

RESOLUTION NO. _____

A RESOLUTION OF THE MAYOR AND CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA, ACCEPTING THE WRITTEN RECOMMENDATION OF THE CITY MANAGER WITH RESPECT TO THE WAIVER OF THE COMPETITIVE BIDDING REQUIREMENT, FINDING SUCH WAIVER TO BE IN THE BEST INTEREST OF THE CITY, AND APPROVING, BY A 6/7THS VOTE, PURSUANT TO SECTION 1.03(f) OF THE CITY CHARTER, AN AMENDED AND RESTATED PUBLIC BEACHFRONT CONCESSION AGREEMENT ("AGREEMENT"), BETWEEN THE CITY AND BOUCHER BROTHERS MIAMI BEACH, LLC ("CONCESSIONAIRE"), FOR THE MANAGEMENT AND OPERATION OF CERTAIN PUBLIC BEACHFRONT CONCESSION AREAS, ATTACHED AS EXHIBIT "A" HERETO; WITH SUCH AGREEMENT PROVIDING, AMONG OTHER TERMS AND CONDITIONS, FOR A TERM OF SEVEN AND ONE HALF (7.5) YEARS, COMMENCING JULY 1, 2019, AND ENDING ON DECEMBER 31, 2026, WITH TWO (2) RENEWAL TERMS, AT CONCESSIONAIRE'S OPTION, FOR A PERIOD OF FIVE (5) YEARS EACH, IN CONSIDERATION FOR INCREASED COMPENSATION TO THE CITY AND ADDITIONAL PUBLIC BENEFITS; FURTHER, ACCEPTING THE PROPOSAL OF CONCESSIONAIRE WITH RESPECT TO THE DESIGN FOR BEACH EQUIPMENT, CONCESSION HUTS, TRAILERS AND STORAGE FACILITIES, AND APPROVING SAID DESIGNS, NOTWITHSTANDING THE DESIGN GUIDELINES SET FORTH IN RESOLUTION NO. 2018-30456; AND FURTHER AUTHORIZING THE MAYOR AND CITY CLERK TO EXECUTE THE AMENDED AND RESTATED PUBLIC BEACHFRONT CONCESSION AGREEMENT.

WHEREAS, on December 14, 2011, the Mayor and City Commission adopted Resolution No. 2011-27811, approving a public beachfront concession agreement (the "Agreement") between the City and Boucher Brothers Miami Beach, LLC (the "Concessionaire"),

WHEREAS, the Agreement was entered into as of February 2, 2012, and provides the Concessionaire with the exclusive right to operate certain concessions for the rental of beach equipment and watersports equipment, food & beverage service, and sale of beach related sundries and skin care products, within specified beach concession areas, including Lummus Park and Ocean Terrace (as well as South Pointe Park Beach and North Beach Oceanside Park, should such areas become serviceable); and

WHEREAS, the Agreement was for an initial term of five (5) years, commencing on November 5, 2011 and ending on November 4, 2016, with one (1) renewal term, for a period of five (5) years, subject to the approval of the Mayor and City Commission; and

WHEREAS, on September 14, 2016, the Mayor and City Commission adopted Resolution No. 2016-29549, approving Amendment No.1 to the Concession Agreement, which provided for the exercise of the Agreement's renewal option, for a period of five (5) years, ending on November 4, 2021; and

WHEREAS, at the June 27, 2018 Commission meeting, the Mayor and City Commission directed staff to explore revenue generating opportunities and guest/customer satisfaction related to the City's beachfront areas; and

WHEREAS, the Administration discussed with Concessionaire additional revenue opportunities which may be derived from the public beachfront concessions, as well as additional services which may be provided to enhance the experience of visitors and residents; and

WHEREAS, at the February 22, 2019 Finance and Citywide Projects Committee (FCWPC) meeting, staff presented proposed terms and conditions offered by the Concessionaire

and the FCWPC recommended that the City Commission direct staff to further negotiate the proposed terms and conditions, including, without limitation, an increase to the City's minimum guarantee, displacement fees, enhanced branding, and enhanced sand sifting, with the final negotiated agreement subject to the prior approval of the Mayor and City Commission; and

WHEREAS, at the March 13, 2019 City Commission meeting, the Mayor and City Commission accepted the recommendation of the FCWPC; and

WHEREAS, subsequent to the March 13, 2019 Commission meeting, staff negotiated the Agreement, attached as Exhibit "A" hereto, providing, among other terms and conditions, for a term of seven and one half (7.5) years, commencing July 1, 2019 and ending on December 31, 2026, with two (2) renewal terms, at Concessionaire's option, for a period of five (2) years each, in consideration for increased compensation to the City and additional public benefits; and

WHEREAS, on April 30, 2019, the Planning Board approved the proposed Agreement, pursuant to Section 1.03(f) of the City Charter, which requires approval of a majority of the members of the Planning Board for any public beachfront concession agreement in excess of ten (10) years, including option periods; and

WHEREAS, for the reasons as set forth in the Commission Memorandum accompanying this Resolution, the City Manager has recommended approval of the Agreement, and the waiver of the competitive bidding requirements, as being in the best interest of the City.

NOW, THEREFORE, BE IT DULY RESOLVED BY THE MAYOR AND CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA, that the Mayor and City Commission hereby accept the written recommendation of the City Manager with respect to the waiver of the competitive bidding requirement, finding such waiver to be in the best interest of the City, and approve, by a 6/7ths vote, pursuant to Section 1.03(f) of the City Charter, an Amended and Restated Public Beachfront Concession Agreement ("Agreement"), between the City and Boucher Brothers Miami Beach, LLC ("Concessionaire"), for the management and operation of certain public beachfront concession areas, attached as Exhibit "A" hereto; with such Agreement providing, among other terms and conditions, for a term of seven and one half (7.5) years, commencing July 1, 2019, and ending on December 31, 2026, with two (2) renewal terms, at Concessionaire's option, for a period of five (2) years each, in consideration for increased compensation to the City and additional public benefits; further, accepting the proposal of Concessionaire with respect to the design for beach equipment, concession huts, trailers, and storage facilities, and approving said designs, notwithstanding the design guidelines set forth in Resolution No. 2018-30456; and further authorize the Mayor and City Clerk to execute the Amended and Restated Public Beachfront Concession Agreement.


PASSED and ADOPTED THIS ____ day of _____ 2019.

ATTEST:

Dan Gelber, Mayor

Rafael E. Granado, City Clerk

APPROVED AS TO
FORM & LANGUAGE
& FOR EXECUTION

 4-29-19

City Attorney *RAP* Date