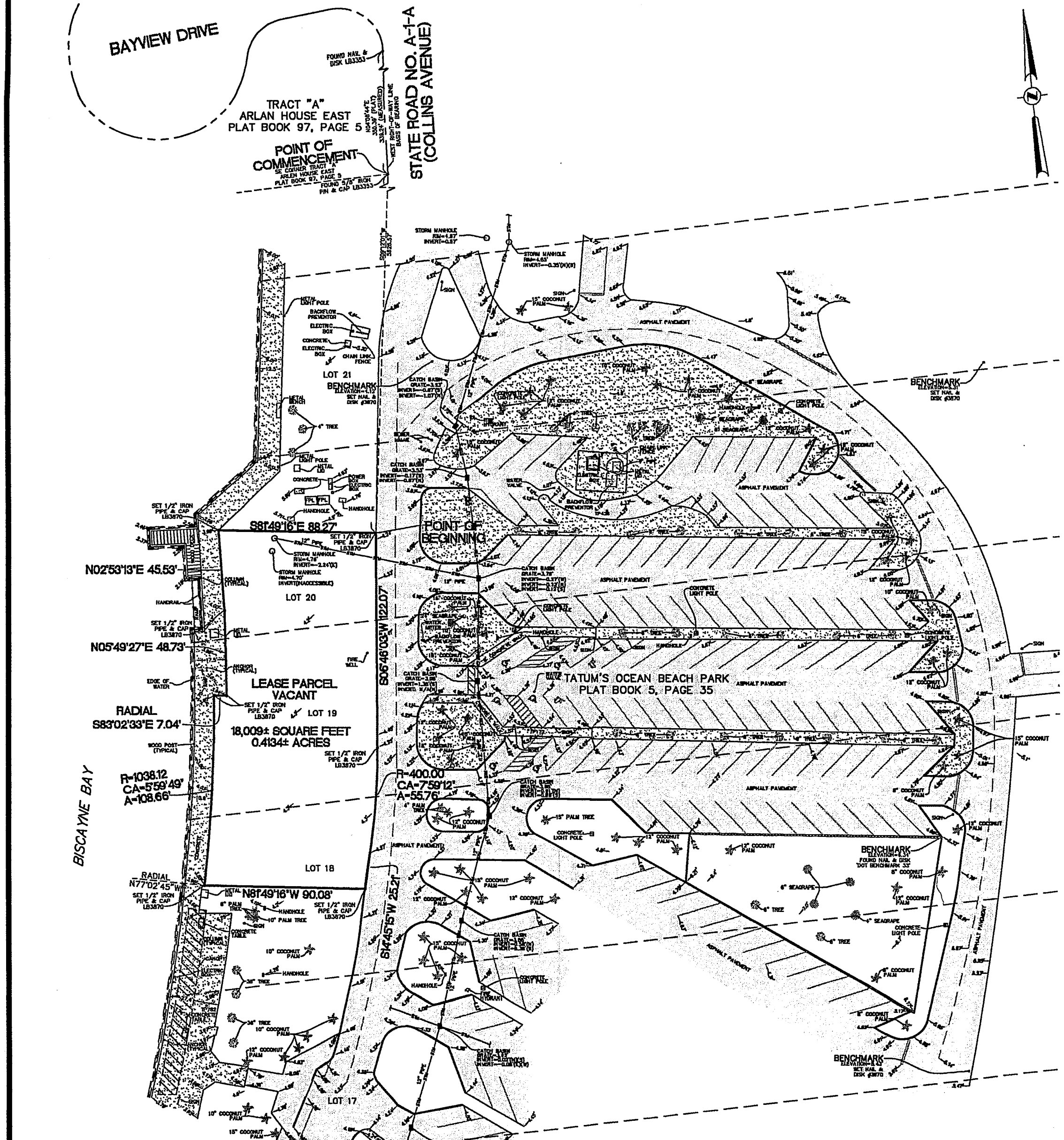
SITE PLAN (cont.)

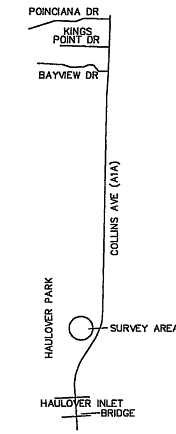


SITE PLAN (cont.)



EXHBIT C
LEGAL DESCRIPTION OF DEMISED AREA





LOCATION MAP
NOT TO SCALE

LEGEND

- CONCRETE
- ASPHALT PAVEMENT
- ELEVATION
- OVERHEAD WIRES
- UNDERGROUND WATER LINE
- UNDERGROUND STORM SEWER LINE
- UNDERGROUND SANITARY SEWER LINE
- ℄ CENTERLINE
- O.R.B. OFFICIAL RECORDS BOOK
- R RADIUS
- CA CENTRAL ANGLE
- A ARC DISTANCE

LEGAL DESCRIPTION:

