

MEMORANDUM

Agenda Item No. 8(H)(1)

TO: Honorable Chairman Jose "Pepe" Diaz
and Members, Board of County Commissioners

DATE: October 5, 2021

FROM: Geri Bonzon-Keenan
County Attorney

SUBJECT: Resolution waiving competitive bidding in accordance with section 5.03(D) of the Home Rule Charter and section 26-34 of the Code to approve, by a two-thirds vote of the full Board membership as required by section 2-8.6.5 of the Code, a Programming Partnership Operating and Management Agreement between Miami-Dade County and Pelican Harbor Seabird Station, Inc., a not-for-profit entity, to provide for the operation of the Pelican Harbor Seabird Station located on waterfront property at 1279 NE 79th Street Causeway, for a term through December 31, 2023 with yearly fees to the County in the amount of \$300.00; authorizing the County Mayor to execute the Agreement for and on behalf of Miami-Dade County and to exercise all rights and provisions in the Agreement; and further directing the County Mayor to provide a copy of the Agreement to the Property Appraiser's Office in accordance with Resolution No. R-791-14

Resolution No. R-906-21

The accompanying resolution was prepared by the Parks, Recreation and Open Spaces Department and placed on the agenda at the request of Prime Sponsor Commissioner Keon Hardemon.



Geri Bonzon-Keenan
County Attorney

GBK/smm

Memorandum



Date: October 5, 2021

To: Honorable Chairman Jose “Pepe” Diaz
and Members, Board of County Commissioners

From: Daniella Levine Cava
Mayor 

Subject: Waiver of Competitive Bidding and Recommending Approval of Programming Partnership Operating and Management Agreement Between Miami-Dade County and Pelican Harbor Seabird Station, Inc. at Pelican Harbor Marina for the Care of Sick and Injured Aquatic Birds

Recommendation:

It is recommended that the Board of County Commissioners (the “Board”) waive competitive bidding procedures pursuant to Section 26-34 of the Miami-Dade County (the “County”) Code applicable to Programming Partnerships and Section 5.03(D) of the Home Rule Charter in order to approve a Programming Partnership Operating and Management Agreement (the “Agreement”) (Attachment A) between the County and Pelican Harbor Seabird Station, Inc. (“PHSS”), a Florida not for profit entity, by a two-thirds vote of the full Board membership as required by Section 2-8.6.5 of the Code, for use and operation of the seabird station located at Pelican Harbor Marina to care for and feed sick and injured aquatic birds as well as provide educational programming for the community.

Scope:

PHSS’s current facility is located within Pelican Harbor Marina (the “Park”), 1279 NE 79 Street Causeway, Miami, Florida 33138 in County Commission District 3 which is represented by Commissioner Keon Hardemon. PHSS will serve and be open to all residents of Miami-Dade County; therefore, the scope is countywide.

Fiscal Impact/Funding Source:

There will be no fiscal impact as the County will continue to incur no operating expenses for the current facility and PHSS will continue to remit their annual payment of \$300 per year.

Delegation of Authority:

It is requested that the Board authorize the County Mayor or Mayor’s designee to execute the Agreement on behalf of the County and to exercise all provisions contained therein. The County Mayor or Mayor’s designee shall be required to seek Board approval for any approvals, consents, actions, events or undertakings that would create a financial obligation, cost or expense to the County beyond those specifically identified and set forth in the Agreement.

Track Record/Monitor:

The Parks, Recreation and Open Spaces Department’s (“PROS”) Assistant Director of Performance Excellence, Christina Salinas Cotter, will manage the terms and conditions of the Agreement.

Background:

In 1990, by way of Resolution 789-90, a Lease Agreement (the “Lease”) was entered into between the County and PHSS which provided for the development and operation of facilities for the

purpose of caring for and feeding sick and injured aquatic birds, primarily pelicans and other federally protected birds found injured, ill or orphaned. PHSS cares for around 2,300 native wildlife patients per year, for a total of around 70,000 bird lives impacted over the life of the Lease.

The County approved PHSS’s request to exercise their available Option to Renew in 2011, extending the term of the Lease for a 10-year term through July 23, 2020 under the same terms and conditions with the mutual understanding that PHSS wanted to expand their current facilities to accommodate higher demand.

PHSS continued to operate the facility and continued to plan for constructing a larger building while communicating with the County on the proposed terms of a new Programming Partnership Operating and Management Agreement between the parties. PHSS has since notified the County of its intent to relocate to land purchased by PHSS to expand their operation. Both the County and PHSS wish for PHSS to continue to operate at the Park until PHSS is ready to relocate.

It is in the best interest of the County to continue partnering with these types of organizations expanding a strategic approach that will maximize residents’ access to quality facilities located close to their neighborhoods. PROS continuously seeks to use public-private agreements that mobilize additional resources for park and recreation centers and programs countywide, promote greater effectiveness of those facilities and programs, and leverage existing County capital funding to more efficiently provide recreation opportunities to all County residents. The Agreement authorizes PHSS to operate and maintain the facility, and to provide volunteer and educational programming that will both augment and enhance the Park. PHSS will be operating and maintaining the facility at their sole expense for a term through December 31, 2023, unless earlier terminated.

A waiver of competitive bidding for the selection of PHSS as the seabird station operator is in the County’s best interest and is recommended due to PHSS’s specialized experience in providing care to sick and injured birds, their compatibility with the site’s unique facilities, and their commitment to care for the premises. Additionally, the park facility would otherwise remain dormant until such a time as the County could identify an alternate use of the structure or fund the removal.

Attachment



Jimmy Morales
Chief Operations Officer

Attachment A

PROGRAMMING PARTNERSHIP OPERATING AND MANAGEMENT AGREEMENT

THIS PROGRAMMING PARTNERSHIP OPERATING AND MANAGEMENT AGREEMENT (the "Agreement") made and entered into as of this 25th day of May, 2021 ("Agreement Effective Date"), by and between Pelican Harbor Seabird Station, Inc., a not for profit corporation organized and existing under the laws of the State of Florida, having its principal office at 1279 NE 79 Street Causeway, Miami, Florida 33138 (hereinafter referred to as the "Operator"), and Miami-Dade County, a political subdivision of the State of Florida, having its principal office at 111 NW 1st Street, Miami, Florida 33128 (hereinafter referred to as the "County").

WITNESSETH:

WHEREAS, the Operator presently operates a building (the "Seabird Station"), owned by the County, within Pelican Harbor Marina (the "Park") located at 1279 NE 79 Street Causeway, Miami, Florida 33138, for the caring for and feeding of sick and injured aquatic birds, primarily pelicans and other federally protected birds found injured, ill or orphaned, which facilities are administered for the County by its Director of the Parks, Recreation and Open Spaces Department, or designee (the "Department"); and,

WHEREAS, the Current Lease with the County expired on July 23, 2020 and cannot be extended; and

WHEREAS, the Operator has purchased land elsewhere on which they plan to move their operations in order to expand their facilities (the "New Facilities"); and

WHEREAS, the County desires to have the Operator continue to manage and operate the Seabird Station to continue to care for and feed sick and injured aquatic birds until they relocate to the New Facilities;

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

1. **Definitions:** The following words and expressions used in this Agreement shall be construed as follows, except when it is clear from the context that another meaning is intended:
 - A. "The Center" primary use areas shall mean the current Pelican Harbor Seabird Station.
 - B. "Contract Date" shall mean the date on which this Agreement is effective, which shall be the first of the month following final execution of this Agreement.
 - C. "Contract Manager" shall mean Miami-Dade County's Director, Department of Parks, Recreation and Open Spaces, or the duly authorized representative.
 - D. "Days" to mean Calendar Days.
 - E. "Facility Support Contribution" shall mean the amounts payable to the County under the terms of this Agreement.
 - F. "Agreement" shall mean collectively these terms and conditions, the Scope of Services (Appendix A), Organizational Structure/Staffing Plan (Appendix B), Map of Facilities (Appendix C), List of all Officers, Directors, Managers, Staff, and Volunteers (Appendix D), Disability Non-Discrimination Affidavit (Appendix E), Miami-Dade County Ordinance 08-07 Background Check Ordinance (The Shannon Melendi Act) Affidavit (Appendix F), Article 7 of the Home Rule Amendment and Charter as amended November 4, 2014 (Appendix G), List of Pelican Harbor Seabird Station, Inc. Personal Property (Appendix H), and all associated addenda and attachments, and all other attachments hereto and all amendments issued hereto.
 - G. "Operator" shall mean Pelican Harbor Seabird Station, Inc.
 - H. "Scope of Services" to mean the document appended hereto as Appendix A, which details the services to be provided by the Operator.
 - I. "Work", "Services", "Program", or "Project" to mean all matters and things required to be done by the Operator in accordance with the provisions of this Contract.
 - J. 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 County's Contract 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 County's Contract Manager.

2. **Services:** The County seeks from the Operator, and the Operator hereby agrees to provide the County, its operational and

management expertise and services to provide educational programming, and to operate the Center and related activities in the Center at Pelican Harbor Marina. Operator shall have the right and obligation to operate and use the Center in accordance with the requirements set forth in this Agreement for the benefit of the public and in furtherance of the County's conservation initiatives and goals. The Operator shall provide educational programming and related activities at the Center in accordance with the scope of services set forth in Appendix A during the Agreement Term, as such term is defined in paragraph 9 herein. Except as otherwise set forth herein, Operator shall not provide any services or sell any item or product without the prior written approval of the Department and such approval shall be granted or denied in the sole and absolute discretion of the Department. Any provisions of programs or services not specifically authorized in writing by the Department shall constitute grounds for potential default action taken by the County. The Operator, upon written notice from the Department, shall immediately discontinue the unapproved programs or services. Operator shall conduct its activities at all times in accordance with this Agreement. Operator further agrees that all activity and use shall be in accordance with Article 7 of the Home Rule Charter of Miami-Dade County Agreement. The County reserves the right to access the center at any time for safety, security, or emergency reasons. The County also reserves the right to hold special events on the premises provided the County provides two (2) weeks advance notice of such events.

3. **Operations:** Except when and to the extent that the Center and/or Pelican Harbor Marina may be untenable by reason of damage by fire or other casualty, Operator shall provide programming according to the schedule in Appendix A; and will have on the premises adequately trained personnel for efficient service. Operator shall not discriminate against any person in pricing as among residents of Miami-Dade County, the selection of its members nor in the participation of the community in its activities. Operator shall conduct its activities by being as inclusive as possible of the community.
4. **Limitations on Services and Use:** Subject to Operator's obligations and rights to use Pelican Harbor Marina for the purposes specified in Section 2, Operator shall not suffer or permit the Center or any part thereof to be used in any manner, or anything to be done therein, or suffer or permit anything to be brought into or kept therein, which would in any way (i) violate any Legal Requirements or Insurance Requirements; (ii) cause structural injury to the Center or any part thereof; (iii) constitute a public or private nuisance; (iv) impair the appearance of the Center; (v) materially impair or interfere with the proper and economic cleaning, heating, ventilating or air-conditioning of the Center or the proper and economic functioning of any other common service facilities or common utility of the Center; (vi) impair or interfere with the physical convenience of any of the occupants of Pelican Harbor Marina; or (vii) impair any of the Operator's other obligations under this Agreement; or (viii) violate Article 7 of the Home Rule Charter.
5. **Governmental Approvals:** If any governmental license or permit shall be required for the proper and lawful conduct of Operator's activity at the Center, or any part thereof, and if failure to secure such license or permit would in any way materially and adversely affect the County, then the Operator, at its expense, shall procure and thereafter maintain such license or permit and submit a copy of the same to the County. Operator shall at all times comply with the terms and conditions of each license and permit. The County will provide reasonable and legally appropriate effort to enable and support the obtaining and maintaining of all such license(s) and permit(s).
6. **Nature of the Agreement**
 - A. The Agreement incorporates and includes all prior negotiations, correspondence, conversations, agreements, and understandings applicable to the matters contained in the Agreement. The parties agree that there are not commitments, agreements, or understandings concerning the subject matter of the Agreement that are not contained in this Agreement, and that this Agreement contains the entire agreement between the parties as to all matters contained herein. Accordingly, it is agreed that no deviation from the terms hereof shall be predicated upon any prior representations or agreements, whether oral or written. It is further agreed that any oral representation or modifications concerning this Agreement shall be of no force or effect, and that this Agreement may be modified, altered or amended only by a written amendment duly executed by both parties hereto or their authorized representatives
 - B. The Operator shall provide the work required of it as set forth in this Agreement and render full and prompt cooperation with the County in all aspects of the work performed hereunder.
 - C. The Operator acknowledges that this Agreement requires the performance of all things necessary for or incidental to the effective and complete performance of all work required of it under this Agreement. All things not expressly mentioned in this Agreement but necessary to carrying out its intent are required by the Agreement, and the Operator shall perform the same as though they were specifically mentioned, described and delineated.

- D. The Operator shall furnish all labor, materials, tools, supplies, and other items required to perform the work necessary that are necessary for the completion of this Agreement.
- E. The Operator acknowledges that the County shall be responsible for making all policy decisions regarding the Scope of Services. The Operator agrees to provide input on policy issues in the form of recommendations. The Operator agrees to implement any and all changes in providing work hereunder as a result of a policy change implemented by the County. The Operator agrees to act in an expeditious and fiscally sound manner in providing the County with input regarding the time and cost to implement said changes and in executing the activities required to implement said changes.
7. **Non-exclusivity:** Other than Operator's exclusive right to operate the Center as set forth in Section 2 above, Operator shall have no exclusive rights to operate any similar activities to those being conducted in the Center in any other location that may be made available by the County.
8. **Appendices:** The Appendices listed in this Paragraph and attached to this Agreement are hereby incorporated in and made a part of this Agreement:
- Appendix A: Scope of Services
Appendix B: Organizational Structure/Staffing Plan
Appendix C: Map of Site
Appendix D: List of all Officers, Directors, Managers, Staff and Volunteers,
Appendix E: Disability Non-Discrimination Affidavit
Appendix F: Miami-Dade County Ordinance 08-07 Background Check Ordinance (The Shannon Melendi Act) Affidavit
Appendix G: Article 7 of the Home Rule Amendment and Charter as amended November 4, 2014
Appendix H: List of Pelican Harbor Seabird Station, Inc. Personal Property
9. **Term:** The term of this Agreement extends from contract execution through December 21, 2023, unless earlier terminated.
10. **Option to Renew:** There are no options to renew under the terms of this Agreement.
11. **Guaranteed Yearly Fee:** In consideration of the operations of the Center, the Operator does hereby covenant and agree to pay to the County without deduction or set off of any kind the sum of Three Hundred and 00/100 Dollars (\$300.00) per year as Guaranteed Yearly Fee and the County shall allow the Operator to retain all other funds received and generated by Operator relating to its use and operations of the Center. Payment of the Guaranteed Yearly Fee shall commence on the Agreement or any renewal thereof with annual payments due on each calendar year anniversary of the Agreement Date.
- In addition to the above, the Operator shall have the right to occupy one (1) boat slip, designated by the Department, at no charge, except for utilities. The boat slip shall be used only by managerial individuals designated by the Operator.
12. **Annual Management and Administrative Oversight Fee:** Not applicable to this Agreement.
13. **Payment of Fees:** Guaranteed Yearly Fee and any other payments, provided for in this Agreement ("Payments") shall be made by wire transfer through wire instructions delivered by the County to the Operator upon execution of the Agreement.
14. **Late Payment Charge:** In the event that the Operator fails to make any Payments, by the due date, as required to be paid under the provisions of this Agreement on time, a late payment charge of \$50.00 per month will be assessed. The right of the County to require payment of such late payment charge and the obligation of the Operator to pay same shall be in addition to and not in lieu of the rights of the County to enforce other provisions herein, including termination of this Agreement, or to pursue other remedies provided by law.
15. **Sales Tax:** As a not-for-profit corporation registered in the State of Florida the Operator may not be liable for the prevailing State of Florida Sales and Use Tax imposed on the Guaranteed Yearly Fee payable to the County under this Agreement, provided however that the Department is provided copies of the current and valid Certificate of Incorporation and the Florida Department of Revenue Sales Tax Exemption Certificate.
16. **Additional Sales Tax:** If at any time during the term of this Agreement or any renewal thereof, under the laws of the State of Florida, or any political subdivision thereof, a tax, charge, capital levy, or excise on rents (fixed minimum or additional), or other tax (except income

tax), however described, is assessed against the County on account of the Guaranteed Yearly Fee payable herein, such tax, charge, capital levy, or excise or rents or other taxes shall be the responsibility of the Operator. .