A PORTION OF LOTS 18, 19 AND 20, TATUM'S OCEAN BEACH PARK, (ALSO KNOWN AS HAULOVER PARK) ACCORDING TO THE PLAT THEREOF, AS RECORDED IN PLAT BOOK 5, PAGE 35, OF THE PUBLIC RECORDS OF MIAMI-DADE COUNTY, FLORIDA, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCE AT THE SOUTHEAST CORNER OF TRACT "A", ARLEN HOUSE EAST, ACCORDING TO THE PLAT THEREOF, AS RECORDED IN PLAT BOOK 97, PAGE 5, OF THE PUBLIC RECORDS OF MIAMI-DADE COUNTY, FLORIDA, SAID POINT BEING ON THE WEST RIGHT-OF-WAY LINE OF STATE ROAD NO. A-1-A (COLLINS AVENUE); THENCE DEPARTING SAID RIGHT-OF-WAY LINE SOUTH 09°12'01" WEST 5,626.57 FEET TO THE POINT OF BEGINNING; THENCE SOUTH 06°46'03" WEST 122.07 FEET TO THE BEGINNING OF A TANGENT CURVE CONCAVE WESTERLY; THENCE SOUTHERLY ON THE ARC OF SAID CURVE, HAVING A RADIUS OF 400.00 FEET, A CENTRAL ANGLE OF 7°59'12" FOR AN ARC DISTANCE OF 55.76 FEET TO A POINT OF TANGENCY; THENCE SOUTH 14°45'15" WEST 25.21 FEET; THENCE NORTH 81°49'16" WEST 90.08 FEET TO THE BEGINNING OF A NON-TANGENT CURVE CONCAVE WESTERLY, WHOSE RADIUS POINT BEARS NORTH 77 °02'45" WEST; THENCE NORTHERLY ON THE ARC OF SAID CURVE, HAVING A RADIUS OF 1038.12 FEET, A CENTRAL ANGLE OF 5°59'49" FOR AN ARC DISTANCE OF 108.66 FEET; THENCE NORTH 83°02'33" EAST ON A LINE RADIAL TO THE LAST DESCRIBED CURVE, 7.04 FEET; THENCE NORTH 05°49'27" EAST 48.73 FEET; THENCE NORTH 02°53'13" EAST 45.53 FEET; THENCE SOUTH 81°49'16" EAST 88.27 FEET TO THE POINT OF BEGINNING.

SAID LANDS SITUATE, LYING AND BEING HAULOVER PARK, MIAMI-DADE COUNTY, FLORIDA CONTAINING 18,009± FEET (0.4134± ACRES).

NOTES:

1) ELEVATIONS ARE BASED ON NATIONAL GEODETIC VERTICAL DATUM OF 1929. MIAMI-DADE COUNTY BENCHMARK C-314; ELEVATION: 16.63 FEET.
2) FLOOD ZONE: AE; BASE FLOOD ELEVATION: 8 FEET; PANEL #120635 0144L; MAP DATE: 9/11/09.
3) THIS SITE LIES IN SECTION 26, TOWNSHIP 52 SOUTH, RANGE 42 EAST, MIAMI-DADE COUNTY, FLORIDA.
4) REASONABLE EFFORTS WERE MADE REGARDING THE EXISTENCE AND THE LOCATION OF UNDERGROUND UTILITIES. THIS FIRM, HOWEVER, DOES NOT ACCEPT RESPONSIBILITY FOR THIS INFORMATION. BEFORE EXCAVATION OR CONSTRUCTION CONTACT THE APPROPRIATE UTILITY COMPANIES FOR FIELD VERIFICATION.
5) THIS SURVEY IS CERTIFIED EXCLUSIVELY TO: KIMLEY-HORN AND ASSOCIATES, INC.
6) THE HORIZONTAL POSITIONAL ACCURACY OF WELL DEFINED IMPROVEMENTS ON THIS SURVEY IS ±0.2'. THE VERTICAL ACCURACY OF ELEVATIONS OF WELL DEFINED IMPROVEMENTS ON THIS SURVEY IS ±0.1'.
7) FOLIO No.: 30-2214-0008-0010
8) BEARINGS SHOWN HEREON ARE BASED ON THE WEST RIGHT-OF-WAY LINE OF STATE ROAD NO. A-1-A AS DEPICTED ON THE PLAT OF ARLEN HOUSE EAST, PLAT BOOK 97, PAGE 5, MIAMI-DADE COUNTY PUBLIC RECORDS BEARING NORTH 04°08'44" EAST.

CERTIFICATION:

I HEREBY CERTIFY: THAT THIS SKETCH OF SURVEY MEETS THE MINIMUM TECHNICAL STANDARDS SET FORTH BY THE FLORIDA DEPARTMENT OF AGRICULTURE AND CONSUMER SERVICES ("DOACS") CHAPTER 5J-17, FLORIDA ADMINISTRATIVE CODE, PURSUANT TO SECTION 472.027, FLORIDA STATUTES.

NOT VALID WITHOUT THE SIGNATURE AND THE ORIGINAL RAISED SEAL OF A FLORIDA LICENSED SURVEYOR AND MAPPER.