17. **Taxes on Operator's Personal Property:** To the extent applicable to Operator as a not-for-profit organization, Operator shall be responsible for, and shall pay before delinquency, all municipal, county, or state taxes assessed against any personal property of any kind, owned by or placed in, upon or about the Project by Operator.
18. **Worthless Check or Draft:** In the event that the Operator delivers a dishonored check or draft to the County in payment of any obligation arising under this Agreement, the Operator shall incur and pay a service charge of \$100.00 or five percent (5%) of the face amount of the check, whichever is greater. For each such dishonored check, such payment to be made within not more than five (5) days from written notice of such default. Further, in such event, the County may require that future payments pursuant to this Agreement be made by cashier's check or other means acceptable to the County.
19. **Application of Payments:** Payments are applied to any unpaid balance in the following manner: Payment is first applied to any accrued late fees. The remaining payment balance is then applied to the Guaranteed Yearly Fee, including the associated sales and use tax, if any.
20. **Reporting Requirements:** Monthly evaluations are to take place in-person between the Operator and Park manager. At this time, both parties will be able to discuss any issues or concerns that have occurred over the previous month.
 - A. Operator shall complete the affidavit (Appendix G) confirming compliance with the Shannon Melendi Act, codified in Chapter 26, Article III of the Miami-Dade County Code; and Chapter 2014-9, amending Section 942.0438, Florida Statutes, on a yearly basis.
 - B. Operator shall complete the affidavit (Appendix F) confirming compliance with the Americans with Disabilities Act of 1990, codified in Chapter 2, Article I, Section 2-8.1.5 of the Miami-Dade County Code; and Resolution R-182-00 amending R-385-95.
 - C. Operator shall provide a list (Appendix E) of all Officers, Directors, Managers, Staff and Volunteers working at the Center, on a yearly basis or, earlier, if and when updated by the Operator.
 - D. Operator shall provide proof of U.S. Internal Revenue Service tax-exempt status under Sec. 501© (3) of the I.R.C., proof of incorporation as a not-for-profit organization in the State of Florida (Appendix B)
 - F. Operator shall submit to the Department at its own expense, within sixty (60) days following each twelve (12) month period full and complete financial report for the Center.
 - G. Operator shall provide on an annual basis to the Park Manager, number of programs per quarter, number of participants per program; and total daily attendance for participants per year.
 - I. Operator shall provide current Certificates of Insurance (COI) thirty (30) days prior to expiration.
 - J. Operator shall provide annually: review of completed background checks against staff list, and all additional items needed to conduct annual reviews.

Upon review of documents obtained, the Department shall notify Operator in writing of non-compliant elements. The Operator shall resolve all non-compliant issues prior to beginning a new cycle, season or within thirty (30) days of notification. The Department shall have the right to request or perform an audit at its sole expense to determine compliance with the contract terms.

21. **Curtailment or Interruption of Service:** The County reserves the right to interrupt, curtail or suspend the provision of any utility service to which Operator may be entitled hereunder when necessary by reason of accident or emergency or for repairs, alterations, or improvements that, in the reasonable judgment of County are desirable or necessary to be made, or due to difficulty in obtaining supplies or labor or for any other cause beyond the reasonable control of the County. The work of such repairs, alterations, or improvements shall be prosecuted with reasonable diligence. The County shall in no respect be liable for any failure of the utility companies or governmental authorities to supply utility service to Operator or for any limitation of supply resulting from governmental orders or directives. No diminution or abatement of Payments or other charges, nor damages, shall be claimed by Operator by reason of the County's or other individual's interruption, curtailment or suspension of a utility service, nor shall this Agreement or any of Operator's obligations hereunder be affected or reduced thereby. Operator may, at its sole option, suspend or curtail its operations in whole or in part, during any such event.
22. **Accord and Satisfaction:** No payment by Operator or receipt by County of a lesser amount than any payment of Guaranteed Yearly Fee herein stipulated shall be deemed to be other than on account of the earliest stipulated Guaranteed Yearly Fee then due and payable, nor shall any endorsement or statement on any check or any letter accompanying any check or payment for Guaranteed Yearly Fee be deemed an accord and satisfaction. The County may accept such check or payment without prejudice to County's right

to recover the balance of such Guaranteed Yearly Fee or pursue any other remedy provided in this Agreement, at law or in equity. No covenant, term, or condition of the Agreement shall be deemed to have been waived by county, unless such waiver be in writing by County, nor shall there be any accord and satisfaction unless expressed in writing and signed by both County and Operator.

23. **Condition of Center:** Operator hereby accepts the Center for purposes of operating same in accordance with this Agreement in the condition it is in at the beginning of this Agreement with the understanding that the Operator will not alter the footprint of the existing building. Upon the expiration of this Agreement, or its termination in any manner, Operator shall deliver the Center to the County in good and clean condition, loss by fire or other casualty and ordinary wear and tear excepted.

All equipment and personal property furnished by the Operator shall be of good quality and suitable for its purpose and must be removed from the premise at the end of this term.

24. **Liquidated Damages:** While this Agreement is not a lease and grants Operator no property rights whatsoever, if Operator continues to operate and use the Center after the expiration of the Term or any option period, without a new Agreement reduced to writing and duly executed and delivered (even if Operator shall have paid, and County shall have accepted, fee in respect to post-expiration use and operations), Operator shall be liable to the County in the amount of liquidated damages in the amount of one hundred (\$100) per day until Operator ceases all use and operations of the Center. The Operator and the County acknowledge and agree that the County's damages in such an instances are difficult to quantify and ascertain and have determined that \$100 per day is a reasonable estimate of the County's damages and is not a penalty. Operator shall, in addition to from the liquidated damages set forth herein, indemnify and hold harmless the County and its assigns and agents from loss or liability resulting from such failure, including, without limiting the generality of the foregoing, any claims made by any succeeding Operator on such failure.

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

26. **County Approval:** The Operator agrees that it will obtain prior written approval from the County in all of the following matters:

- A. Material changes from originally approved educational activities or lessons.
- B. Any activity by the Operator, which will infringe on the continuous availability of Pelican Harbor Marina, other than the Center, for general public instruction.
- C. Any use of the County's or Pelican Harbor Marina's name.
- D. Material changes from originally approved signage and graphics. The nature, size, shape and installation of Operator's signs within Pelican Harbor Marina or on or adjacent to the Center must be approved in writing by the County and such approval shall be granted or denied in the sole and absolute discretion of the Department. Said signage must also be approved by all governmental authorities having jurisdiction and must conform to Article 7 of the Miami-Dade Home Rule Charter. Any requests for changes must be made in writing to the Contract Manager and approved prior to installation. All signs shall be removed by the Operator at termination of this License and any damage or unsightly condition caused to the premises because of or due to said signs shall be satisfactorily corrected or repaired by Operator.

Further it is understood by the Operator that should any of the above items be disapproved, Operator may offer alternative solutions to the County for review.

27. **County Approval of Change:** The County reserves the right with stated just and reasonable cause to require the Operator to change within a stated reasonable amount of time any and all items contained in Paragraph 26 it deems in need of change, despite previous approval of same.

- ~~28.~~ **Hours of Operation:** Typically operating hours are Sunday-Saturday 9:00am – 5:00pm, however, operating hours for the Center may vary and should be determined by the Operator, subject to approval by the County, such approval not to be unreasonably withheld. The

County may request a change in hours of operation, if, in the reasonable discretion of the County, such change is desirable in providing the best service to the public.

~~29.~~ **Personnel:** The Operator shall provide County with the name and telephone number of a management person of the Operator who will be on reasonable call, at all times, for emergencies, or other matters related to the operations under this Agreement. The Operator shall ensure that all its personnel performing services under this Agreement and having contact with the public are courteous and cooperative and present a neat, clean, and professional appearance at all times. Failure of an employee to do so shall be grounds for the County to request his or her removal from duties in the Center. The Operator shall ensure that all employees having public contact are able to understand and communicate in spoken English. Operator must also ensure employees are distinctively uniformed or appropriately attired so as to be distinguishable as the Operator's employees and not as employees of the County; and, Operator's employees will not be considered agents of the County.

~~30.~~ **On-Site Manager/Designee:** Throughout the term of this Agreement, the Operator shall employ a qualified full-time on-site Manager having experience in the management of this type of operation, who shall be available during normal business hours and reasonably on-call at all times, and be delegated sufficient authority to ensure the competent performance and fulfillment of the responsibility of the Operator under this Agreement and to accept service of all notices provided for herein.

~~31.~~ **Facilities and Services Provided by County:** The County shall provide, at County expense, the following utilities with the exclusion of those related to the use of the boat slip:

- Electrical distribution as existing;
- Potable Water facilities as existing;
- Sewage and waste collection facilities;
- Dumpster (Lessee may use the nearest dumpster to Park property for garbage and trash if a proportionate share of its cost is paid by Lessee, as determined by the County. All "raw" garbage to be sealed in waterproof bags or containers.)

32. Facilities and Services Provided by Operator: The Operator, at its sole cost, shall provide all equipment and services required for the Operator to fulfill its obligations as set forth in this Agreement. The expenses of the following utilities and maintenance items are the responsibility of the Operator:

- Operator shall keep the Center and equipment clean at all times;
- Utilities related to the designated boat slip;
- Janitorial services and pest extermination services within the Center;
- Building and holding pens as more particularly described in Appendix E including all interior and exterior maintenance repair;
- Opening/closing of the Center;
- Telecommunications Services; and,
- Utility extensions, as necessary

Additionally, see Appendix A, Scope of Services, for more specifically detailed related requirements.

33. Equipment Installed by Operator: Operator shall furnish and install all furnishings, fixtures, and equipment necessary for the operation of the Center. All furnishings, fixtures, and equipment acquired for the Center shall be of a reasonable commercial quality and comparable to that found at similar facilities.

Any equipment and furnishings installed by the Operator shall be in compliance with applicable law and Article 7 of the Home Rule Charter and in keeping with the appropriate standards of decor at the Park.

Operator shall not materially or adversely alter or modify any portion of the Park, the Center, or the improvements constructed therein without first obtaining written approval from the County. All requests from the Operator for material modifications to the Park, the Center, or the improvements constructed therein must be submitted in writing to the Department with sufficient documentation to justify the request. The Department will consider the information provided and any mitigating circumstances prior to approving or rejecting said requests.

34. Security and Protection: Operator acknowledges and accepts full responsibility for the security and protection of its equipment, other personal property, and money used in connection therewith twenty-four (24) hours per day, seven (7) days per week, three hundred sixty-five (365) days per year. The County makes no warranties as to any obligation to provide security for the Center or the Park. The

County will not accept any responsibility for the Operator's equipment, supplies, other personal property, money, etc.

35. Permits and Regulations: Operator covenants and agrees that Operator will obtain any and all necessary permits and approvals and that all uses of the Licensed Property will be in conformance with all applicable laws.

36. Damages or Destruction of Property: Operator shall, subject to other provisions of this Section, repair all damages to the Center, caused by the Operator, its employees, agents, or contractors. If the Site is partially damaged, or untenable for the purposes of this Agreement, the same shall with due diligence be repaired by the Operator from proceeds of the insurance coverage and/or at its own cost and expense and pro-rata adjustment of the Guaranteed Yearly Fee payable hereunder for the period of the Operator's business interruption, shall be made. If the damage shall be so extensive as to render such Premises untenable for the purposes intended, but capable of being repaired within thirty (30) days, the damage shall be repaired with due diligence by the Operator from the proceeds of the insurance coverage policy and/or at its own cost and expense, and for the period of Operator's business interruption a pro-rata adjustment shall be made to the Guaranteed Yearly Fee. 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 Operator, its employee, agents, contractors or sub-consultants, the Operator and the County shall be under no obligation to repair and reconstruct the premises, and adjustment of the Guaranteed Yearly Fee payable hereunder shall be proportionately made up to the time of such damage or destruction, and the portion of the Agreement which pertains to such destroyed property shall cease and terminate, and all adjustments which are proper including restoration of the site to a clean, neat and usable condition shall be made accordingly. However, at the sole option of the County, and through negotiations pertaining to all matters for continuing the premises in an Agreement, the Operator may reconstruct the premises at its own costs.

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

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

38. Diminution for County's Repair: Except as elsewhere specifically provided in this Agreement, there shall be no allowance to Operator for a diminution of rental value and no liability except for negligence of the County, its employees, agents, or contractors, on the part of the County by reason of inconvenience, annoyance, or interference with Operator's business arising from the County or its agents making any repairs, replacements, alterations, decorations, additions or improvements in or to any portion of the Park, excluding the site, 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 Operator's use of the Center.

39. Time is of the Essence: Operator covenants at all times to perform promptly all of the obligations of Operator set forth in this Agreement.

40. Ingress and Egress: Subject to the terms of this Agreement governing the use of the Center, Operator, its employees, agents and servants, patrons, and invitees, and its suppliers of service and furnishers of materials shall have right of ingress and egress to and from the Center at all times during the Term, and any renewal of this Agreement.

41. Assignment, Sub-Contracting, and Successors in Interest:

- A. Operator shall not assign, mortgage, pledge, nor otherwise encumber this Agreement or any portion thereof, nor any property associated with this Agreement without prior written approval of the County.. Unapproved assignment, mortgaging, pledging, or encumbering shall be grounds for termination of this Agreement, after applicable notice and grace period. It is agreed that all terms and conditions of this Agreement shall extend to and be binding on assignees and

other successors as may be reasonably approved by the County.

- B. Operator shall not enter into any sub-contracting Agreement for services required to be provided under this Agreement without prior written approval of the County. It is agreed that all terms and conditions of this Agreement shall extend to and be binding on any sub-Operators. Operator shall be liable for acts and omissions by any sub-Operator affecting this Agreement. The County reserves the right to directly terminate (and pursue any applicable remedy) any sub-Operator of the Operator for any cause for which Operator may be terminated. Any sub-contracting Agreement for Agreement services must be made available and accounted for through the Operator so as to provide seamless service to the public as if provided directly by the Operator.
- C. Should the Property reside in a geographic area that incorporates, becoming an independent municipality, the rights and obligations granted the County under this Agreement will automatically be assigned and assumed, if, and upon the Park's conveyance to the municipality and this Agreement shall continue and shall not be terminated or amended.

42. **Officers of Operator:** The Operator agrees to provide to the County an accurate list of all officers of the Not for Profit Corporation, and any change of corporate name or corporate ownership.
43. **County's Property Insurance:** Any insurance the County may maintain shall not cover Operator's improvements and betterments, contents, or other property of Operator. Operator shall not (after receipt of true and correct copies of any and all such policies) violate, or permit the violation of, any condition imposed by any of the County's insurance policies, and shall not do, or permit anything to be done, or keep or permit anything to be kept in the Center which would increase the fire or other property or casualty insurance rate on the other building or buildings in which the Site is located or property therein over the rate which would otherwise then be in effect.
44. **Operator's Insurance:** The Operator shall furnish to Miami-Dade County, Internal Services Department, Risk Management Division, 111 NW 1st Street, Suite 2340, Miami, FL 33128, as well as Miami-Dade Parks, Recreation and Open Spaces Department, Contracts Management, 275 NW 2nd Street, Miami, FL 33128, Certificate(s) of Insurance which indicate that insurance coverage has been obtained which meets the requirements as outlined below:
- A. Worker's Compensation Insurance for all employees of the Operator as required by Florida Statute 440.
 - B. Commercial General Liability Insurance on a comprehensive basis, in an amount not less than \$1,000,000 per occurrence to include Products and Advertising Liability. Miami-Dade County must be shown as an additional insured with respect to this coverage.
 - C. Automobile Liability Insurance covering all owned, non-owned and hired vehicles used in connection with the work, in an amount not less than \$1,000,000 combined single limit per occurrence for bodily injury and property damage.
 - D. Professional Liability Insurance in the name of the Operator, or their licensed Design Professional, in the amount of \$1,000,000 per claim.
 - E. Prior to Commencement of Construction: Completed Value Builders' Risk Insurance on an "all risk" basis in an amount not less than one hundred (100%) percent of the insurable value of the building(s) or structure(s). Coverage shall remain in place until substantial completion of construction has been reached as determined by Miami Dade County, Parks, Recreation and Open Spaces. The policy shall be in the name of Miami Dade County and the Operator.

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

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

or

The company must hold a valid Florida Certificate of Authority as shown in the latest "List of All Insurance Companies Authorized or Approved to Do Business in Florida" issued by the State of Florida Department of Financial Services.

CERTIFICATE HOLDER MUST READ:

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

In the description box just above the certificate holder box, the name and address of the facility should be listed along with the contract number, if applicable. The insurance coverage required shall include those classifications, as listed in standard liability insurance manuals, which most nearly reflect the operations of the Operator.

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

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

Commencement of this Agreement is contingent upon receipt from the Operator of insurance documents in the manner prescribed in this Agreement. The Operator 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; including any and all option years that may be granted by the County. If insurance certificates are scheduled to expire during the contractual period, the Operator shall be responsible for submitting new or renewed insurance certificates to the County 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 Agreement period, the County shall suspend the Agreement until such time as the new or renewed certificates are received by the County in the manner prescribed in this Agreement; provided, however, that this suspended period does not exceed thirty (30) calendar days. Thereafter, the County may, at its sole discretion, terminate this Agreement.

The Department reserves the right to reasonable amend the insurance requirements by the issuance of a notice in writing to the Operator. Modification or waiver of any of the aforementioned requirements is subject to approval of the County's Risk Management Division.

45. **Release and Indemnification:** The Operator shall indemnify and hold harmless the County and its officers, employees, agents and instrumentalities from any and all liability, losses or damages, including attorneys' fees and costs of defense, which the County or its officers, employees, agents or instrumentalities may incur as a result of claims, demands, suits, causes of actions or proceedings of any kind or nature arising out of, relating to or resulting from the performance of this Agreement by the Operator or its employees, agents, servants, partners principals or subcontractors and not resulting solely from the negligence of the County, its agents, employees or subcontractors. The Operator shall pay all indemnified claims and losses in connection therewith and shall investigate and defend all indemnified 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 Operator expressly understands and agrees that any insurance protection required by this Agreement or otherwise provided by the Operator shall in no way limit the responsibility to indemnify, keep and save harmless and defend the County or its officers, employees, agents and instrumentalities as herein provided.
46. **Liability for Damage of Injury:** The County shall not be liable for damage or injury to the person which may be sustained by any party or persons at the Site other than the damage or injury to the person if and to the extent caused by the negligence of the County, its contractors, agents, or employees while in the course of County business, and as limited by Section 768.28, Florida Statutes. Nothing herein stated shall eliminate or alter the obligation of the County set forth in other provisions of this Agreement.
47. **No Liability for Personal Property:** All personal property placed or moved in the Property above described shall, except for the negligent act or omission of the County, its employee(s), agent(s), or contractor(s), be at the risk of Operator or the owner thereof. County shall not be liable to Operator or any third party for any damage to said personal property unless caused by negligence of the County, County's agents, employees, or contractors, subject to all limitations of Florida Statutes, Section 768.28.
48. **Patent and Copyright Indemnification:**
- A. The Operator warrants that all Work furnished hereunder, including but not limited to, wall murals, and the like, shall not infringe on any copyrights, trademarks, service marks, trade secrets, patent rights, other intellectual property rights or any other third party proprietary rights in the performance of the Work.
 - B. The Operator shall be liable and responsible for any and all claims made against the County for infringement of patents, copyrights, service marks, trade secrets or any other third party proprietary rights, by the use or supplying of any wall murals, and the like, in the course of performance or completion of, or in any way connected with, the Work. Accordingly, the Operator at its own expense, including the payment of attorney's fees, shall indemnify, and hold harmless the County

and defend any action brought against the County with respect to any such claim, demand, cause of action, debt, or liability herein described.

- C. In the event any Work or anything provided to the County hereunder, or portion thereof is held to constitute an infringement and its use is or may be enjoined, the Operator shall have the obligation to, at the County's option to (i) modify, or require that the applicable subcontractor or supplier modify, the alleged infringing item(s) at its own expense, without impairing in any respect the functionality or performance of the item(s), or (ii) procure for the County, at the Operator's expense, the rights provided under this Agreement to use the item(s).
- D. The Operator shall be solely responsible for determining and informing the County whether a prospective supplier or subcontractor is a party to any litigation involving patent or copyright infringement, service mark, trademark, violation, or proprietary rights claims or is subject to any injunction which may prohibit it from providing any Work hereunder. The Operator shall enter into agreements with all suppliers and subcontractors at the Operator's own risk. The County may reject any Work that it believes to be the subject of any such litigation or injunction, or if, in the County's judgment, use thereof would delay the Work or be unlawful.

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

50. **Termination for Convenience by County:** The County may end this Agreement, with or without cause, by providing written notice to the Operator at least one hundred – eighty days (180) prior to the effective date of termination of its intent to terminate this Agreement for convenience.

51. **Termination by County:** The County shall have the right to terminate this Agreement if the Operator fails to pay any amounts due under Paragraph 12 and 13 of this Agreement within fifteen (15) days after written notice that the amount has not been so paid or if the Operator, materially and manifestly fails to keep, observe or perform any material covenant, agreement term or provision of this Agreement to be kept, observed, or performed by the Operator and such default continues for a period thirty (30) days after written notice thereof by County of the Operator; unless default cannot be cured within such thirty (30) day period, but in no event shall such default continue for a period greater than one hundred eighty (180) days. Notwithstanding, the foregoing, the County shall be entitled to automatically terminate this Agreement, upon (1) the institution of proceedings in voluntary bankruptcy or reorganization by the Operator; (2) the institution of proceedings in involuntary bankruptcy against the Operator, if such proceedings continue for a period of ninety (90) days; (3) the assignment by the Operator for the benefit of creditors without prior County notification and written approval; (4) the abandonment or discontinuation of operations without the County's written consent, for a period exceeding ninety (90) days; (5) the discovery of any material misstatement by the Operator inducing the County to enter into this Agreement; and (6) the use of the Park for other than public park purposes, upon fifteen (15) days prior written notice and opportunity to cure from the County. If the County terminates this Agreement for cause and in accordance with the applicable dispute resolution provisions of Paragraph 71 of the Agreement, it is later determined that the County's termination was wrongful, then the Operator shall be entitled to continue to utilize the Park in the manner and for the remainder of the Term of this Agreement. Any dispute between the parties as to whether cause for termination exists shall be resolved by the dispute resolution provisions set forth in Paragraph 71 of this Agreement.

52. **Termination by Operator:** Operator shall have the right upon thirty (30) calendar days from receipt of written notice to the County by certified or registered mail to the address set forth in this Agreement to terminate this Agreement without penalty in the event of a determination by the Operator that the New Facilities are ready for the Operator to relocate to at any time prior to the expiration of the Agreement. Operator shall have the right upon thirty (30) calendar days from receipt of written notice to the County by certified or registered mail to the address set forth in this Agreement to terminate this Agreement at any time after the occurrence of one or more of the following events:

- A. A breach by the County of any of the terms, covenants or conditions contained in this Agreement and the failure of the County to remedy such breach for a period of ninety (90) calendar days after receipt of written notice sent by registered or certified mail, return receipt requested, from the Operator, 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 Facility, or any substantial part, or parts, thereof in such a manner as to substantially restrict Operator's operations for a period of ninety (90) calendar days or more.

53. **Surrender of Premises:** At the expiration or earlier termination of the term of this Agreement, Operator shall peaceably surrender the Premises in good and clean condition, ordinary wear and tear and damage by condemnation, fire or other casualty excepted; all improvements made by the Operator in connection with this Operator Agreement shall become the property of the County with the exception of those items in Appendix H. Operator shall deliver all keys, as applicable, for the Center to the County at the place then fixed for the payment of Fees, and shall notify the County in writing of all combinations of locks, safes and vaults, if any, in the Center. Ordinary wear and tear shall be deemed not to include damage or injury caused by moving Operator's property or trade fixtures into or out of the Center. Operator's obligation to observe and perform the covenants set forth in this paragraph shall survive the expiration or earlier termination of the term of this Agreement.
54. **Mechanics', Materialmen's and Other Liens:** Operator agrees that it will not permit any mechanic's or materialmen's, to stand against the Property for work or materials furnished to Operator; it being provided, however, that Operator shall have the right to contest the validity thereof. Operator shall immediately pay any judgment or decree rendered against Operator, with all proper costs and charges, and shall cause any such lien to be released off record without cost to County.
55. **Lien:** The County shall have a lien upon all personal property of the Operator on the Site to secure the payment to the County of any unpaid money accruing to the County under the terms of this Agreement.
56. **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 Agreement, this Agreement will be null and void and unenforceable by any party to this Agreement and the County shall have no further liability under this Agreement. In the event that a referendum vote of the electorate of the County in any way restricts or prohibits the use of the Site for the purposes of this Agreement, this Agreement will be null and void and unenforceable by any party to this Agreement and the County shall have no further liability under this Agreement. If the County deems the Agreement null and void by function of this Paragraph, the County will not be liable to the Operator for damages arising there from and the County shall have no further liability under this Agreement.
57. **Property Disposition upon Termination of Agreement:** Following the termination of this Agreement the Operator, within fifteen (15) calendar days, or earlier if determined by the County, shall forthwith remove all of its personal property including, but not limited to, such items listed in Appendix H. Any personal property of Operator not removed in accordance with this paragraph may be removed by the County for storage at the cost of the Operator or shall constitute a gratuitous transfer of title thereof to the County for whatever disposition is deemed to be in the best interests of the County. The County shall not be liable to Operator for the safekeeping of Operator's personal property during or after termination of this Agreement. The County shall have the senior interest in the Operator's personal property. Operator shall also be liable to the County for any expenses incurred by the County in replacing any items wrongfully removed by Operator. It is the intention of the parties to this Agreement that all furnishings and equipment purchased or leased by the Operator, except those permanently affixed to buildings, as defined under the laws of the State of Florida, shall be the personal property of the Operator. Upon termination of this Agreement and the removal of all property by Operator, the Operator shall deliver said premises to the County in the condition set forth in this Paragraph.
58. **Non-Discrimination:** During the performance of this Agreement, the Operator agrees to not discriminate against any employee or applicant for employment because of race, color, religion, ancestry, national origin, sex, pregnancy, age, disability, marital status, familial status, sexual orientation, gender identity or gender expression, status as victim of domestic violence, dating violence or stalking, or veteran status, and will take affirmative action to ensure that employees and applicants are afforded equal employment opportunities without discrimination.

By entering into the Agreement, the Operator attests that it is not in of the Americans with Disabilities Act of 1990 (and related Acts) or Miami-Dade County Resolution No. R-385-95. If the Operator or any owner, subsidiary or other firm affiliated with or related to the Operator is found by the responsible enforcement agency or the County to be in violation of the Act or the Resolution, such violation shall render this Agreement void. This Agreement shall be void if the Operator submits a false affidavit pursuant to this Resolution or the Operator violates the Act or the Resolution during the term of this Agreement, even if the Operator was not in violation at the time it submitted its affidavit.

59. **Press Release or Other Public Information:** Under no circumstances shall the Operator without the express written consent of the County:

- a) Issue or permit to be issued any press release, advertisement or literature of any kind which refers to the County, or the Work being performed hereunder, unless the Operator first obtains the written approval of the County. Such

- approval may be withheld only if the County reasonably believes that the publication of such information would be harmful to the public interest or is in any way undesirable; and
- b) Communicate in any way with any contractor, department, board, agency, commission or other organization or any person whether governmental or private in connection with the Services to be performed hereunder except upon prior written approval and instruction of the County; and
 - c) Except as may be required by law, the Operator and its employees, agents, subcontractors and suppliers will not represent, directly or indirectly, that any product or service provided by the Operator or such parties has been approved or endorsed by the County.

60. **No Waiver of Right to Enforce:** The waiver by County of any breach of any term, covenant, or condition herein contained shall not be deemed to be a waiver of such term, covenant, or any subsequent breach of the same or any other term, covenant, or condition herein contained. The subsequent acceptance of the Guaranteed Yearly Fee and Annual Management and Administrative Oversight fee hereunder by County shall not be deemed to be a waiver of any preceding breach by Operator of any term, covenant, or condition of this Agreement, other than the failure of Operator to pay the particular Guaranteed Yearly Fee and Annual Management and Administrative Oversight fee, so accepted, regardless of County's knowledge of such preceding breach at the time of acceptance of such Guaranteed Yearly Fee and Annual Management and Administrative Oversight fee.
61. **Rules and Regulations:** The Operator will observe, obey, and comply with all rules and regulations adopted by the County and all laws, ordinances and/or rules and regulations of the Parks, Recreation and Open Spaces Department or other governmental units and agencies having lawful jurisdiction, which may be applicable to Operator's operations under this Agreement. Failure to do so will constitute a breach of the Agreement.
62. **Emergency Preparedness:** The Operator shall prepare plan(s) for emergencies, including, but not limited to, fire, acts of nature, that are consistent with the County's emergency plan for the Park and implement the approved plan(s) if reasonably instructed to do so by the County.
63. **Inspection by County:** The County shall have the authority to make periodic reasonable inspections of all the Operator's equipment, and operations during the normal operating hours thereof to determine if such are being maintained in a neat and orderly condition. The Operator shall be required to make any improvements in cleaning or maintenance methods reasonably required by the County. Such periodic inspections may also be made at the County's discretion to determine whether the Operator is operating in compliance with the terms and provisions of this Agreement.
64. **Right of Entry:** During the one hundred and eighty (180) days prior to the expiration of the term of this Agreement, the County may show the Center to other prospective Operators. If during the last ninety (90) days of the term of this Agreement, Operator shall have removed all or substantially all of Operator's property there from. The County may immediately enter, alter, renovate, and redecorate the Center without elimination or abatement of fee or other compensation and such action shall have no effect upon this Agreement.
65. **Equipment and Amplifiers:** No voice or sound amplification or Public Address equipment will be used unless approved in writing by the Department. No motorized or mechanical equipment may be used in connection with this Agreement unless approved in writing by the Department.
66. **Notices:** Any notices submitted or required by this Agreement shall be sent by registered or certified mail, return receipt requested or delivery by hand, 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:

To the County:

Contract Manager
Miami-Dade Parks, Recreation and Open Spaces
275 NW 2nd Street, 5th Floor
Miami, Florida 33128

Park Manager
Miami-Dade Parks, Recreation and Open Spaces
1275 NE 79th St
Miami, Florida 33138

Miami-Dade County, Florida

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

To the Operator: Pelican Harbor Seabird Station
1279 NE 79 Street Causeway
Miami, Florida 33138
Attention:

The County may alternatively provide notice by posting written notice on or at the Center. If attempted delivery of such notice by mail is thwarted by any avoidance of receipt or unavailability for receipt by the intended recipient that notice will have the effect of being constructively received by the recipient.

67. **Interpretations:** This Agreement and the appendices and attachments hereto, and other documents specifically referred to herein, shall be interpreted as a whole unit and paragraph headings are for convenience only. The Agreement shall not be construed in favor of one party or the other. All matters involving the Agreement shall be governed by Laws of the State of Florida.

68. **Independent Operator Relationship:** The Operator is, and shall be, in the performance of all work services and activities under this Agreement, an independent contractor, and not an employee, agent or servant of the County. All persons engaged in any of the work or services performed pursuant to this Agreement shall at all times, and in all places, be subject to the Operator's sole direction, supervision and control. The Operator shall exercise control over the means and manner in which it and its employees and/or volunteers perform the work, and in all respects the Operator's relationship and the relationship of its employees and/or volunteers to the County shall be that of an independent Operator and not as employees and agents of the County. The Operator does not have the power or authority to bind the County in any promise, Permit or representation other than specifically provided for in this Agreement.

69. **Dispute Resolution:**

- a) The Contractor hereby acknowledges that the County's Contract Manager will determine in the first instance all questions of any nature whatsoever arising out of, under, or in connection with, or in any way related to or on account of, this Agreement including without limitations: questions as to the value, acceptability and fitness of the Services; questions as to either party's fulfillment of its obligations under the Contract; negligence, fraud or misrepresentation before or subsequent to acceptance of the Operator's Proposal; questions as to the interpretation of the Scope of Services; and claims for damages, compensation and losses.
- b) The Operator shall be bound by all determinations or orders and shall promptly comply with every order of the Contract Manager, including the withdrawal or modification of any previous order and regardless of whether the Operator agrees with the Contract Manager's determination or order. Where orders are given orally, they will be issued in writing by the Contract Manager as soon thereafter as is practicable.
- c) The Operator must, in the final instance, seek to resolve every difference concerning the Agreement with the Contract Manager. In the event that the Operator and the Contract Manager are unable to resolve their difference, the Operator may initiate a dispute in accordance with the procedures set forth in this Article. Exhaustion of these procedures shall be a condition precedent to any lawsuit permitted hereunder.
- d) In the event of such dispute, the parties to this Agreement authorize the County Mayor or designee, who may not be the Contract Manager or anyone associated with this Project, acting personally, to decide all questions arising out of, under, or in connection with, or in any way related to or on account of the Agreement (including but not limited to claims in the nature of breach of contract, fraud or misrepresentation arising either before or subsequent to execution hereof) and the decision of each with respect to matters within the County Mayor's purview as set forth above shall be conclusive, final and binding on parties. Any such dispute shall be brought, if at all, before the County Mayor within 10 days of the occurrence, event or act out of which the dispute arises.
- e) The County Mayor may base this decision on such assistance as may be desirable, including advice of experts, but in any event shall base the decision on an independent and objective determination of whether Operator's performance or any Deliverable meets the requirements of this Agreement and any specifications with respect thereto set forth herein. The effect of any decision shall not be impaired or waived by any negotiations or settlements or offers made in connection with the dispute, whether or not the County Mayor participated therein, or by any prior decision of others, which prior decision shall be deemed subject to review, or by any termination or cancellation of the Agreement. All such disputes shall be submitted in writing by the Operator 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 judgement or to make a determination or form an opinion pursuant to the provisions of this Article, such action shall be fair and impartial when exercised or taken. The County Mayor, as appropriate, shall render a decision in writing and deliver a copy of the same to the Operator. Except as such remedies may be limited or waived elsewhere in the Agreement, Operator reserves the right to pursue any remedies available under law after exhausting the provisions of this Article.

70. Mutual Obligations:

- a) Nothing in this Agreement shall be construed for the benefit, intended or otherwise, of any third party.
- b) In those situations where this Agreement imposes an indemnity obligation on the Operator, the County may, at its expense, elect to participate in the defense if the County should so choose. Furthermore, the County may at its own expense defend or settle any such claims if the Operator fails to diligently defend such claims, and thereafter seek indemnity for costs from the Operator.

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

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

73. **Audits:** Pursuant to County Ordinance No. 03-2, the Operator 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 Operator 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.