☐ JOHN F. PULICE, PROFESSIONAL SURVEYOR AND MAPPER LS2691
☐ BETH BURNS, PROFESSIONAL SURVEYOR AND MAPPER LS6136
STATE OF FLORIDA

GRAPHIC SCALE
0' 30' 60' 90'
1"=30'

COPYRIGHT 2012 BY PULICE LAND SURVEYORS, INC. ALL RIGHTS RESERVED. NO PART OF THIS SURVEY MAY BE REPRODUCED, IN ANY FORM OR BY ANY MEANS, WITHOUT PERMISSION IN WRITING FROM AN OFFICER OF PULICE LAND SURVEYORS, INC.

NO.	REVISIONS	BY
5		
4		
3		
2		
1	CREATE BOUNDARY & LEGAL DESCRIPTION 10/8/12	B.B.

PROPOSED SEASONS 52 SITE
IN HAULOVER PARK
MIAMI-DADE COUNTY, FLORIDA 33154

BOUNDARY & TOPOGRAPHIC SURVEY

PULICE LAND SURVEYORS, INC.
5381 NOB HILL ROAD
SUNRISE, FLORIDA 33351
TELEPHONE: (954) 572-1777
FAX: (954) 572-1778
E-MAIL: surveys@pulicelandsurveyors.com
CERTIFICATE OF AUTHORIZATION LB#3870

DRAWN BY: L.B.	SCALE: 1" = 30'	FILE: KIMLEY-HORN AND ASSOCIATES, INC.
CHECKED BY: J.F.P.	SURVEY DATE: 4/28/12	ORDER NO.: 54570

Legal Description

LEGAL DESCRIPTION:
A PORTION OF LOTS 18, 19 AND 20, TATUM'S OCEAN BEACH PARK, (ALSO KNOWN AS HAULOVER PARK) ACCORDING TO THE PLAT THEREOF, AS RECORDED IN PLAT BOOK 5, PAGE 35, OF THE PUBLIC RECORDS OF MIAMI-DADE COUNTY, FLORIDA, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

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SAID LANDS SITUATE, LYING AND BEING HAULOVER PARK, MIAMI-DADE COUNTY, FLORIDA CONTAINING 18,009± FEET (0.4134± ACRES).

Exhibit D

This instrument prepared by
and after recording return to:
Joseph G. Kern
Florida SE, Inc.
1000 Darden Center Drive
Orlando, Florida 32837

MEMORANDUM OF LEASE

This Memorandum of Lease, dated the _____ day of _____, 2012, is by and between MIAMI-DADE COUNTY, a political subdivision of the State of Florida, ("Landlord") and FLORIDA SE, INC., a Florida corporation, ("Tenant").

RECITALS:

A. On _____, 20__, Landlord and Tenant entered into a written lease agreement ("Lease") for certain premises situated in Miami-Dade, County, Florida, as more particularly set forth in the Lease and described on the attached Exhibit "A" (the "Premises"); and

B. The parties desire to place their interests in the Lease as a matter of record.

NOW, THEREFORE, the parties represent as follows:

1. The term of the Lease will be ten (10) Lease Years, as defined in the Lease, commencing on the Commencement Date as determined in accordance with its terms.

2. In conjunction with such leasing, Landlord has granted to Tenant certain easement rights over the properties adjacent to the Premises, which rights include access, parking and utilities, all as more particularly set forth in the Lease.

3. Tenant has the option to renew the Lease for four (4) additional period(s) of five (5) Lease Years each.

[SIGNATURES AND ACKNOWLEDGEMENTS ON FOLLOWING PAGE]

Landlord and Tenant have entered into this Memorandum of Lease as of the day and year first above written.

Witnesses:

(Landlord)

Miami-Dade County

_____
Printed Name:

By:
Printed Name:_____
Title

_____
Printed Name:

(Tenant)

Florida SE, Inc.

_____
Printed Name:

By:
Printed Name:
Title:

_____
Printed Name:

NOTARY ACKNOWLEDGEMENTS TO BE ADDED TO FINAL DOCUMENT

EXHIBIT E
PHOTO SIMULATION OF THE DEMISED AREA AND PROPERTY UPON COMPLETION OF CONSTRUCTION

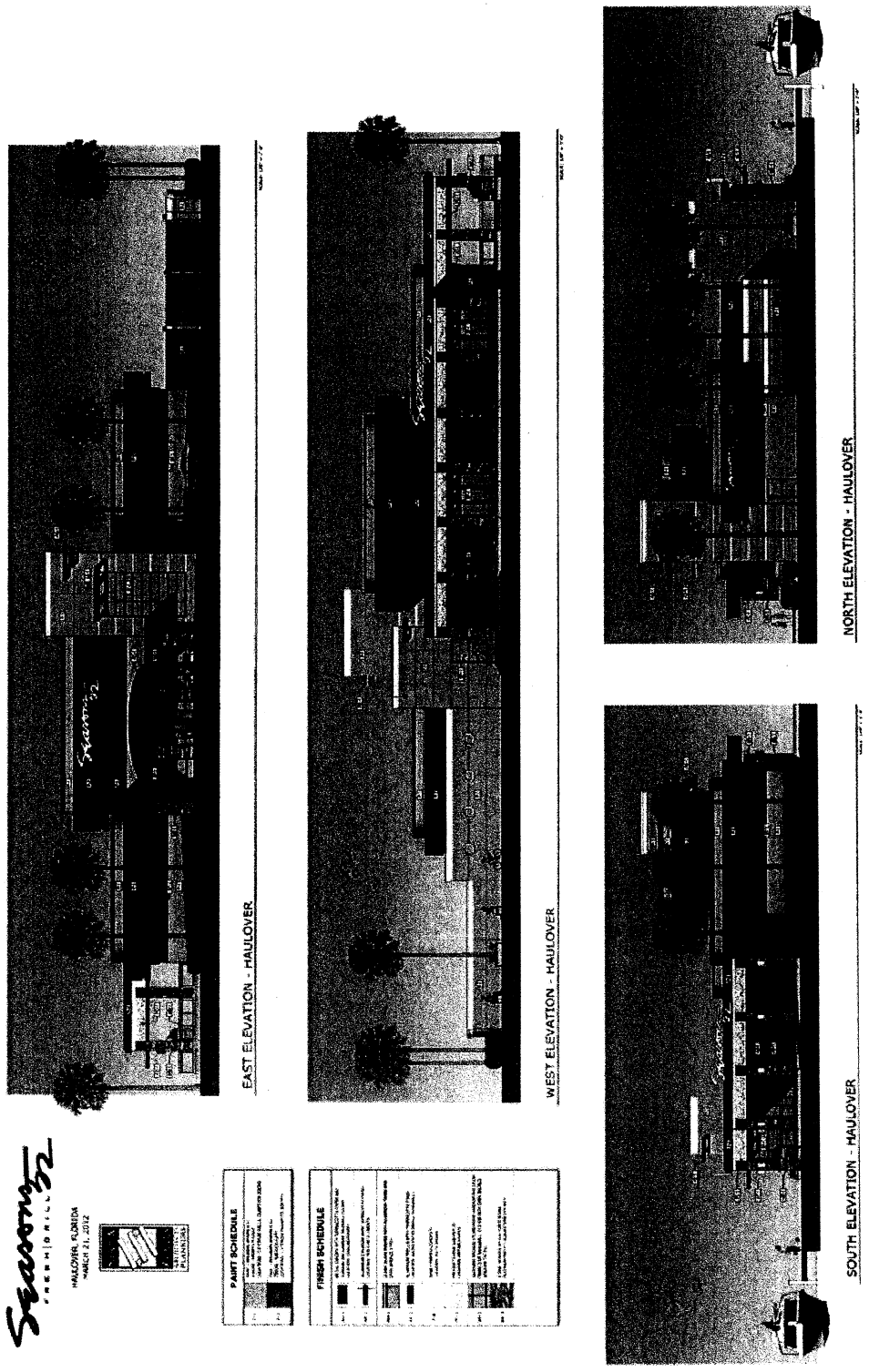

EXHIBIT F
DEVELOPMENT RIDER

Bill Bird Marina Restaurant at Haulover Park

This Development Rider is attached to and hereby made a part of the Lease Agreement shall govern the development of the Restaurant at Haulover Park (the "Facility") within the site set forth Exhibit B– Restaurant Site Plan). Words and phrases used in this Development Rider shall have the same meaning as in the Lease Agreement unless specifically provided otherwise. If there is any conflict between the provisions of this Development Rider and the provisions of the terms and conditions of the Lease Agreement, the terms and conditions of the Development Rider will prevail.

A Capital Project Manager ("PM") shall be temporarily assigned by the Miami-Dade County Parks, Recreation and Open Spaces Department (the "Department") to represent Miami-Dade County during design, permitting and construction phases of the project. The PM shall monitor compliance with the terms and conditions of the Scope of Services and the Development Rider; coordinate reviews, comments and approvals; attend design phase and construction meetings; and provide periodic inspections to monitor compliance with the scope of services, schedule during design, construction, and close-out of the Facility.

Lessee's requests 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.

I.LESSEE'S OBLIGATIONS TO DEVELOP THE FACILITY SITE

The improvements the Lessee develops at the Facility Site shall be designed and constructed in accordance with the provisions of the Lease Agreement. The design, atmosphere, and the type of restaurant contemplated is as set forth on the conceptual plans attached to the Lease Agreement as Exhibit E, which plans Landlord has approved (the "Conceptual Plans"). The restaurant and public restrooms design shall be guided by the design parameters and building requirements in the Haulover Park Design Guidelines ("HPDG") Lessee shall complete all improvements pursuant to the design and construction defined in Lessee's Proposal and as approved by the County.

Lessee understands and agrees that all costs associated with the design development, permitting, construction and close-out of the Facility, and any off-site improvements, shall be the sole responsibility of the Lessee, unless otherwise specifically set forth in the Lease Agreement and the attachments and exhibits thereto as Landlord's responsibility. Prior to commencing construction, the Lessee shall provide proof, in a manner sufficient to satisfy the County, that the Lessee has the necessary funds to complete the approved Facility.

The Lessee shall maintain all files, records, accounts of expenditures for the Facility and improvements, including improvements performed by Lessee's subcontractor's, at the Restaurant during construction or at Lessee's restaurant support center in Orlando Florida during and after construction, which shall be made available at the County's request. The County shall have access to such records as provided in the Lease Agreement.