74. **Conflict of Interest:** The Operator represents that:

- a. No officer, director, employee, agent, or other consultant of the County or a member of the immediate family or household of the aforesaid has directly or indirectly received from Operator or been promised by Operator any form of benefit, payment or compensation, whether tangible or intangible, in connection with the award of this Agreement.
- b. There are no undisclosed persons or entities interested with the Operator in this Agreement. This Agreement is entered into by the Operator without any connection with any other entity or person making a proposal for the same purpose, and without collusion, fraud or conflict of interest. No elected or appointed officer or official, director, employee, agent or other consultant of the County, or of the State of Florida (including elected and appointed members of the legislative and executive branches of government), or a member of the immediate family or household of any of the aforesaid:
 - i) is interested on behalf of or through the Operator directly or indirectly in any manner whatsoever in the execution or the performance of this Agreement, or in the services, supplies or work, to which this Agreement relates or in any portion of the revenues; or
 - ii) is an employee, agent, advisor, or consultant to the Operator or to the best of the Operator's knowledge any subcontractor or supplier to the Operator.
- c. Neither the Operator nor any officer, director, employee, agency, parent, subsidiary, or affiliate of the Operator shall have an interest which is in conflict with the Operator's faithful performance of its obligation under this Agreement; provided that the County, in its sole discretion, may consent in writing to such a relationship, provided the Operator provides the County with a written notice, in advance, which identifies all the individuals and entities involved and sets forth in detail the nature of the relationship and why it is in the County's best interest to consent to such relationship.
- d. The provisions of this 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 Agreement and those provided by statute, the stricter standard shall apply.
- e. In the event Operator 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, Operator shall promptly bring such information to the attention of the Contract Manager. Operator shall thereafter cooperate with the County's review and investigation of such information, and comply with the instructions Operator receives from the Contract Manager in regard to remedying the situation.

75. **Local, State, and Federal Compliance Requirements:** Operator agrees to comply, subject to applicable professional standards, with the provisions of any and all applicable Federal, State and the County orders, statutes, ordinances, rules and regulations which may pertain to the Services required under this Agreement, including but not limited to:

- a. Prohibition against Liens. The Operator is prohibited from placing a lien on the County's property. This prohibition shall be placed in all Subcontractor contracts.
- b. Operator shall conduct background checks on all owners, staff, and volunteers pursuant to Miami-Dade County Ordinance No. 08-07 and ensure the safety of the patrons of the Park by meeting the requirements of Chapter 26 "Miami-Dade County Park and Recreation Department Rules and Regulations, Article III, The Shannon Melendi Act".
- c. Miami-Dade County Commission Ordinance No. 16-58, regarding a ban on use of polystyrene (also known as Styrofoam) in

Parks.

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

76. Inspector General Reviews:

Independent Private Sector Inspector General Reviews

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

Miami-Dade County Inspector General Review

According to Section 2-1076 of the Code of Miami-Dade County, Miami-Dade County has established the Office of the Inspector General which may, on a random basis, perform audits on all County contracts, throughout the duration of said contracts. The cost of the audit for this Contract shall be one quarter (1/4) of one (1) percent of the total contract amount which cost shall be included in the total contract amount. The audit cost will be deducted by the County from progress payments to the Operator. 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 Agreements; (f) concessions and other rental agreements; (g) insurance contracts; (h) revenue-generating contracts; (i) contracts where an IPSIG is assigned at the time the contract is approved by the Commission; (j) professional service agreements under \$1,000; (k) management agreements; (l) small purchase orders as defined in Miami-Dade County Administrative Order 3-38; (m) federal, state and local government-funded grants; and (n) interlocal agreements. Notwithstanding the foregoing, the Miami-Dade County Board of County Commissioners may authorize the inclusion of the fee assessment of one quarter (1/4) of one percent in any exempted contract at the time of award.

Nothing contained above shall in any way limit the powers of the Inspector General to perform audits on all County contracts including, but not limited to, those contracts specifically exempted above. The Miami-Dade County Inspector General is authorized and empowered to review past, present and proposed County and Public Health Trust contracts, transactions, accounts, records and programs. In addition, the Inspector General has the power to subpoena witnesses, administer oaths, require the production of records and monitor existing projects and programs. Monitoring of an existing project or program may include a report concerning whether the project is on time, within budget and in conformance with plans, specifications and applicable law. The Inspector General is empowered to analyze the necessity of and reasonableness of proposed change orders to the Contract. The Inspector General shall have the power to audit, investigate, monitor, oversee, inspect and review operations, activities, performance and procurement process, including but not limited to project design, specifications, proposal submittals, activities of the Operator, 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 Operator from the Inspector General or IPSIG retained by the Inspector General, the Operator 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 Operator'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.

77. **E-Verify:** Operator acknowledges and agrees to utilize the U.S. Department of Homeland Security's E-Verify System to verify the employment eligibility of (a) all persons employed by the Operator to perform employment duties within Florida during the term of the Agreement; and (b) all persons (including subcontractors/subconsultants/subvendors) assigned by the Operator to perform Work pursuant to the Agreement with the County. The Operator acknowledges and agrees that use of the U.S. Department of Homeland Security's E-Verify System during the term of the Agreement is a condition of the Agreement with the County.
78. **Access Statement:** To request material in accessible format, sign language interpreters, and/or any accommodation to participate in any Miami-Dade County sponsored program or meeting, contact David Livingstone at DCL@miamidade.gov, 305-755-7824 at least 7 days in advance to initiate your request. TTY users may also call 711 (Florida Relay Service).
79. **Public Records and Contracts for Services Performed on Behalf of a Public Agency:** The Operator shall comply with the Public Records Laws of the State of Florida, including by not limited to, (1) keeping and maintaining all public records that ordinarily and necessarily would be required by the County in order to perform the service; (2) providing the public with access to public records on the same terms and conditions that the County would provide the records and at a cost that does not exceed the cost provided in Chapter 119, F.S., or as otherwise provided by law; (3) ensuring that public records that are exempt or confidential and exempt from public records disclosure requirements are not disclosed except as authorized by law; and (4) meeting all requirements for retaining public records and transferring, at no cost, to the County all public records in possession of the Operator upon termination of the contract and destroying any duplicate public records that are exempt or confidential and exempt from public records disclosure requirements upon such transfer. In addition, all records stored electronically must be provided to the County in a format that is compatible with the information technology systems of the County. Failure to meet any of these provisions or to comply with Florida's Public Records Laws as applicable shall be a material breach of this Agreement and shall be enforced in accordance with the terms and conditions of the Agreement.

IF THE OPERATOR HAS QUESTIONS REGARDING THE APPLICATION OF CHAPTER 119, FLORIDA STATUTES, TO THE OPERATOR'S DUTY TO PROVIDE PUBLIC RECORDS RELATING TO THIS CONTRACT, CONTACT THE CUSTODIAN OF PUBLIC RECORDS AT (305) 755-7824, DCL@MIAMIDADE.GOV, 275 NW 2nd STREET, MIAMI, FLORIDA 33128.

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

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

Operator

By: Christopher Boukin

Name: Christopher Boukin

Title: Executive Director _____

Date: 5/25/2021

Attest: Patricia Rose
Corporate Secretary/Notary Public

Miami-Dade County

By: _____

Name: _____

Title: _____

Date: _____

Attest: _____
Clerk of the Board

Corporate Seal/Notary Seal

Approved by County Attorney as to form
and legal sufficiency



Patricia Rose
Comm. #HH036694
Expires: Sept. 4, 2024
Bonded Thru Aaron Notary

Appendix A - Scope of Services

2.1 Introduction/Background

The Miami-Dade Park and Recreation Department owns and operates Pelican Harbor Marina (the Park) located at 1279 NE 79th Street Causeway, Miami, Florida 33138. The Park contains the facility known as the Pelican Harbor Seabird Station, Inc., and is being made available to a not-for-profit organization.

The Seabird Station (Station), originally started in 1980, was founded to rescue and rehabilitate injured brown pelicans. Since then, the Seabird Station has been permitted by the Florida Fish and Wildlife Conservation Commission and the United States Fish and Wildlife Service to rescue, rehabilitate and release migratory birds.

2.2 Center Operation Requirements

- 2.2.1 It is anticipated that the Center be open and Services be provided Sunday-Saturday between the hours of 9:00 AM and 5:00 PM to provide wildlife drop off service.
- 2.2.2 It is anticipated that the Center be open and Services be provided as needed to provide educational conservation programming, in coordination with the County.
- 2.2.3 Any activities that require the use of Pelican Harbor Marina beyond normal operating hours must be coordinated with the Park Manager at least 2 weeks in advance.
- 2.2.4 No part of the Center shall be used for the purpose of commercial advertising.
- 2.2.5 Parking
 - 2.2.5.1 Staff, volunteers and visitors shall be afforded three (3) designated parking spaces at the facility, as approved by the Department, at no charge.
 - 2.2.5.2 No more than three (3) additional parking spaces in the marina patron parking lot may be utilized by Pelican Harbor staff, volunteers and visitors. Additional volunteers and guests must park outside the marina parking lot area.
 - 2.2.5.3 Parking within Pelican Harbor Marina beyond what is designated here would be subject to the parking rules and rates in effect at the time.
- 2.2.6 Operator and County will meet as needed on a monthly basis to coordinate use of the facilities and Pelican Harbor Marina for respective programming or activities.
- 2.2.7 Operator shall be responsible for landscape maintenance of all facilities covered by this agreement.

2.3 Services to be Provided

The Operator shall provide the following services without use of a Subcontractor:

- 2.3.1 Provide methods of receiving injured, maimed, sick, abandoned or orphaned birds.
- 2.3.2 Operator shall be available to retrieve and transport injured birds to the center.
- 2.3.3 The Operator shall provide for the care and feeding in such a manner as to be able to return the birds to their natural environment.
- 2.3.4 Other Services to be provided:
 - 2.3.4.1 Provide qualified staff to carry out requirements of the Scope of Services. Operator represents that all persons delivering the Services required by this Agreement have the knowledge and skills, either by training, experience, education, or a combination thereof, to adequately and competently perform the duties, obligations, and Services set forth this Scope of Services and to provide and perform such Services the County's satisfaction.
 - 2.3.4.2 Provide staff capable of opening, closing, supplying, and cleaning the Center during the Operator's designated hours of operation.
 - 2.3.4.3 Provide all necessary equipment to ensure successful educational programming operations (including, but not limited to, educational materials, supplies, etc.) All equipment and personal property furnished by Operator shall be of good quality and suitable for its purpose.
 - 2.3.4.4 Provide an operation that will be safe, customer oriented with prompt service, complaint resolution, effective employee performance and training and timely initiation and completion of all Work and Services;
 - 2.3.4.5 Manage, operate, and maintain the Center and provide Services and activities in accordance with legal requirements and safety practices required for the safe operation;
 - 2.3.4.6 Take good care of the Center and using the same in a careful manner and, at its own expense, repair County property and Center damaged by its operations;
 - 2.3.4.7 Keep all equipment and supplies necessary to maintain the Center in the same condition as at the

- commencement of this agreement ordinary wear and tear excepted;
- 2.3.4.8 Ensure employees are distinctively uniformed or appropriately attired so as to be distinguishable as the Operator's employees and not as employees of the County;
 - 2.3.4.9 Prepare plan(s) for emergencies, including, but not limited to, fire, acts of nature, child injury, child choking, etc., and implement the approved plan(s) if instructed to do so by the County.

2.4 Educational Programming

- 2.4.1.1 Operator will be expected to offer educational programs and guided tours which will provide for a thorough understanding of the importance of rescuing, rehabilitating and releasing migratory birds. Other courses that may be offered are educational outreach programs to schools and summer camps.
- 2.4.1.2 All programming must be pre-approved (such approval not to be unreasonably withheld) by the County to avoid conflict with or detract from County programming.

2.5 Operator's Rights and Responsibilities

- 2.5.1 Operator shall be responsible for janitorial service within the Center. The Operator shall keep the Center and equipment clean at all times. If the Center and equipment are not kept clean in the opinion of the County, the Operator will be advised and if correction action is not immediately taken, the County will cause the same to be cleaned and/or treated and the Operator shall assume responsibility and liability for such cleaning costs associated.
- 2.5.2 Operator shall, at its sole cost, obtain all permits, licenses, and approvals required for operation and performance under this Contract.
- 2.5.3 Operator shall repair all damages to the Center or Park caused by the Operator, its employees, agents, or independent contractors.
- 2.5.4 Operator shall use the Center only for the use permitted and shall not provide any services or sell any item or product without the prior written approval of the County, such approval not to be unreasonably withheld in each instance. Further, all activity and use shall be in accordance with Article 7 of the Home Rule Charter of Miami-Dade County.
- 2.5.5 Operator shall not permit the Center or any part thereof to be used in any manner, or anything to be done therein, 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 Center or Park or any part thereof; (iii) constitute a public or private nuisance; (iv) negatively impair the appearance of the Center or Park; (v) materially impair or interfere with the proper and economic cleaning, heating, ventilating or air-conditioning of the Center or Park or the proper and economic functioning of any other common service facility or common utility of the Center or Park; (vi) materially impair or interfere with the physical convenience of any of the occupants of the Center or Park; or (vii) impair any of the it's other obligations under this Contract.
- 2.5.6 Throughout the term of this Agreement, including any renewal term, the Operator shall be responsible for the timely payment (i.e., before delinquency) of any and all taxes levied on the Operator, which taxes relate to, arise out of, or are a result of the operations and/or performance under this Agreement. The Operator's liability for the payment of taxes shall encompass taxes imposed by any taxing authority including, but not limited to, state, county, and municipal taxing authorities.
- 2.5.7 Acquiring and maintaining all supplies and equipment necessary for educational programming and related activities.
- 2.5.8 Picking up trash in and around Operator's designated area and emptying all trash into a dumpster on the fire station site that is regularly serviced by a waste management company.
- 2.5.9 Ensuring that at least one staff person on-site must possess a current certification in CPR and First Aid at any time during Operator's operation hours.
- 2.5.10 Operator shall observe, obey, and comply with all rules and regulations adopted by the County and all laws, ordinances and/or rules and regulations of PROS or other governmental units and agencies having lawful jurisdiction, which may be applicable to the operations under this contract, including, but not limited to:
 - 2.5.10.1 Miami-Dade County Commission Ordinance No. 16-58, regarding a ban on use of polystyrene (also known as Styrofoam) in Parks.
- 2.5.11 Operator shall be responsible for the reporting requirements as set forth in this Agreement, under Article 20:
- 2.5.12 Operator, at its expense, shall comply with Miami-Dade County Ordinance No. 08-07, Chapter 26, "Miami-Dade County Park and Recreation Department Rules and Regulations, Article III, The Shannon Melendi Act" The Operator shall ensure that all Operator's management, staff, and volunteers:
 - 2.5.12.1 Have had nationwide criminal background checks conducted by a Professional Background Screener.
 - 2.5.12.2 Have been screened through the Florida Department of Law Enforcement Sexual Predator/Offender Database, and a check of the National Sex Offender Public Registry.

- 2.5.12.3 Have been verified as being United States Citizens or having legal immigrant status employment.
- 2.5.12.4 Complete an affidavit affirming that no work or volunteer duties will be performed on Park property owned or operated by Miami-Dade County in violation of this Ordinance and that an arrest will be reported to the Operator within forty-eight (48) hours of such arrest.
- 2.5.12.5 Wear picture identification at all times while on County property and when in direct contact with the general public.
- 2.5.12.6 Retain all records demonstrating compliance with the background screening required herein for not less than three (3) years beyond the end of the contract term. The Operator shall provide the County with access to these records annually, or at the request of the County.
- 2.5.13 Operator shall comply with PROS lightning prediction systems and/or safety rules.
 - 2.5.13.1 All outdoor activities will be suspended when the horns sound (a 15-second warning blast) or any sign of imminent lightning is observed. Once the audible alarm has sounded and strobes are flashing, shelter should be taken, either in a large building or a vehicle (not a convertible). Outdoor activity may be resumed only after three 5-second horn blasts have sounded, ensuring the storm has moved out of the area, and the strobe warning lights are off.
 - 2.5.13.2 For facilities without an electronic prediction system or periods where the system's warning horns are off, use the 30/30 lightning safety rule. If you see lightning and you cannot count to thirty (30) before hearing thunder, seek shelter. Then stay sheltered for thirty (30) minutes after hearing the last clap of thunder before resuming outdoor activities.
 - 2.5.13.3 Due to space limitations, park buildings should not be considered as shelters from imminent lightning.

2.6 County's Rights and Responsibilities

- 2.6.1 The County shall have the right to approve of the means, methods and personnel for the services that Operator is to provide pursuant to this Agreement, provided that such approval shall not be unreasonably withheld. Operator
- 2.6.2 The County shall have the right, without limitation, to monitor and test the quality of Services of the Operator.
- 2.6.3 The County shall have the authority to make periodic reasonable inspections of the Center, equipment, and operations during the normal operating hours thereof to determine if such are being maintained in a neat and orderly condition. The Operator shall be required to make any improvements in cleaning or maintenance methods reasonably required by the County. Such periodic inspections may also be made at the County's discretion to determine whether the Operator is operating in compliance with the terms and provisions of this Contract.
- 2.6.4 The County reserves the right to reasonably determine the attractiveness and appropriateness of the Center and to request that the Operator make reasonable changes, if necessary.
- 2.6.5 The County shall have the right, at its sole cost and expense, without limitation, to make any repairs, alterations and additions to any structures and facilities in the vicinity of the Center.
- 2.6.6 The County shall have the right to evaluate the educational programming on a monthly basis to ensure performance meets the requirements of this Agreement. In addition, the County shall have the right to conduct an annual performance review at the end of each Agreement year to ensure adherence to contractual requirements and a review of financial documentation (including balance sheet, profit & loss, and tax returns, if applicable), among other items as deemed applicable by the County, as part of this review.
- 2.6.7 In the event of inclement weather, the Park Manager or on-site Park staff shall have the final decision concerning closing of Pelican Harbor Marina, reopening of Pelican Harbor Marina, and rescheduling of activities if applicable.