The restaurant shall have a total footprint area of not more than 11,900 square feet at total build-out as depicted in Exhibit B and shall include restrooms for patrons that comply with ADA and all applicable Building Codes and a separate public restroom component of approximately 700 square feet (as shown on Exhibit B) that also complies with ADA and all applicable Building Codes.

The Lessee shall, upon execution of the Lease Agreement, and prior to preparing the Final Plans (as defined elsewhere in this document) and specifications, submit a schedule for the entire scope for the development of the Facility 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 otherwise requested by the County. The terms and conditions of this Development Rider in its entirety, shall apply to each phase.

The Lessee shall incorporate into the Restaurant and Public Restroom design as many features of the Leadership in Energy and Environmental Design for New Construction, minimum LEED Silver, (LEED-NC) Green Building Rating System, as are possible but shall not be required to seek or obtain LEED certification. The Lessee shall cooperate and shall cause its consultants and contractors to cooperate with the County's Sustainability Manager incorporating green building practices into the planning and design of the Facility, pursuant to County Ordinance Number 07-65 concerning the County's Sustainable Buildings Program. The Lessee 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.

The Lessee shall, upon execution of the Lease Agreement, and prior to preparing the Final Plans (as defined elsewhere in this document) and specifications, through the Department, initiate contact and confer with the Art in Public Places Representative to review the applicability of an art component to the Facility. Should Art in Public Places determine that the installation of an art component is applicable to this Facility based on the provisions of Section 2-11.15 of the Miami–Dade County Code and subsequent amendments and guidelines, and should it decide to pursue said installation, the Lessee shall further confer with the Arts in Public Places Representative to develop a concept for art appropriate to the Facility, and the Art in Public Places Professional Advisory Committee as to the type(s) of art, location(s) and possible artist(s). The Director of the Arts in Public Places program shall approve the final concept and location. The Art in Public Places Trust will make the final choice of the artist(s), upon recommendation of the Art in Public Places Professional Advisory Committee. As part of its Master Plan, Art in Public Places encourages and will give preference to collaborative projects between artist(s) and the Lessee to promote the integration of artwork and site. Such collaborative efforts shall include the active involvement of both the Lessee and the artist(s) during design development of the Project. The Lessee shall coordinate the installation of anchorages, special lighting, or plumbing or other utility or installation and connections as required for the proper installation of the artwork in accordance with the artist's concept(s) as part of the services under this Lease Agreement.

Should the Art in Public Places fee be assessed against this Lease Agreement, the Lessee shall at its sole cost expend one-and-a-half-percent (1.5%) of the cumulative design and construction cost for the refurbishment of existing works of art at the Facility and/or for the commissioning of new works of art. All aspects concerning the acquisition of new works of art or the removal and/or relocation of existing works of art located within the Facility shall comply with the Art in Public Places (APP) ordinance and the program Master Plan & Implementation Guidelines as are appropriate in the determination of the County. The Lessee may be requested to assign a representative to act as a liaison with APP for purposes of implementing the requirements set

forth herein. The County reserves the right to make final determination on how the funds appropriated for APP are expended.

1. Site Conditions. The Lessee accepts complete responsibility for all conditions encountered at the Facility Site, including, without limitation unforeseen site conditions, subsurface or otherwise concealed physical conditions which differ materially from those indicated or assumed in any of the construction plans, unknown physical conditions of an unusual nature which differ materially from those ordinarily found to exist and generally recognized as inherent in the type of construction involved in the project, and any dewatering activities necessary to construct the facility. The Lessee shall be responsible for the permitting and removal or relocation of man-made obstructions, abandoned foundations, utilities, and natural obstructions required for the completion of the Facility. The Lessee shall also be responsible for any and all site conditions, including environmental conditions caused, disturbed, or exacerbated by the construction and agrees to be responsible for and pay for all environmental permitting and remediation work that is required to be performed resulting from the construction of the Facility. The Lessee further agrees not to initiate any claims or suits against the County relating to any site condition, including environmental conditions, and to indemnify, defend and hold harmless the County from and against any claims arising from an environmental condition caused or exacerbated by the Lessee in the construction of the Facility.

2. Time of the Essence. The timely completion of all activities set forth below, and the milestones set forth in the Development Schedule for each phase is of the essence. A material failure to meet those deadlines, as the same may be extended by written agreement of the parties, shall be a breach of this agreement. Any extension relating to a delay in the critical path, and any extension reasonably likely to result in a delay to the date of beneficial occupancy of the project, may require the express approval of the Board of County Commissioners. Otherwise, said delay may be construed as an abandonment and may lead to termination as described in the Lease Agreement.

A. Conceptual Plans. Attached to the Lease as Exhibit E are rendered elevations for the aesthetics, design, construction of the Facility (hereinafter referred to as the "Photo simulation of Property upon Construction"), and any Floor plan, signage and related design improvements (the "Conceptual Plans") all of which the Landlord has approved. The Conceptual Plans shall not be modified in any way by Lessee or Landlord, unless one or more elements of the Conceptual Plans are expressly disapproved of by, or a modification is expressly required by, any governmental or regulatory body or authority with jurisdiction over the planning, development, zoning, construction, and/or operation of the Facility in the exercise of its police powers. Any such required modification to the Conceptual Plans shall preserve the original intent underlying the Conceptual Plans to the greatest extent possible, and may be approved or disapproved by the Landlord in the exercise of its reasonable discretion.