2.7 Special Events

All special events or additional facility usage beyond that set forth in the Agreement will require written approval from the Park Manager or the Parks Director, as applicable. Requests must be submitted to the Park Manager in writing, at least two (2) weeks in advance depending upon the nature and size of the event. Requests should include number of people expected to attend, duration and support requirements (staff, parking, restrooms, etc.). Additional insurance and fees may be required in accordance with Administrative Order 8-3 and/or the Parks Department Fee Schedule, as applicable. Requests for special events, as defined in AO 8-3, shall be made in accordance with the requirements of AO 8-3.

Appendix B – Organizational Structure/Staffing Plan

(to include a list of bylaws/mission/goals, financial structure (including financial statements for two prior years and pending debts), budget (including paid staff), proof of U.S. Internal Revenue Service tax-exempt status under Sec. 501(c)(3) of the I.R.C., proof of incorporation as a not-for-profit organization in the State of Florida, proof of required insurance or ability to obtain required insurance, funding, rules of participation, etc.)

(To be completed prior to contract execution)



Pelican Harbor

S E A B I R D S T A T I O N

PAGE 22 ATTACHMENTS FOR COUNTRY AGREEMENT

MISSION STATEMENT

BYLAWS

FINANCIAL STATEMENTS FOR 2 YEARS

BUDGET FOR 2021

ORGANIZATION CHART

501 C3 AND IRS LETTER OF DETERMINATION



Pelican Harbor
SEABIRD STATION

MISSION STATEMENT

Pelican Harbor Seabird Station is dedicated to the rescue, rehabilitation and release of sick, injured or orphaned brown pelicans, seabirds and other native wildlife; and the preservation and protection of these species through educational and scientific means.

AMENDED AND RESTATED BY-LAWS OF PELICAN HARBOR SEABIRD STATION, INC. Mar 4, 2017

Article One: Name

The name of the organization shall be Pelican Harbor Seabird Station, Inc.

The principal office shall be located at:

Pelican Harbor Seabird Station
1279 N. E. 79th Street Causeway
Miami, FL 33138

The organization shall have a seal, which shall be in the following form:

Article Two: Purpose

The general nature of the object and purpose of this organization shall be the rescue, treatment, rehabilitation, and care of sick and injured or orphaned Brown Pelicans and other birds, and to foster and promote the preservation and protection and propagation of pelicans, other birds and wildlife through education and scientific means.

This corporation is organized exclusively for charitable, educational, scientific means and humanitarian purposes, including for such purposes as the making of distributions to organizations that qualify as exempt organizations under 501 c (3) of the Internal Revenue Code of 1954, (or the corresponding provision of any future United States Internal Revenue Law).

This organization does not discriminate on the basis of race, color, sex, religion, national origin, age, disability, sexual orientation, or any other legally protected characteristic.

Article Three: Board of Directors

A. The Board of Directors consisting of the officers and directors of the organization shall manage the business of this organization.

B. At least one of the officers/directors elected shall be a resident of the State of Florida and a citizen of the United States.

C. Such Board of Directors shall only act in the name of the organization when it shall be regularly convened as noted by the By-Laws, by the President after due notice to all directors of such meeting.

D. The number of elected Directors shall be a maximum of eleven (11) and a minimum of seven (7).

E. Each director shall be elected for a term of three (3) years.

AMENDED AND RESTATED BY-LAWS OF PELICAN HARBOR SEABIRD STATION, INC. Mar 4, 2017

F. Meetings may be held by conference call or other electronic means.

G. The fiscal year shall run from January to December.

Article Four: Election, Resignation and Removal of Directors

Section 1: Election

A. Directors shall be elected at the annual meeting for a term of three (3) years.

B. The Directors shall elect the President, Vice-President, Secretary and Treasurer. The offices of Secretary and Treasurer may be combined.

C. Vacancies in the Board of Directors may be filled by a majority vote of the remaining members of the Board of Directors for a term that coincides with the term of the vacated seat.

Section 2: Resignation

A Director may resign at any time by giving written notice to the President or Secretary of the Board. Unless otherwise specified, the resignation shall take effect upon receipt thereof by the Board or such officer, and the acceptance of the resignation shall not be necessary to make it effective.

Section 3: Removal

A Director may be removed for misfeasance or malfeasance in accordance with the parliamentary authority chapter on disciplinary procedures.

Article Five: Officers of the Board

In addition to the duties outlined in the parliamentary authority, the officers' responsibilities include:

Section 1: The President shall:

A. Preside at all meetings.

B. Present at each annual meeting an annual report of the work of the organization.

C. Appoint all committees.

D. See that all books, reports and certificates as required by law are properly kept and filed.

E. Be one of the officers who may sign checks or drafts for the organization.

F. Have such powers as are reasonably construed as belonging to the chief executive of any organization.

Section 2: The Vice-President shall:

A. Preside in the absence of the President.

B. In the event of the inability of the President to exercise his office shall become acting President

AMENDED AND RESTATED BY-LAWS OF PELICAN HARBOR SEABIRD STATION, INC. Mar 4, 2017

of the organization, if necessary, with all the rights, privileges and powers as if he had been duly elected President.

C. Assist the President and fulfill duties assigned to him by the President.

Section 3: The Secretary shall:

A. Keep the minutes and records of the organization in an appropriate manner.

B. File any certificate required by statute, federal or state law or regulation.

C. Be the official custodian of the records and the seal of the organization.

D. Present at each meeting any communications received by him as secretary of the organization.

Section 4: The Treasurer shall:

A. Oversee the financial affairs of the organization, including suggestions for the establishment of accounting and financial policies, the management of the investments of the organization, and the conduct of regular audits as directed by the Board.

B. Shall report to the Board at all regular meetings, in such detail as may be required, the financial condition of the organization.

C. Shall be one of the officers who signs checks or drafts on behalf of the organization.

Section 5: Compensation:

No officer shall for reason of his office be entitled to receive any salary or compensation, but nothing herein shall be construed to prevent an officer or director from receiving compensation from the organization for duties other than as director or officer of the Board.

Article 6

Section 1: Meetings

A. Four (4) quarterly meetings of the Board of Directors shall be held each year.

B. Emergency meetings may be called at the discretion of the President.

Section 2: Voting

A. A majority of the Board of Directors shall constitute a quorum.

B. Each director shall have one (1) vote.

C. There shall be no proxy voting.

Article 7: Amendments

A. These By-Laws may be revised, amended or repealed by a two-thirds (2/3) affirmative vote, (not less than quorum).

B. Notice of at least 30 (thirty) days shall be given prior to the meeting at which such vote will be taken.

AMENDED AND RESTATED BY-LAWS OF PELICAN HARBOR SEABIRD STATION, INC. Mar 4, 2017

Article 8: Parliamentary Authority

The current edition of Roberts Rules of Order Newly Revised shall be the parliamentary authority in which it is not in conflict with the By-Laws or other rules of this organization.

Article 9: Dissolution

The organization may be dissolved at any time by recommendation of the Board, and shall be approved by at least two-thirds (2/3) of the members of the Board. In the event of the dissolution of the Corporation, whether voluntary or involuntary or by operation of law, none of the assets of the Corporation shall be distributed to or inured to the benefit of any individual, but after payment of all lawful debts of the Corporation, its property and assets shall be given to a charitable organization or organizations of the kind described in Section 501 of the Internal Revenue Code, as amended. The Board of Directors shall select such organization or organizations

Article 10: Executive Committee

Executive Committee This Committee will consist of the officers of the board and other Directors designated by the President or elected by the Directors. The President of the board or his/her designate will serve as chairman of the Executive Committee. The Executive Committee will direct the efforts of the board and act on the Board's behalf between regular meetings of the board, interpret the policy of the board and advise the President. The Executive Committee may also discharge such duties delegated to it by the board. Actions of the Executive Committee are subject to review and ratification of the full Board.

Pelican Harbor Seabird Station, Inc.
Financial Statements
For the Years Ended December 31, 2019 and 2018

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4000 Hollywood Blvd, Suite 555-S
Hollywood, FL 33021
Web: www.MMRtax.com

INDEPENDENT ACCOUNTANT'S REVIEW REPORT

To the Board of Directors
Pelican Harbor Seabird Station, Inc.
1275 NE 79 Street Causeway
Miami, FL 33138

I have reviewed the accompanying financial statements of Pelican Harbor Seabird Station, Inc. (a nonprofit organization), which comprise the statement of financial position as of December 31, 2019 and the related statements of activities, functional expenses and cash flows for the year then ended, and the related notes to the financial statements. A review includes primarily applying analytical procedures to management's financial data and making inquiries of management. A review is substantially less in scope than an audit, the objective of which is the expression of an opinion regarding the financial statements as a whole. Accordingly, I do not express such an opinion.

Management's Responsibility for the Financial Statements

Management is responsible for the preparation and fair presentation of these financial statements in accordance with accounting principles generally accepted in the United States of America; this includes the design, implementation, and maintenance of internal control relevant to the preparation and fair presentation of financial statements that are free from material misstatement whether due to fraud or error.

Accountant's Responsibility

My responsibility is to conduct the review engagement in accordance with Statements on Standards for Accounting and Review Services promulgated by the Accounting and Review Services Committee of the AICPA. Those standards require me to perform procedures to obtain limited assurance as a basis for reporting whether I am aware of any material modifications that should be made to the financial statements for them to be in accordance with accounting principles generally accepted in the United States of America. I believe that the results of my procedures provide a reasonable basis for my conclusion.

Accountant's Conclusion

Based on my review, I am not aware of any material modifications that should be made to the accompanying financial statements in order for them to be in accordance with accounting principles generally accepted in the United States of America.

MMR CPA

Hollywood, Florida
May 14, 2020

PELICAN HARBOR SEABIRD STATION, INC.
STATEMENT OF FINANCIAL POSITION
DECEMBER 31, 2019 AND 2018

	<u>2019</u>	<u>2018</u>
ASSETS		
Current assets:		
Cash and cash equivalents	\$ 241,994	\$ 443,402
Cash on Hand	-	16,814
Restricted Cash and Investments	1,371,716	688,701
Contributions receivable, net	105,987	12,500
Due from related parties	-	575
Prepaid expenses	-	2,240
Investments	<u>39,259</u>	<u>30,634</u>
Total current assets	<u>1,758,956</u>	<u>1,194,866</u>
Non-current assets:		
Investments - building	186,685	56,685
Property and equipment, net	29,432	33,010
Software, net	<u>1,676</u>	<u>3,554</u>
Total non-current assets	<u>217,793</u>	<u>93,249</u>
Total assets	<u>\$ 1,976,748</u>	<u>\$ 1,288,115</u>
LIABILITIES AND NET ASSETS		
Current Liabilities		
Accounts payable and accrued expenses	<u>13,546</u>	<u>5,076</u>
Total liabilities	<u>13,546</u>	<u>5,076</u>
NET ASSETS		
Without donor restrictions	733,120	627,956
With donor restrictions	<u>1,230,083</u>	<u>655,083</u>
Total net assets	<u>1,963,203</u>	<u>1,283,039</u>
Total liabilities and net assets	<u>\$ 1,976,748</u>	<u>\$ 1,288,115</u>

See accompanying notes and independent accountant's report.

PELICAN HARBOR SEABIRD STATION, INC.
STATEMENT OF ACTIVITIES AND CHANGE IN NET ASSETS
YEAR ENDED DECEMBER 31, 2019

	<u>Without Donor Restrictions</u>	<u>With Donor Restrictions</u>	<u>Total</u>
OPERATING ACTIVITIES			
REVENUES AND OTHER SUPPORT			
Grant Revenue	\$ 88,350	\$ 264,502	\$ 352,852
Donations and contributions and fees	305,940	700,000	1,005,940
Program Service Fees	25,576		25,576
Special Event Income	99,954		
Special Event Expenses	<u>(52,337)</u>		
	47,618		47,618
In-kind use of facilities	41,866	-	41,866
Unrealized gain	14,685	-	14,685
Investment and interest income, net	<u>3,243</u>	<u>-</u>	<u>3,243</u>
Total revenues and other support	<u>527,278</u>	<u>964,502</u>	<u>1,491,780</u>
EXPENSES			
Program Services			
Total program services	<u>711,123</u>	<u>-</u>	<u>711,123</u>
Supporting services:			
Management and general	46,897	-	46,897
Fundraising	<u>53,597</u>	<u>-</u>	<u>53,597</u>
Total support services	<u>100,494</u>	<u>-</u>	<u>100,494</u>
Total expenses	<u>811,617</u>	<u>-</u>	<u>811,617</u>
Change in net assets from operations	<u>(284,339)</u>	<u>964,502</u>	<u>680,163</u>
NONOPERATING ACTIVITIES			
Restrictions satisfied by payments	<u>389,502</u>	<u>(389,502)</u>	<u>-</u>
Total nonoperating activities	<u>389,502</u>	<u>(389,502)</u>	<u>-</u>
Change in net assets	105,163	575,000	680,163
Net assets, beginning of year	<u>627,956</u>	<u>655,083</u>	<u>1,283,039</u>
Net assets, end of year	<u>\$ 733,120</u>	<u>\$ 1,230,083</u>	<u>\$ 1,963,203</u>

See accompanying notes and independent accountant's report.

PELICAN HARBOR SEABIRD STATION, INC.
STATEMENT OF ACTIVITIES AND CHANGE IN NET ASSETS
YEAR ENDED DECEMBER 31, 2018

	<u>Without Donor Restrictions</u>	<u>With Donor Restrictions</u>	<u>Total</u>
OPERATING ACTIVITIES			
REVENUES AND OTHER SUPPORT			
Grant Revenue	\$ 53,600	\$ 188,599	\$ 242,199
Donations and contributions and fees	415,710	75,000	490,710
In-kind use of facilities	39,497	-	39,497
Unrealized loss	(2,637)	-	(2,637)
Investment and interest income, net	708	-	708
	<u>506,878</u>	<u>263,599</u>	<u>770,477</u>
Total revenues and other support			
EXPENSES			
Program Services			
Total program services	<u>611,406</u>	<u>-</u>	<u>611,406</u>
Supporting services:			
Management and general	42,697	-	42,697
Fundraising	<u>48,797</u>	<u>-</u>	<u>48,797</u>
Total support services	<u>91,494</u>	<u>-</u>	<u>91,494</u>
Total expenses	<u>702,900</u>	<u>-</u>	<u>702,900</u>
Change in net assets from operations	<u>(196,023)</u>	<u>263,599</u>	<u>67,576</u>
NONOPERATING ACTIVITIES			
Restrictions satisfied by payments	<u>188,599</u>	<u>(188,599)</u>	<u>-</u>
Total nonoperating activities	<u>188,599</u>	<u>(188,599)</u>	<u>-</u>
Change in net assets	(7,424)	75,000	67,576
Net assets, beginning of year	<u>635,380</u>	<u>580,083</u>	<u>1,215,463</u>
Net assets, end of year	<u>\$ 627,956</u>	<u>\$ 655,083</u>	<u>\$ 1,283,039</u>

See accompanying notes and independent accountant's report.

PELICAN HARBOR SEABIRD STATION, INC.
STATEMENT OF FUNCTIONAL EXPENSES
YEAR ENDED DECEMBER 31, 2019

	Program Services	Management and General	Fundraising	Total
Salaries and related cost	\$ 396,811	\$ 32,679	\$ 37,347	\$ 466,837
Professional services	22,952	1,890	2,160	27,003
Advertising and promotion	11,966	985	1,126	14,078
Conferences and meetings	8,220	677	774	9,671
Office expenses	39,849	3,282	3,751	46,882
Information technology	8,499	700	800	9,998
Occupancy	255	21	24	300
Occupancy - donated facilities	35,586	2,931	3,349	41,866
Insurance	13,632	1,123	1,283	16,038
Veterinarian supplies and laboratory	63,279	-	-	63,279
Repairs and maintenance	23,349	1,923	2,198	27,470
Educational Programing	59,639	-	-	59,639
Patient Transport	9,242			9,242
Total expenses before depreciation amortization and bad debt	693,280	46,210	52,811	792,301
Depreciation	6,747	556	635	7,938
Amortization	1,596	131	150	1,878
Bad Debt	9,500			9,500
Total depreciation, amortization and bad debt	17,844	687	785	19,316
Total Expenses	\$ 711,123	\$ 46,897	\$ 53,597	\$ 811,617

See accompanying notes and independent accountant's report.