B. Due Diligence. Commencing upon execution of the Lease Agreement, Lessee shall have a period of forty-five (45) days to conduct due diligence (including environmental and title review) and inspect the Premises to determine the suitability of the Premises for the construction and operation of the Restaurant (the "Due Diligence Period"). If for any reason in its sole discretion Lessee determines the Premises are not suitable for its use, Lessee may terminate the Lease Agreement by written notice to Landlord prior to the expiration of the Due Diligence Period.

C. Preliminary Plans and Specifications. Prior to commencing the development of the Preliminary Plans described below, the Lessee 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. Within 30 calendar days after the expiration of the Due Diligence Period, unless a written request for extension has been received

and approved by the PM, Lessee, at its cost, shall prepare and deliver to the Department an updated CPM schedule and five (5) sets of preliminary plans and a CADD file (in accordance with the Department's CADD Standards, see Exhibit G) for the construction of the Facility prepared by an architect and/or engineer licensed to practice as such in the State of Florida (hereinafter referred to as "Preliminary Plans"). The Preliminary Plans shall include the Total Development Cost Estimate and updated Development Schedule and show, without limitation; renderings, elevations, 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 Park, curbs, gutters and parkways; lighting; locations for outdoor signs; and storage areas; all sufficient to enable reasonably accurate cost estimates and to enable the Department to make an informed judgment about the design and quality of construction and about any effect the Facility shall have on the Park. Such Preliminary Plans shall be based on Conceptual Plans previously submitted by Lessee as approved by the Department. Additionally, such Preliminary Plans of the improvements shall be in strict adherence to Article 7 of the Miami-Dade County Home Rule Charter. Within 30 days after the Department receives the Preliminary Plans as required in the preceding paragraph, the Department shall either approve of them or deliver to Lessee specific corrective comments. The Department shall not be unreasonable in exercising its approval rights hereunder and in no event shall the Department or Landlord have any right to object to any element of the Preliminary Plans to the extent they are consistent with the Conceptual Plans or Simulated Construction. Lessee shall resolve all comments and requests for modifications by the Department to the Preliminary 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 Preliminary Plans within 60 days after Lessee has received the Department's objections, the Department or Lessee shall have the right to terminate the Lease Agreement upon notice to the Lessee, the parties being thereafter relieved of any liability hereunder and under the Lease Agreement.

D. Final Plans. Within 90 days after the Preliminary Plans and specifications are approved by the Department, the Lessee, at its cost, shall prepare and deliver an updated CPM schedule and five (5) sets of Final Plans, one CADD file (in accordance with the Department's CADD Standards, see Exhibit G), and specifications comprising the Final Plans for the Facility, which Final Plans must be consistent with the approved Preliminary Plans and signed and sealed by an architect and/or engineer licensed to practice as such in the State of Florida to the Department. The Final Plans and all associated addenda and attachments shall be incorporated to the Lease Agreement by reference.

The Final Plans shall be considered 100% construction documents and include an updated Total Development Cost Estimate and updated CPM schedule and show, without limitation; renderings, elevations, site plans; architectural, structural, mechanical, electrical, landscape and plumbing plans; 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 Park, curbs, gutters and parkways; lighting; locations for outdoor signs; storage areas; and off-site improvements. Completed technical specifications shall be included in the Final Plans.

Within 45 days after the Department receives Final Plans as required in the preceding paragraph, the Department shall either approve of them or deliver to Lessee specific corrective comments. The Department shall not be unreasonable in exercising its approval rights hereunder and in no event shall the Department or Landlord have any right to object to any element of the Final Plans to the extent they are consistent with the Preliminary Plans. Lessee shall resolve all comments

and requests for modifications by the Department to the Final Plans and obtain written approval from the Department prior to proceeding with the permitting.

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

The Lessee 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 Facility or its location within the Park. The Lessee shall invite the PM to meetings with the permitting agencies as necessary or as requested by the PM. 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 any such permits shall not be considered as complete until any review and/or appeal is final by the highest body authorized to determine same or until the time for such appeal or review has expired, whichever date is later. If suit or other proceedings are brought to invalidate any permit, the obtaining of the permits shall not be considered as complete until final judgment, decree, or other appropriate decision has been entered and the time for appeal there from shall have expired, or if any appeal has been taken, until the appeal has final determinations.

If Lessee is unable to obtain such permits within 180 days from the date Lessee receives the Department's approval of the Final Plans, the County and the Lessee shall have the right to terminate the Lease Agreement upon notice to the other. The County shall have the right, in its sole discretion and only for good cause shown, to extend the time within which Lessee must obtain such permits. However, the County shall be under no obligation to grant such extensions of time.