PELICAN HARBOR SEABIRD STATION, INC.
STATEMENT OF FUNCTIONAL EXPENSES
YEAR ENDED DECEMBER 31, 2018

	<u>Program Services</u>	<u>Management and General</u>	<u>Fundraising</u>	<u>Total</u>
Salaries and related cost	\$ 287,240	\$ 23,655	\$ 27,034	\$ 337,929
Professional services	39,687	3,268	3,735	46,691
Advertising and promotion	14,190	1,169	1,336	16,694
Conferences and meetings	7,427	612	699	8,737
Office expenses	44,638	3,676	4,201	52,515
Information technology	8,436	695	794	9,925
Occupancy	255	21	24	300
Occupancy - donated facilities	33,572	2,765	3,160	39,497
Entertainment and dinners	45,467	3,744	4,279	53,490
Insurance	9,561	787	900	11,248
Materials and supplies	-	-	-	-
Veterinarian supplies and laboratory	58,598	-	-	58,598
Repairs and maintenance	20,403	1,680	1,920	24,004
Educational Programing	34,342	-	-	34,342
Total expenses before depreciation	<u>\$ 603,816</u>	<u>\$ 42,072</u>	<u>\$ 48,082</u>	<u>\$ 693,970</u>
Depreciation	5,750	473	541	6,764
Amortization	<u>\$ 1,841</u>	<u>\$ 152</u>	<u>\$ 173</u>	<u>\$ 2,166</u>
Total depreciation and amortization	<u>\$ 7,591</u>	<u>\$ 625</u>	<u>\$ 714</u>	<u>\$ 8,930</u>
Total Expenses	<u><u>\$ 611,406</u></u>	<u><u>\$ 42,697</u></u>	<u><u>\$ 48,797</u></u>	<u><u>\$ 702,900</u></u>

See accompanying notes and independent accountant's report.

PELICAN HARBOR SEABIRD STATION, INC.
STATEMENT OF CASH FLOWS
YEARS ENDED DECEMBER 31, 2019 AND 2018

INDIRECT METHOD

	<u>2019</u>	<u>2018</u>
CASH FLOWS FROM OPERATING ACTIVITIES		
Change in net assets	\$ 680,163	\$ 67,576
Adjustments to reconcile change in net assets to net cash provided by (used in) operating activities:		
Depreciation	7,938	6,764
Amortization	1,878	2,166
(Increase) decrease in assets		
Unrealized gains/losses on investments	(8,625)	2,637
Contributions receivable	(93,488)	(3,259)
Due from related parties	576	(576)
Prepaid expenses	2,240	(782)
Increase (decrease) in liabilities		
Accounts payable and accrued expenses	8,470	879
Net cash provided by (used in) operating activities	<u>599,153</u>	<u>75,405</u>
CASH FLOWS FROM INVESTING ACTIVITIES		
Fixed assets	<u>(134,360)</u>	<u>(10,052)</u>
Net cash used in investing activities	<u>(134,360)</u>	<u>(10,052)</u>
Net increase (decrease) in cash and cash equivalents	464,793	65,353
Cash and cash equivalents, beginning of year	<u>1,148,917</u>	<u>1,083,564</u>
Cash and cash equivalents, end of year	<u>\$ 1,613,710</u>	<u>\$ 1,148,917</u>

See accompanying notes and independent accountant's report.

PELICAN HARBOR SEABIRD STATION, INC.
NOTES TO THE FINANCIAL STATEMENTS

NOTE 1 – NATURE OF BUSINESS AND ORGANIZATION

The Pelican Harbor Seabird Station ("the Station") is a Florida not-for-profit Corporation exempt from income taxes under Section 501(c)(3) of the Internal Revenue Code. The station was organized under the laws of the State of Florida on October 29, 1981.

The wildlife rehabilitation facility was organized for the purpose of providing aid to heal animals harmed by mankind and return them to their ecosystem. The Station specializes in brown pelicans and serves the Greater-Miami metropolitan area. Its mission is to rescue, treat, rehabilitate and care for sick, injured, or orphaned wildlife, and to foster and promote the preservation, protection and propagation of pelicans and other wildlife. It provides free admission and tours of its facility located at 1279 NE 79th Street Causeway, Miami, Florida 33138 to the general public to promote these efforts.

NOTE 2 – SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES

Basis of presentation

The Station prepares its financial statements in accordance with Statement of Financial Accounting Standards Codification (ASC) Topic 958-205 of the Financial Accounting Standards Board (FASB), "Presentation of Financial Statements of Not-For-Profit Entities". It uses the accrual basis of accounting which recognizes revenues in the accounting period in which they are earned and become measurable and expenses in the period incurred, if measurable. Contributions are recorded when received. Grants are recorded as revenue when performance occurs under the terms of the agreement. The Station is required to report information regarding its financial position and activities according to the following net asset classifications:

Net assets without donor restrictions: Net assets that are not subject to donor-imposed restrictions and may be expended for any purpose in performing the primary objectives of the organization. These net assets may be used at the discretion of the Station's management and the board of directors.

Net assets with donor restrictions: Net assets subject to stipulations imposed by donors, and grantors. Some donor restrictions are temporary in nature; those restrictions will be met by actions of the Station or by the passage of time. Other donor restrictions are perpetual in nature, whereby the donor has stipulated the funds be maintained in perpetuity.

Donor restricted contributions are reported as increases in net assets with donor restrictions. When a restriction expires, net assets are reclassified from net assets with donor restrictions to net assets without donor restrictions in the statements of activities.

Contributions

In accordance with FASB ASC Topic 958, "Not-For Profit Entities," contributions received are recorded as with donor restrictions or without donor restrictions depending on the existence and/or nature of any donor restrictions. Net assets with donor restrictions are reclassified to net assets without donor restrictions upon satisfaction of the time or purpose restrictions.

PELICAN HARBOR SEABIRD STATION, INC.
NOTES TO THE FINANCIAL STATEMENTS

NOTE 2 – SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES CONTINUED

Promises to Give

Contributions are recognized when the donor makes a promise to give to the Station that is, in substance, unconditional. All other donor-restricted contributions are reported as increases in net assets with donor restrictions.

When a restriction expires, net assets with donor restrictions are reclassified to net assets without donor restrictions. For the years ended December 31, 2019 and 2018, the Station received no unconditional promises to give.

Investments

Investments are made in marketable securities with readily determinable fair values and all investments in debt securities are valued at their fair values in the statement of financial position.

Donated Facilities and Services

The Station occupies buildings owned by Miami-Dade County, Florida (the "County"). The basis for determining the fair value of such facilities is based on the assessed fair market value of property as determined by Miami-Dade County. The fair value of the contributed facilities were \$41,866 and \$39,497 for the years ended December 31, 2019 and 2018, respectively.

Donated Materials and Services

Donations of property are recorded as support at their estimated fair value. Such donations are reported as unrestricted support unless the donor has restricted the donated assets to a specific purpose. Assets donated with explicit restrictions regarding their use and contributions of cash that must be used to acquire property are reported as restricted support. In the absence of donor stipulations regarding how long those donated assets must be maintained, the Station reports expirations of donor restrictions when the donated or acquired assets are placed in service. At which time the station reclassifies temporarily restricted net assets to unrestricted net assets. The Station records the value of donated goods or services when there is an objective basis available to measure their fair value. No amounts have been reflected in the statements for donated services since no objective basis is available to measure the fair value of such services.

Income Taxes

The Station is exempt from federal income taxes under Section 501(C)(3) of the Internal Revenue Code. Accordingly, a provision for income taxes were not made. The Internal Revenue Service ruled in a letter dated June 15, 1987 that the Station is not a private foundation under Sec 509 (A).

The Station has reviewed its tax status and related filings and determined that there are no uncertain tax positions for which an obligation needs to be recorded pursuant to the Income Taxes Topic (ASC 740).

PELICAN HARBOR SEABIRD STATION, INC.
NOTES TO THE FINANCIAL STATEMENTS

NOTE 2 – SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES CONTINUED

Functional Allocation of Expenses

The Station reports expenses by functional classification, whereby expenses are categorized by program activities and supporting services. Program activities include direct and indirect costs associated with activities carried out for the fulfillment of the objectives of the Station. Supporting services related costs are costs incurred other than those classified under program activities.

Expenses incurred for program activities and supporting services are summarized on a functional basis in the statements of activities. The Station has the following functional expense categories:

- Program Expenses – charges include expenses incurred for wildlife rehabilitation and education
- Fundraising - charges include expenses incurred for travel, events and other operating costs to support fundraising efforts
- Management and general - charges represent operating expenses including salaries, materials and supplies for programs supported through the Station

Accordingly, certain costs have been allocated among program activities and supporting services benefited. Such allocations are determined by management on an equitable basis. The expenses that are allocated include the following:

Expense	Method of Allocation
Salaries and related cost	Time and effort
Professional services	Time and effort
Advertising and promotion	Time and effort
Conferences and meetings	Time and effort
Office expenses	Time and effort
Information technology	Time and effort
Occupancy	Time and effort
Occupancy - donated facilities	Time and effort
Entertainment and dinners	Time and effort
Insurance	Time and effort
Materials and supplies	Time and effort
Veterinarian supplies & laboratory	Time and effort
Repairs and maintenance	Time and effort
Educational Programing	Time and effort
Depreciation	Time and effort
Amortization	Time and effort

PELICAN HARBOR SEABIRD STATION, INC.
NOTES TO THE FINANCIAL STATEMENTS

NOTE 2 – SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES CONTINUED

Use of Estimates

The preparation of financial statements in conformity with accounting principles generally accepted in the United States of America requires management to make estimates and assumptions that affect certain reported amounts and disclosures. Accordingly, actual results could differ from those estimates.

Property & Equipment - Fixed Assets

Property and equipment are carried at cost and depreciated using the straight-line method over the following estimated useful lives of the respective classes of assets.

	<u>Useful Lives</u>
Furniture and equipment	5 to 10 years
Computer	5 years
Leasehold improvements	15 years
Software	3 to 5 years

Due to/from Related Parties

Amounts reported as due to/from related parties, included in the accompanying statements of financial position, arise principally from activities between the Station and Pelican Harbor Seabird Station Foundation, Inc. to further the mission of the organization

Reclassifications

Certain prior year amounts have been reclassified to conform to the current year presentation.

New Accounting Pronouncement

On August 18, 2016, FASB issued ASU 2016-14, Not-for-Profit Entities (Topic 958) – Presentation of Financial Statements of Not-for-Profit Entities. The update addresses the complexity and understandability of net asset classification, deficiencies in information about liquidity and availability of resources, and the lack of consistency in the type of information provided about expenses and investment return. The Station has adjusted the presentation of these statements accordingly. The ASU has been applied retrospectively to all periods presented.

NOTE 3. CASH AND CASH EQUIVALENTS

The Station defines cash and cash equivalents to include cash on hand, demands deposits and investments with original maturities of three months or less. During 2019 and 2018, total interest deposited to the Corporation's business checking accounts totaled \$3,243 and \$708, respectively. At December 31, 2019 and 2018, the Station held funds without donor restrictions of \$ \$241,994 and \$443,402 and funds with donor restrictions of \$1,371,716 and \$688,701.

PELICAN HARBOR SEABIRD STATION, INC.
NOTES TO THE FINANCIAL STATEMENTS

NOTE 4. AVAILABILITY AND LIQUIDITY

	2017	2018
Financial assets at year end:		
Cash and cash equivalents	\$ 241,994	\$ 443,402
Cash on Hand	-	16,814
Restricted cash	1,371,716	688,701
Contributions receivable	105,987	12,500
Investments at fair value	39,259	30,634
Total financial assets	<u>1,758,956</u>	<u>1,192,051</u>
Less amounts not available to be used within one year:		
Net assets with donor restrictions	1,230,083	655,083
Less net assets with purpose restrictions to be met in less than a year	-	-
Board Designated Reserve	67,187	273,184
	<u>1,297,270</u>	<u>928,267</u>
Financial assets available to meet general expenditures over the next twelve months	<u>\$ 461,685</u>	<u>\$ 263,784</u>

The Station's goal is generally to maintain financial assets to meet 90 days of operating expenses.

NOTE 5. INVESTMENTS

The Financial Accounting Standards Board (FASB) Accounting Standards Codification Topic 820, Fair Value Measurements and Disclosures (ASC 820) (formerly referred to as FASB Statement of Financial Accounting Standards [SFAS] 157, Fair Value Measurements) is the authoritative U.S. GAAP guidance on how entities should measure and disclose fair value in their financial statements. Fair value is defined in ASC 820 as the "price that would be received to sell an asset or paid to transfer a liability in an orderly transaction between market participants at the measurement date." ASC 820 establishes a three-level hierarchy for fair value measurements based upon the transparency of inputs to the valuation methodology for an asset or liability as of the measurement date. The valuation hierarchy assigns highest priority to Level 1 measurements, and lowest priority to Level 3 measurements. The three levels are defined as follows:

Level 1

Financial assets and liabilities whose values are based on unadjusted quoted prices in active markets for identical assets or liabilities. Instruments in this category include money market funds and common stocks traded on exchanges such as the New York Stock Exchange.

Level 2

Financial assets and liabilities whose values are based on quoted prices for similar assets or liabilities in active markets. Level 2 inputs may include quoted prices for identical or similar assets or liabilities in markets that are not active. Instruments in this category include some corporate and municipal bonds that may not be traded frequently.

PELICAN HARBOR SEABIRD STATION, INC.
NOTES TO THE FINANCIAL STATEMENTS

NOTE 5. INVESTMENTS CONTINUED

Level 3

Financial assets and liabilities whose values are based on unobservable inputs for the asset or liability. These inputs may be used with internally developed methodologies that result in management's best estimate of fair value. Instruments in this category include investments in hedge funds and real estate funds.

Following is a description of the valuation methodologies used for assets measured at fair value. There have been no changes to the methodologies used at December 31, 2019 and 2018.

Mutual Funds/Short-term investments – Valued at the net asset value of shares held by the Foundation at year-end. All investment assets are Level 1 as of December 31, 2019.

Prudential Investments Equity Fund: Class B;

During October 1997, the Board of Directors approved the funding of an investment account for approximately \$10,000, with Prudential Investments. The investment account was funded on October 31, 1997, with a bequest from the estate of Julia Osborn, which was received on October 10, 1997. Since 1997 the additions to this account are from the re-investment of interest and dividends. The total value of this investment at December 31, 2019 and 2018 are \$39,259 and \$30,634, respectively.

On December 31, 2019 and 2018, the following information summarizes the Station's investment in Prudential Investments Equity Fund: Class B. The cost basis of items reported on the Balance Sheet under the heading *Investments* is \$39,259 and \$30,634, respectively. This amount represents the sum of the Corporation's original investment plus shares re-invested to date in Prudential Investment's Equity Fund: Class B.

	2019	2018
Initial purchase at cost, October 31, 1997	\$10,000	\$10,000
Shares on hand, December 31	1,916	1,790
Market price per share, December 31	20.49	17.11
Total Market Value of Investments	\$39,259	\$30,634

PELICAN HARBOR SEABIRD STATION, INC.
NOTES TO THE FINANCIAL STATEMENTS

NOTE 6. NET INVESTMENT INCOME

	2019		
	Without Donor	With	
	Restrictions	Donor	Total
		Restrictions	
Interest and dividends	\$ 3,243	\$ -	\$ 3,243
Realized gain on investments	-	-	-
Unrealized gain on investments	14,685	-	14,685
Investment fees	-	-	-
Net investment income	<u>\$ 17,928</u>	<u>\$ -</u>	<u>\$ 17,928</u>

	2018		
	Without Donor	With	
	Restrictions	Donor	Total
		Restrictions	
Interest and dividends	\$ -	\$ -	\$ -
Unrealized gain on investments	-	-	-
Unrealized loss on investments	(2,637)	-	(2,637)
Investment fees	-	-	-
Net investment loss	<u>\$ (2,637)</u>	<u>\$ -</u>	<u>\$ (2,637)</u>

NOTE 7. CONTRIBUTIONS RECEIVABLE

Contributions receivable consist primarily of noninterest-bearing amounts due for programs. Management determines the allowance for uncollectable accounts receivable based on historical experience, an assessment of economic conditions, and a review of subsequent collections. An allowance is recorded for receivables deemed to be uncollectible. As of December 31, 2019 and 2018, the accounts receivable balances of \$105,987 and \$12,500 were deemed fully collectible and management has not recorded an allowance for bad debt.

NOTE 8. IN-KIND USE OF FACILITIES – LEASE OBLIGATIONS

The Station leases its facilities from Miami-Dade County under a twenty (20) year lease agreement dated April 1992. The lease provides for a nominal annual rent of \$300. The lease contains a renewal clause for an additional ten (10) year term under the same conditions as the original lease. The lease requires that the building and property be maintained, repaired and improved as is necessary to keep it in good order. The initial lease was signed on July 24, 1990 with the provision that initial term shall commence when construction of the new building was completed, i.e. 1992. The basis for determining the fair value of such facilities is based on the assessed fair market value of property as determined by Miami-Dade County. The fair value of the contributed facilities were \$41,866 and \$39,497 for the years ended December 31, 2019 and 2018, respectively.

PELICAN HARBOR SEABIRD STATION, INC.
NOTES TO THE FINANCIAL STATEMENTS

NOTE 9. FIXED ASSETS

Property and Equipment are carried at cost and depreciated using the straight- line method over their estimated useful lives. During 2019 and 2018, depreciation expense totaled \$7,938 and \$6,764 respectively.

Fixed assets consist of the following at December 31, 2019 and 2018:

	<u>2019</u>	<u>2018</u>
Depreciable Assets		
Furniture and equipment	\$135,995	\$134,186
Computer	3,342	792
Leasehold improvements	<u>70,717</u>	<u>70,717</u>
Total assets	<u>210,054</u>	<u>205,695</u>
Accumulated depreciation		
Furniture and equipment	\$128,652	\$121,549
Computer	1,302	792
Leasehold improvements	<u>50,668</u>	<u>50,344</u>
Total accumulated depreciation	<u>180,622</u>	<u>172,685</u>
Fixed assets, net	<u>\$ 29,432</u>	<u>\$ 33,010</u>

NOTE 10. SOFTWARE

Software is carried at cost and amortized using the straight- line method over their estimated useful lives. During 2019 and 2018, amortization expense totaled \$1,878 and \$2,166, respectively.

Software consisted of the following at December 31, 2019 and 2018:

	<u>2019</u>	<u>2018</u>
Amortizable Assets		
Software	\$13,395	\$13,395
Less: accumulated depreciation	<u>(11,719)</u>	<u>(9,841)</u>
Software, net	<u>\$ 1,676</u>	<u>\$ 3,554</u>

NOTE 11. BUILDING

During fiscal year 2009, the Station's Board of Directors approved the planned construction of an added facility for use by the Station. Restricted funds were received in the amount of \$500,000 from the James E. Lockwood Foundation for this purpose and have been placed in interest bearing accounts. (See Note 2).

During 2019 and 2018, the Station received a gift of \$675,000 and \$75,000 from the Deeks Family Foundation for the purchase (See Note 16) and planned construction of a facility for use by the Station. Predevelopment fees have amounted to \$186,685 and \$56,685 as of December 31, 2019 and 2018, respectively. These items are reflected on the balance sheet as "Investment-Building".

PELICAN HARBOR SEABIRD STATION, INC.
NOTES TO THE FINANCIAL STATEMENTS

NOTE 12. NET ASSETS

Net assets with donor restrictions were as follows for the years ended December 31, 2019 and 2018:

	2019	2018
Undesignated	\$ 459,936	\$ 321,306
Restricted for Building Purchase	\$ 1,230,083	\$ 688,701
Board Reserved	273,184	273,184
	<u>\$ 1,963,203</u>	<u>\$ 1,283,191</u>
	2019	2018
Satisfaction of Purpose Restrictions	<u>\$ 389,502</u>	<u>\$ 188,599</u>

NOTE 13. RISK MANAGEMENT

For the year ended December 31, 2019 and 2018, the lease on the operating facilities requires that certain insurances be maintained. Policies shall be endorsed to include Metropolitan Dade County as an additional insured.

- Public liability insurance on a comprehensive basis in an amount not less than \$300,000. (Combined single limit for bodily injury and property damage)
- Automobile liability insurance - \$300,000
- Hazard Insurance - Fire, extended coverage, and vandalism and malicious mischief for the full insurable value of any structure located upon the premises.
- Builder's risk insurance for any construction during the term of the lease.

The Station currently maintains public liability insurance, with an effective renewal date of April 24, 2019 with a one (1) year term, through April 23, 2020. This policy was placed with Insurance Industries. The policy includes commercial general liability coverage with limits of liability of \$1,600,000. The Station also carries a commercial property policy which includes flood, wind, and hazard coverage with liability limits of \$150,000; \$150,000 and \$90,000 respectively. The station has a separate automobile insurance policy with Allstate Insurance Company with limits of \$500,000 and separate directors and officers' policy with Christian-Baker Company with limits of \$2,000,000.

NOTE 14. GIFTS, GRANTS AND PLEDGES

During 2019 and 2018, the Station was awarded \$100,000 each year from the Batchelor Foundation for the sole purpose of funding wildlife programs. The Batchelor Foundation grant represents 7% and 13% of all revenue, respectively.

During 2019 and 2018, the Station received gifts of \$675,000 and \$75,000 from the Deeks Family Foundation for the planned construction of an added facility for use by the Station. The gifts represent 45% and 10% of all revenue, respectively.

PELICAN HARBOR SEABIRD STATION, INC.
NOTES TO THE FINANCIAL STATEMENTS

NOTE 15. LITIGATION AND CONTINGENCIES

The Station is not currently subject to or a part to any litigation. There are presently no known claims of action pending or unresolved.

NOTE 16. SUBSEQUENT EVENTS

The Station has evaluated events and transactions for potential recognition or disclosure in the financial statements through May 14, 2020 the date the financials were available for issuance and determined that there have been no events that have occurred that would require adjustments to our disclosures in the consolidated financial statements except for the following:

Completion of Acquisitions of Assets

On January 31st, 2020 the Station purchased 2.6-acre property on the Little River. The site will be used to build a new wildlife rehabilitation facility. The following table presents certain information about the property The Station acquired:

	<u>Acre</u>	<u>Purchase Price (1)</u>
Purchase	2.6	\$2,450,000

(1) Contract purchase price, excluding acquisition and transaction related costs.

Pelican Harbor Seabird Station 2021 Budget

	<u>Total</u>
Income	
1600 Donations - General	301,177.00
1610 Special Events	
1615 Pelican Party	45,376.00
1617 Seabirds on the Bay	5,383.00
1618 Give Miami Day	89,365.00
Total 1610 Special Events	\$ 140,124.00
1625 Donations from Patient Intakes	8,101.00
1630 Grants	496,824.00
1635 Fish Drive	19,944.00
1640 Donations Received From Educational Programming	1,884.00
1650 Donations related to Promo Items	1,544.00
1670 Adoptions	9,212.00
Total Income	\$ 978,810.00
Gross Profit	\$ 978,810.00
Expenses	
1000 Advertising/Promotional	24,000.00
1200 Patient Food	
1201 Fish	9,250.00
1202 Other than Fish	11,500.00
Total 1200 Patient Food	\$ 20,750.00
1270 Occupancy	
1271 Facility Cost	13,025.00
Total 1270 Occupancy	\$ 13,025.00
1280 Insurance	12,131.34
1320 Office Expenses	
1321 Office Supplies	6,861.38
1322 Information Technology	6,701.87
1323 Equipment	2,603.78
1325 Telephone & Internet	9,217.20
1326 Postage & Shipping	4,869.77
Total 1320 Office Expenses	\$ 30,254.00
1360 Labor Costs	
1361 Salaries	580,000.00
1363 Workers Comp Insurance	12,100.00
1365 Medical Insurance	13,943.00
1367 Retirement Plan	8,871.25
1369 Payroll Taxes	71,505.00
1372 Payroll Admin Costs	4,500.00
Total 1360 Labor Costs	\$ 690,919.25

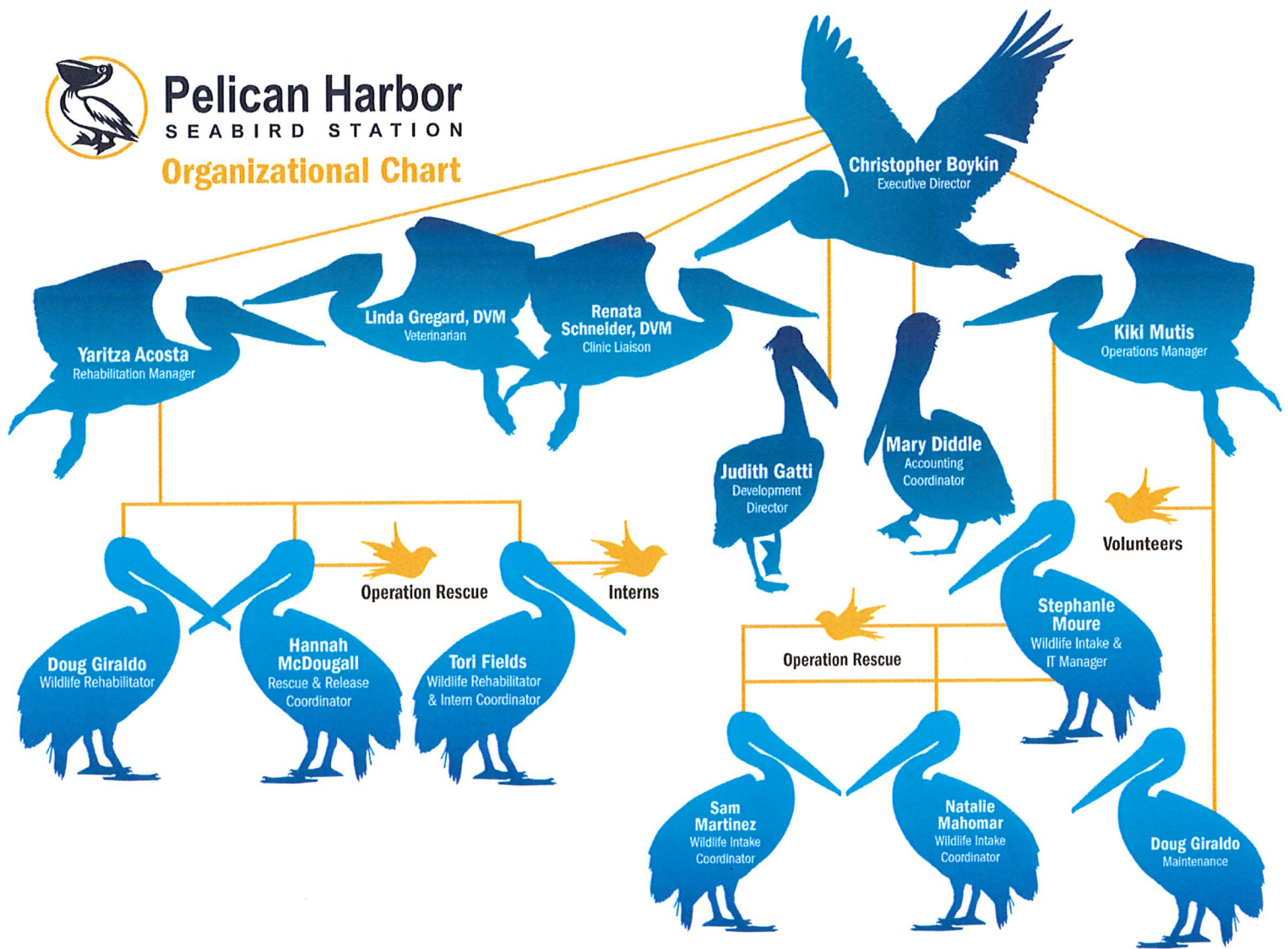
1380 Administrative Expenses		
1381 Permits, Fees & Dues		1,299.75
1382 Bank & Merchant Fees		5,287.52
Total 1380 Administrative Expenses	\$	6,587.27
1390 Professional Services		
1392 Accountant		17,520.00
1393 Legal Fees		3,000.00
Total 1390 Professional Services	\$	20,520.00
1420 Special Event Expenses		
1425 Pelican Party Expenses		33,148.43
1427 Seabirds on the Bay Expenses		2,600.00
1428 Other Event Expenses		10,000.00
Total 1420 Special Event Expenses	\$	45,748.43
1440 Staff Expense		
1441 Seminars, Travel, Training		4,291.37
1444 Board, Volunteer & Staff Expense		8,500.00
1446 Preventative Vaccinations		600.00
Total 1440 Staff Expense	\$	13,391.37
1480 Auto & Boat Expense		1,160.71
1481 Emergency Transport		7,327.93
1482 Emergency Transport Repairs		1,719.00
1483 Auto Insurance		2,358.63
Total 1480 Auto & Boat Expense	\$	12,566.27
1490 Veterinary Clinic Expenses		
1491 Veterinarian		6,828.40
1495 Vet Supplies		39,088.67
Total 1490 Veterinary Clinic Expenses	\$	45,917.07
1520 Fundraising Expenses		15,000.00
1550 Educational Programming		
1553 Educational Supplies		5,000.00
1554 Educational Communication		5,000.00
1557 Educational Newsletter		15,500.00
Total 1550 Educational Programming	\$	25,500.00
1690 Charitable Contributions		2,500.00
Total Expenses	\$	978,810.00
Net Operating Income	\$	0.00

Thursday, Jan 21, 2021 01:46:36 PM GMT-8 - Accrual Basis



Pelican Harbor SEABIRD STATION

Organizational Chart



02-25-21

**Consumer's Certificate of Exemption**

Issued Pursuant to Chapter 212, Florida Statutes

DR-14
R. 10/15

85-8012640670C-3	06/30/2017	06/30/2022	501(C)(3) ORGANIZATION
Certificate Number	Effective Date	Expiration Date	Exemption Category

This certifies that

PELICAN HARBOR SEABIRD STATION INC
1279 NE 79TH ST
MIAMI FL 33138-4206

is exempt from the payment of Florida sales and use tax on real property rented, transient rental property rented, tangible personal property purchased or rented, or services purchased.



IRS Department of the Treasury
Internal Revenue Service

P.O. Box 2508
Cincinnati OH 45201

In reply refer to: 0248367572
May 10, 2013 LTR 4168C E0
59-2137331 000000 00

00029049
BODC: TE

PELICAN HARBOR SEABIRD STATION INC
1279 N E 79TH STREET CAUSEWAY
MIAMI FL 33138-4206



08664

Employer Identification Number: 59-2137331
Person to Contact: Ms. Mueller
Toll Free Telephone Number: 1-877-829-5500

Dear Taxpayer:

This is in response to your May 01, 2013, request for information regarding your tax-exempt status.

Our records indicate that you were recognized as exempt under section 501(c)(3) of the Internal Revenue Code in a determination letter issued in May 1982.

Our records also indicate that you are not a private foundation within the meaning of section 509(a) of the Code because you are described in section(s) 509(a)(1) and 170(b)(1)(A)(vi).

Donors may deduct contributions to you as provided in section 170 of the Code. Bequests, legacies, devises, transfers, or gifts to you or for your use are deductible for Federal estate and gift tax purposes if they meet the applicable provisions of sections 2055, 2106, and 2522 of the Code.

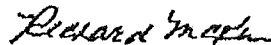
Please refer to our website www.irs.gov/eo for information regarding filing requirements. Specifically, section 6033(j) of the Code provides that failure to file an annual information return for three consecutive years results in revocation of tax-exempt status as of the filing due date of the third return for organizations required to file. We will publish a list of organizations whose tax-exempt status was revoked under section 6033(j) of the Code on our website beginning in early 2011.

0248367572
May 10, 2013 LTR 4168C E0
59-2137331 000000 00
00029050

PELICAN HARBOR SEABIRD STATION INC
1279 N E 79TH STREET CAUSEWAY
MIAMI FL 33138-4206

If you have any questions, please call us at the telephone number
shown in the heading of this letter.

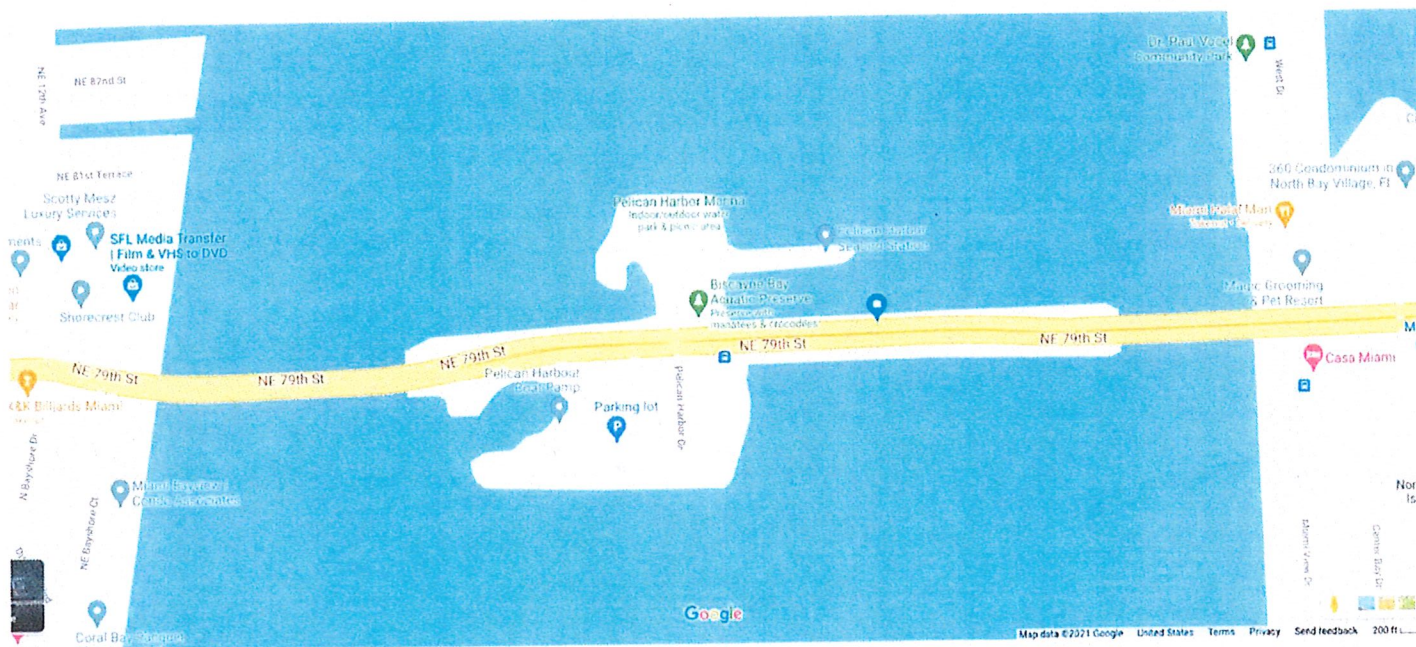
Sincerely yours,



Richard McKee, Department Manager
Accounts Management Operations

Appendix C – Map of Site

1279 NE 79 st
Miami FL 33138



Appendix D - List of all Officers, Directors, Managers, Staff and Volunteers
(To be completed and supplied prior to Contract execution and updated annually)