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

F. Commencement and Completion of Construction of the Project. Within 30 days from the date that the Lessee obtains all permits required to begin construction of the Facility, the Lessee shall submit copies of all permits, updated Total Development Cost Estimate, proof that funding is available for construction a Schedule of Values (SOV) for construction, and updated CPM schedule indicating construction and close-out start and completion dates as well as major milestones of the Facility, including the opening date. Within 15 days after the Department receives copies of all permits, updated Total Development Cost Estimate, proof that funding is available, SOV, and schedule, the Department shall either approve of them or deliver to Lessee specific corrective comments. The Department shall not be unreasonable in exercising its approval rights hereunder. Lessee shall resolve all comments and requests for modifications by the Department. Once all comments have been satisfactorily addressed by the Lessee, the Department shall issue a Notice-to-Proceed - 1 (NTP-1) to the Lessee.

The Lessee 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. Once the County reviews and approves the insurances and bonds it will issue a Notice-to-Proceed – 2 (NTP-2) and Authorization to Occupy the site to the Lessee after the pre-construction meeting.

The Lessee shall schedule a Pre-Construction meeting with the PM prior to mobilization. The pre-construction meeting shall serve to review the plans, SOV, schedule, site conditions and discuss the upcoming construction actives and its impact to Park operations. Upon agreement by the PM to all construction work activities and the associated logistics and timing, an NTP-2 and Authorization to Occupy the Site shall be issued turning over possession of the Site to the Lessee. The Lessee shall, without delay, pursue commencement of construction and diligently pursue completion thereof. The construction of the Facility shall be in accordance with the Final Plans.

The Final Plans shall not be changed and/or modified without the Department's approval, which approval shall not be unreasonably withheld or delayed. The Department's approval shall not be deemed as a substitute for approval from any agency which issues permits and whose approval of modifications may be required. All requests for changes shall be coordinated through the PM. The PM will be provided sufficient notice and information (impact to scope, budget and schedule; materials; performance, etc.) to provide timely responses. All work in connection with the construction of the Facility shall be performed in conformity with the Final Plans and shall comply with all applicable governmental permits, authorizations and laws. Lessee will allow unobstructed inspection by the Department's staff to determine compliance with the approved plans and specifications throughout construction. The Lessee shall be responsible to provide any temporary facilities needed in support of its construction of the Facility.

Unless the Lessee notifies the County of construction delays associated with the Restaurant project, construction of the Facility is expected to be completed within 12 months of the date of the NTP - 2 for construction.

Upon completion of construction of the Facility, Lessee shall, at its cost, obtain a survey of the Facility and surrounding impacted areas and deliver said survey to the Department along with one copy of the "as built" drawings, and a CADD file (in accordance with the Department's CADD Standards, see Exhibit G), accurately reflecting the constructed Facility, its supporting infrastructure and off-site improvements at the Park. A new Exhibit B based on the as-built information showing the exact location of the Facility at the Park shall be incorporated into the Lease Agreement and provided by the County to the Lessee.

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

1. All construction shall be performed by licensed contractors approved by the Department, such approval not to be unreasonably withheld. Lessee shall furnish the Department with a true copy of Lessee's contract with the general contractor showing a breakdown of costs.

2. During the construction of the Facility, the PM shall attend weekly/monthly construction meetings and periodically inspect and review the progress of construction to ensure adequate performance and conformity with the approved plans.

3. In addition to the weekly/monthly construction meetings, the Lessee shall schedule and coordinate a pre-construction meeting, a 50% progress meeting, a 75% progress meeting and a 100% substantial completion walk-thru meeting with the PM.

4. The PM or appropriate designee shall provide input to the construction punch-list items and shall issue a Final Acceptance of the Facility once all work has been completed and all permits have been approved and closed by all agencies having jurisdiction. Upon issuance of Final Acceptance, the facility may be occupied and opened for its desired intent.

5. Within 30 days after the specified one (1) year warranty period, the Lessee shall schedule a walk-thru of the Facility with the PM and its contractor, to inspect all construction systems and ensure it's intended functionally and expected workmanship. The "warranty period" warrants the work under the construction improvements, defined in the Lease Agreement, to be free from faulty materials and workmanship for a period of not less than one (1) year from the date of final acceptance. This one year period shall be covered by the Surety Performance Bond as required by this development Rider. 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).

H. Bonds and Insurance:

1. The Lessee shall have 15 days from the date of NTP-1 to submit all required insurances, pursuant to the Lease Agreement, and bonds to the Department prior to any construction work on the Facility Site, and prior to the purchase of any materials, equipment or supplies for construction. The Lessee 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 Facility. Such bond shall be submitted in a form acceptable to the County, and shall name the Lessee as the principal and the County as the obligee.

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

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

Bond Amount	**Best's Rating**
500,001 to 1,500,000	B V
1,500,001 to 2,500,000	A VI
2,500,001 to 5,000,000	A VII
5,000,001 to 10,000,000	A VIII
Over 10,000,000	A IX

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

1. Providing evidence that the surety has twice the minimum surplus and capital required by the Florida Insurance Code at the time the invitation to bid is issued,

2. Certifying that the surety is otherwise in compliance with the Florida Insurance Code, and

3. Providing a copy of the currently valid Certificate of Authority issued by the United States Department of the Treasury under ss. 31 U.S.C. 9304-9308.