During programming and operation provide a list of all staff and volunteers

BOARD OF DIRECTORS

David Epstein, *Chairman*

Marcus McCarthy, *Vice Chairman*

Darren Steinbook *Treasurer*

Helene Valentine *Secretary*

Jacqueline Contney, *Board Member*

Robert Glidewell, *Board Member*

Jacqueline D. Greenberg CPA. *Board Member*

Marilyn Magill, *Board Member*

David Williams Jr., *Board Member*

STAFF

Christopher Boykin, *Executive Director*

Yaritza Acosta, *Clinic Manager*

Mary Diddle, *Accountant*

Victoria Fields, *Wildlife Rehabilitator*

Judith Gatti, *Development Director*

Douglas Giraldo, *Wildlife Rehabilitator & Maintenance*

Linda Gregard, *Veterinarian*

Natalie Amelia Mahomar, *Rehabilitation Assistant*

Samantha Maritnez, *Wildlife Intake Assistant*

Hannah McDougall. *Communications and Community coordinator.*

Stephanie Moure, *Intake and IT manager*

Kiki Mutis, *Operations and Volunteer Manager*

Renata Schneider *Veterinaria*

VOLUNTEERS

Ann ('Trina') Aguila

Miguel Arbesu

Heather Aylsworth

Marina Bacellar

Helen Bradley

Daniel Brady

Julie Brady

Taylor Brotons

Paola Castillo

Joe Garofalo

Carmen Hernandez-Esquivarosa

Neil Krasner

Evelyn Ludicke

Skyler Marinoff

Derek Mir

Judy Mishcon

Fanny Perez

George Perry

Kim Stanton

Donald Stern

Jill Szymanski

Balazs Vador

Carolina Wakiyama

Appendix E - Disability Non-Discrimination Affidavit
(To be completed and supplied prior to Contract execution and updated annually)

DISABILITY NONDISCRIMINATION AFFIDAVIT

CONTRACT REFERENCE: Christopher Boykin

NAME OF FIRM, CORPORATION, OR ORGANIZATION: Pelican Harbor Seabird Station inc,

AUTHORIZED AGENT COMPLETING AFFIDAVIT: Christopher Boykin

POSITION: Operations and Volunteer Manager PHONE NUMBER: (305) 762-7633

I, Christopher Boykin, being duly first sworn state:

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

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

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

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

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

Christy Boykin
Signature
5/25/21
Date

SUBSCRIBED AND SWORN TO (or affirmed) before me on

by Christopher Boykin He/She is personally known to me or has
(Affiant)

presented (known to me) as identification.

(Type of Identification)

Patricia Rose

(Signature of Notary)

HH036694

(Serial Number)

Patricia Rose

(Print or Stamp Name of Notary)

9/4/2024

(Expiration Date)

Notary Public
(State)

A-4 - Rev. 1/2/98

Notary Seal



Patricia Rose
Comm. #HH036694
Expires: Sept. 4, 2024
Bonded Thru Aaron Notary

(To be completed and supplied prior to Contract execution and updated annually. Must also include proof of background checks)

**MIAMI-DADE COUNTY PARKS, RECREATION AND OPEN SPACES DEPARTMENT AFFIDAVIT
PURSUANT TO MIAMI-DADE COUNTY CODE CHAPTER 26, ARTICLE III; THE SHANNON MELENDI ACT**

1. This affidavit is submitted to the Miami-Dade County Parks, Recreation and Open Spaces Department, (the "Department") by:
 Christopher Boykin Executive Director _____, for
 (Print individual's name and title)
 Pelican Harbor Seabird Station _____
 (Print name of entity submitting compliance statement)
 whose business address is 1279 NE 79 st Miami FL 33138 _____
 and its Federal Employer Identification Number (FEIN/SSN) 59-2137331 _____
2. I, am duly authorized to make this affidavit on behalf of:
 Christopher Boykin _____ Pelican Harbor Seabird Station _____
 (Print individual's name and title) (Print name of entity submitting affidavit)
3. I understand that on January 10, 2008, the Miami-Dade County Commission passed and adopted Ordinance No. 08-07, which amended Miami-Dade County Code, Chapter 26, Article III, and the Shannon Melendi Act.
4. I understand and can attest to my organization/agency/firm's compliance with this Ordinance and that;
 - A. Employers of child event workers, employers of park vendors, Programming Partners and CBOs shall secure a nationwide criminal background check of all existing child event workers, park vendors, employees, and volunteers whose duties require physical presence on park property owned or operated by Miami-Dade County. In addition, prior to employing or allowing a person to volunteer whose duties would require physical presence on park property owned or operated by Miami-Dade County, employers of child event workers, employers of park vendors, and Programming Partners and CBOs shall secure a nationwide criminal background check of all such prospective child event workers, park vendors, employees or volunteers. My organization/agency/firm has conducted the nationwide criminal background checks through a **Professional Background Screener** and has obtained a report as to whether each child event worker, park vendor, staff member or volunteer is listed on the **National Sex Offender Public Registry**, and a comprehensive report and analysis, obtained from no less than **two independent databases/sources**, on the nationwide criminal history of such child event worker, park vendor, staff member or volunteer.
 - B. Every three (3) years thereafter, employers of park vendors, and Programming Partners and CBOs shall secure nationwide criminal background checks for existing park vendors, staff members, and volunteers whose duties require physical presence on park property owned or operated by Miami-Dade County. However, employers of child event workers shall secure nationwide criminal background checks for existing child event workers whose duties require physical presence on park property owned or operated by Miami-Dade County every year thereafter.
 - C. Any child event worker, park vendor, or staff member or volunteer of a Programming Partner or CBO who:
 1. Has been convicted of a violent felony or conspiracy to commit a violent felony within the past five (5) years; or
 2. Has been convicted of a felony involving the trafficking of a controlled substance within the past (5) years; or
 3. Has two (2) or more convictions for a violent felony, for conspiracy to commit a violent felony, or involving the trafficking of a controlled substance; or
 4. Is a sexual offender or a sexual predator; or
 5. Has failed to provide the employer, Programming Partner or CBO with proof of United States citizenship or legal immigration status in the United States, shall be prohibited from working or volunteering on park property owned or operated by Miami-Dade County. All child event workers, park vendors, and staff members and volunteers of a Programming Partner or CBO shall submit to their employer, to the Programming Partner, or to the CBO an affidavit affirming that no work or volunteer duties will be performed on park property owned or operated by Miami-Dade County in violation of this subsection and that any arrest will be reported to his/her employer within forty-eight (48) hours of such arrest.
 - D. Employers of child event workers shall maintain copies of the results of the criminal background checks required by this section for a period of two (2) years from the date they were secured, and employers of park vendors, Programming Partners, and CBOs shall maintain such copies for a period of three (3) years from the date they were secured. Employers of child event workers, employers of park vendors, and Programming Partners and CBOs shall maintain the affidavits required by Section 26-38.C. and the copies of the proof of United States citizenship or legal immigration status until the person is no longer a child event worker, park vendor, staff member, or volunteer. Employers of child event workers, employers of park vendors, and Programming Partners and CBOs shall, upon request, provide copies of these documents to Miami-Dade County or to any law enforcement personnel with jurisdiction.
 - E. Every child event worker, park vendor, and staff member and volunteer of a Programming Partner or CBO shall wear, in a conspicuous and visible manner, an **identification badge that contains his/her photograph and full name** while working or volunteering on park property owned or operated by Miami-Dade County, except when in costume and during a performance. The identification badge shall be of a size, design, and format approved by the Miami-Dade County Parks, Recreation and Open Spaces Department.
5. I understand that the following Penalties and Enforcement shall take place for a violation of any provision of the ordinance.

Miami-Dade County, Florida

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

Christopher Boykin

(Signature)

Christopher Boykin

(Print Name)

5/25/2021

(Date)

Executive Director

(Title)

SUBSCRIBED AND SWORN TO (or affirmed) before me this 25th day of May, 2021

by Christopher Boykin He/She is personally known to me or has
presented _____ as identification.

Patricia Rose (Type of Identification)

(Signature of Notary)

HH036694

(Serial Number)

Patricia Rose

(Print or Stamp Name of Notary)

9/4/2024

(Expiration Date)

Notary Public

Florida

(State)

Notary Seal



Patricia Rose
Comm. #HH036694
Expires: Sept. 4, 2024
Bonded Thru Aaron Notary

Appendix G – Article 7 of the Home Rule Amendment and Charter as amended November 4, 2014

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

SECTION 6.06. CONTRACTS WITH OTHER UNITS OF GOVERNMENT.

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

SECTION 6.07. FRANCHISE AND UTILITY TAXES.

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

ARTICLE - 7

PARKS, AQUATIC PRESERVES, AND PRESERVATION LANDS

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

SECTION 7.01. POLICY.

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

SECTION 702. RESTRICTIONS AND EXCEPTIONS.

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

A. Appropriate access roads, bridges, fences, lighting, flag poles, entrance features, picnic shelters, tables, grills, benches, irrigation systems, walls, erosion control devices, utilities, trash removal, parking, and security and fire facilities for the primary use of the park system;

B. Food and concession facilities each not in excess of 1500 square feet of enclosed space, with any complementary outdoor or covered areas needed to service park patrons;

C. User-participation non-spectator recreation and, playground facilities, golf courses and golf-course related facilities, and bandstands and band shells containing less than 1,000 spectator seats and athletic facilities, sports fields and arenas containing less than 3,000 spectator seats;

D. Facilities for marinas, sightseeing and fishing, boats, visiting military vessels, and fishing;

E. Park signage and appropriate plaques and monuments;

F. Rest rooms;

G. Fountains, gardens, and works of art;

H. Park service facilities, senior, day care and preschool facilities, small nature centers with not more than one classroom;

I. Film permits, temporary fairs, art exhibits, performing arts, concerts, cultural and historic exhibitions, regattas, athletic contests and tournaments, none of which require the erection of permanent structures;

J. Advertising in connection with sponsorship of events or facilities in the park, provided however all such facilities and uses are compatible with the particular park and are scheduled so that such events do not unreasonably impair the public use of the park or damage the park;

K. Programming partnerships with qualified federally tax exempt not-for-profit youth, adult, and senior cultural, conservation, and parks and recreation program providers;

L. Agreements with cable, internet, telephone, electric or similar service providers or utilities, so long as any installations are underground or do not adversely impact natural resources, or parks facilities and uses;

M. Campgrounds and limited overnight camping accommodations in cabins/lodges only for park patrons at Camp Matecumbe; and

N. Miami-Dade County Public Library System facilities providing library services to the public so long

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

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

SECTION 703. ENFORCEMENT AND CONSTRUCTION.

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

existing valid written contractual commitments or bids or bonded indebtedness.

SECTION 704. JURISDICTION.

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

Appendix H – List of Pelican Harbor Seabird Station, Inc. Personal Property

- Veterinary equipment
- Computers & miscellaneous office furniture and equipment
- Stainless steel wall cages inside the veterinary clinic
- Pet carriers
- Small portable bird/mammal aviaries
- Mounted professional RHINO panel education sign & frame affixed to the South side of the building
- 5' tall pelican sculpture/statue at PHSS
- Darlene Kelton memorial bench



MEMORANDUM

(Revised)

TO: Honorable Chairman Jose "Pepe" Diaz
and Members, Board of County Commissioners

DATE: October 5, 2021

FROM: 
Gen Bonzon-Keenan
County Attorney

SUBJECT: Agenda Item No. 8(H)(1)

Please note any items checked.

- ☐ "3-Day Rule" for committees applicable if raised
- ☐ 6 weeks required between first reading and public hearing
- ☐ 4 weeks notification to municipal officials required prior to public hearing
- ☐ Decreases revenues or increases expenditures without balancing budget
- ☐ Budget required
- ☐ Statement of fiscal impact required
- ☐ Statement of social equity required
- ☐ Ordinance creating a new board requires detailed County Mayor's report for public hearing
- ☒ No committee review
- ☒ Applicable legislation requires more than a majority vote (i.e., 2/3's present ____, 2/3 membership ☒, 3/5's ____, unanimous ____, CDMP 7 vote requirement per 2-116.1(3)(h) or (4)(c) ____, CDMP 2/3 vote requirement per 2-116.1(3)(h) or (4)(c) ____, or CDMP 9 vote requirement per 2-116.1(4)(c)(2) ____ to approve
- ☐ Current information regarding funding source, index code and available balance, and available capacity (if debt is contemplated) required

Approved _____ Mayor
Veto _____
Override _____

Agenda Item No. 8(H)(1)
10-5-21

RESOLUTION NO. _____ R-906-21

RESOLUTION WAIVING COMPETITIVE BIDDING IN ACCORDANCE WITH SECTION 5.03(D) OF THE HOME RULE CHARTER AND SECTION 26-34 OF THE CODE TO APPROVE, BY A TWO-THIRDS VOTE OF THE FULL BOARD MEMBERSHIP AS REQUIRED BY SECTION 2-8.6.5 OF THE CODE, A PROGRAMMING PARTNERSHIP OPERATING AND MANAGEMENT AGREEMENT BETWEEN MIAMI-DADE COUNTY AND PELICAN HARBOR SEABIRD STATION, INC., A NOT-FOR-PROFIT ENTITY, TO PROVIDE FOR THE OPERATION OF THE PELICAN HARBOR SEABIRD STATION LOCATED ON WATERFRONT PROPERTY AT 1279 NE 79TH STREET CAUSEWAY, FOR A TERM THROUGH DECEMBER 31, 2023 WITH YEARLY FEES TO THE COUNTY IN THE AMOUNT OF \$300.00; AUTHORIZING THE COUNTY MAYOR OR MAYOR'S DESIGNEE TO EXECUTE THE AGREEMENT FOR AND ON BEHALF OF MIAMI-DADE COUNTY AND TO EXERCISE ALL RIGHTS AND PROVISIONS IN THE AGREEMENT; AND FURTHER DIRECTING THE COUNTY MAYOR OR COUNTY MAYOR'S DESIGNEE TO PROVIDE A COPY OF THE AGREEMENT TO THE PROPERTY APPRAISER'S OFFICE IN ACCORDANCE WITH RESOLUTION NO. R-791-14

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

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS OF MIAMI-DADE COUNTY, FLORIDA, that:

Section 1. The foregoing recitals are incorporated into this resolution and are approved.

Section 2. This Board, by a two-thirds vote of the full Board membership as required by section 2-8.6.5 of the Code of Miami-Dade County, Florida (the "Code"): (a) finds that it is in the best interest of Miami-Dade County to waive, and does hereby waive, formal bid procedures

in accordance with the provisions of section 5.03(D) of the Home Rule Charter and section 26-34 of the Code of Miami-Dade County, Florida in connection with the selection of Pelican Harbor Seabird Station, Inc. (the “Operator”), a Florida not for profit entity, as the operator and manager of the Pelican Harbor Seabird Station located on waterfront real property at 1279 NE 79th Street Causeway; and (b) approves the Programming Partnership Operating and Management Agreement (the “Agreement”) between Miami-Dade County (the “County”) and the Operator in substantially the form attached to the Mayor’s Memorandum as Attachment A, for the operation and management thereof.

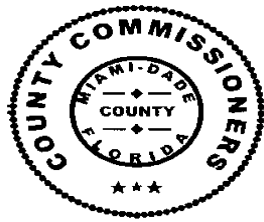
Section 3. This Board authorizes the County Mayor or Mayor’s designee to execute the Agreement on behalf of the County and to exercise all provisions contained therein. The County Mayor or Mayor’s designee shall be required to seek Board approval for any approvals, consents, actions, events or undertakings that would create a financial obligation, cost or expense to the County beyond those specifically identified and set forth in the Agreement.

Section 4. This Board further directs the County Mayor or County Mayor’s designee to provide a copy of the Agreement to the Property Appraiser’s Office in accordance with Resolution No. R-791-14.

The foregoing resolution was offered by Commissioner **Raquel A. Regalado** , who moved its adoption. The motion was seconded by Commissioner **Joe A. Martinez** and upon being put to a vote, the vote was as follows:

Jose “Pepe” Diaz, Chairman	aye		
Oliver G. Gilbert, III, Vice-Chairman	aye		
Sen. René García	aye	Keon Hardemon	aye
Sally A. Heyman	aye	Danielle Cohen Higgins	aye
Eileen Higgins	aye	Joe A. Martinez	aye
Kionne L. McGhee	aye	Jean Monestime	aye
Raquel A. Regalado	aye	Rebeca Sosa	aye
Sen. Javier D. Souto	aye		

The Chairperson thereupon declared this resolution duly passed and adopted this 5th day of October, 2021. This resolution shall become effective upon the earlier of (1) 10 days after the date of its adoption unless vetoed by the County Mayor, and if vetoed, shall become effective only upon an override by this Board, or (2) approval by the County Mayor of this resolution and the filing of this approval with the Clerk of the Board.



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

HARVEY RUVIN, CLERK

Melissa Adames

By: _____
Deputy Clerk

Approved by County Attorney as
to form and legal sufficiency.

mjs

Melanie J. Spencer