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

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

The Lessee 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 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 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 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 provide for the following conditions to be made in all Performance and Payment Bonds relating to public projects:

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

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

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

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

a. That a payment bond in an amount not less than one-hundred percent (100%) the cost of construction of the Facility is obtained that is conditioned to secure the completion of the Facility free from all liens and claims of contractors, subcontractors, mechanics, laborers and material men in a County approved bond form to be provide by Lessee;
b. That a performance bond in an amount not less than one-hundred percent (100%) the cost of construction of the Facility 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 provide by Lessee; and,

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

4. In the event that, for any reason, either or both of the Lessee'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 Lessee shall pay all such claims, and indemnify, defend, and hold the County harmless against such claims.

5. If no specific periods of warranty are stated in the Agreement or elsewhere in this Development Rider, for any particular item or work, material or equipment, the warranty shall be deemed to be a period of one (1) year from the date of final acceptance form the County. This Bond does not limit the County's ability to pursue directly with the Lessee or its contractor seeking damages for latent defects in materials or workmanship, such actions being subject to the limitations found in Section 95.11 (3) (c), Florida Statues.

I. Prior to the commencement of construction. Lessee shall provide or cause its subcontractors to provide an original policy for Builders Risk/Installation Floater on an "All Risk" basis in an amount not less than one hundred percent (100%) of the insurable value of the building(s) or structure(s) or material(s). The policy shall be in the name of Miami-Dade County and the Lessee as their interests may appear. This insurance shall be maintained until substantial completion of the work, as determined by the Department.

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

1. No liens shall be attached to the Park or any part thereof.

2. Prior to the commencement of any work, Lessee shall demonstrate to the Department's satisfaction that all construction financing is in place.

3. Lessee shall work closely with the Department in scheduling and engaging in Lessee's construction activity so as not to disrupt Park events, including but not limited to Special Events. Where conflict may occur, the Department shall solely

make the determination as to Lessee's right to continue work and the desirability of temporarily halting or continuing activity by Lessee.

4. Lessee shall be liable for any damage, loss, action, costs (including costs to defend any action) caused by Lessee's failure to cease work after written notice from the Department.

II. THE COUNTY'S CONSTRUCTION OBLIGATIONS

A. Conditions of Facility Site. The County shall deliver physical possession of the Facility Site to Lessee in an "as is" condition so that Lessee may commence construction.

The areas within the Park to be occupied by the Lessee during the execution of the work shall be delineated in the construction documents plans as agreed to between the County and Lessee. The limits of the work shall be sufficient to properly undertake the necessary construction of the Facility and off-site improvements within the Park site so long as normal operations are not impeded.

B. Reasonable Access. The County shall provide reasonable access to allow Lessee to have utilities brought to the Facility Site and to have constructed the approved improvements described in the Lease Agreement.

EXHIBIT G
CAD Standards, PDF and CD/DVD Requirements

This document describes the Miami-Dade Park, recreation and Open Spaces Department standards, PDF documents and CD/DVD/USB Flash's submittals.

CAD Standards

CAD Requirements (format and content):

- All CAD files are to be submitted as an AutoCAD .DWG format. (version 2009)
- 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. (For details review attached : *PROS CAD Standards Manual*)
- No .zip files are allowed.

CAD Standards:

- Title block (For details review attached : *PROS CAD Standards Manual*)
  - 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 (For details review attached : *PROS CAD Standards Manual*)

- 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.

Portable Document Format (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 (Compact Disc)/DVD (Optical Disc Storage) /USB Flash Drive Record Documents Requirements:

- All CD/DVD /Flash Drive record documents submittals, required by the Professional Services Agreement, will be reviewed and approved by the Owner for CAD compliance and to determine completeness of the documents provided.
- The consultant may request a CAD drawing compliance review at any time during the Project through the Project Manager.
- All CAD drawings shall be provided electronically to the Project Manager, for review

Contact Information

Please direct all compliance-related questions to:

Juan Carlos Garcia, CADD & Survey Manager
Miami-Dade Parks, Recreation and Open Spaces Department
275 NW 2 ST, Miami, Fl, 33128
Phone: 305-755-7907
Email: jcgarci@miamidade.gov

EXHIBIT H
ORDER OF MAGNITUDE COST ESTIMATE

ITEM	COST
SITE WORK	$460,000.00
BUILDING/RESTROOMS	$4,730,000.00
FF&E	$1,000,000.00
SIGNAGE	$80,000.00
TOTAL ESTIMATE*	$6,270,000.00

*Excludes costs related to architectural, permitting, soils and survey due diligence and impact fees

EXHIBIT I
DEVELOPMENT SCHEDULE

Florida SE, Inc. intends to construct this Project in a single phase, with construction commencing after it obtains building permits from applicable governmental authorities. Based on its preliminary investigations into design and permitting timing and subject to matters outside of its control, Florida SE, Inc. anticipates the following development schedule:

LEASE EXECUTED	DAY 0
BUILDING PLANS COMPLETED/FILE FOR PERMITS	DAY 60
ESTIMATED PERMIT RECEIPT PER DISCUSSIONS WITH COUNTY (16 WEEKS PERMIT TIME)	DAY 180
CONSTRUCTION START	DAY 195
CONSTRUCTION COMPLETION (180 DAYS)	DAY 375
HIRING AND TRAINING COMMENCES	DAY 375
OPENING	DAY 420