

# MIAMI BEACH

City of Miami Beach, 1700 Convention Center Drive, Miami Beach, Florida 33139, [www.miamibeachfl.gov](http://www.miamibeachfl.gov)

## COMMISSION MEMORANDUM

TO: Honorable Mayor and Members of the City Commission

FROM: Jimmy L. Morales, City Manager

DATE: May 8, 2019

SUBJECT: 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; WITH SUCH 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 (5) YEARS EACH, IN CONSIDERATION FOR INCREASED COMPENSATION TO THE CITY AND ADDITIONAL PUBLIC BENEFITS; FURTHER, ACCEPTING THE RECOMMENDATION OF THE PLANNING DEPARTMENT 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. **SUPPLEMENTAL TO ITEM R7E.**

### **RECOMMENDATION**

The Administration seeks direction from the City Commission regarding including the proposed language in the Agreement.

### **ANALYSIS**

On April 30, 2019, counsel for Ocean Terrace Holdings, LLC, the developer of a mixed use project on Ocean Terrace between 74th Street and 75th Street, requested language be included in the Concession Agreement between the City and Concessionaire with regard to the Developer's use of a portion of the Ocean Terrace Concession Area.

The new Section 3.9.11 is as follows:

3.9.11. Concessionaire acknowledges that City and the principals of Ocean Terrace Holdings, LLC ("Developer") are currently in the process of negotiating a development agreement ("Development Agreement") with respect to property located in the vicinity of Ocean Terrace, between 74<sup>th</sup> Street and 75<sup>th</sup> Street, which Development Agreement will determine the rights of the Developer to a portion of the Ocean Terrace Concession Area, and will provide the Developer with the ability to make certain arrangements with respect to the use of a portion of the Ocean Terrace Concession Area, as may be mutually agreed-upon by the Developer, the City and Concessionaire. In the event the City Commission approves a Development Agreement which includes any terms relating to the Ocean Terrace Concession Area, then following such City Commission approval, the City Manager and Concessionaire shall execute an amendment to this Agreement, as necessary to conform this Agreement to the requirements of the Development Agreement.

The Concessionaire has agreed to the foregoing language.

### **CONCLUSION**

As the City's negotiations with Developer regarding the proposed vacation of certain City right-of-way areas and a Development Agreement are on-going, Developer has requested the foregoing language be inserted in the Concessionaire's Agreement, to preserve its ability to reach agreement with the City and Concessionaire with regard to any beachfront concession operation on a portion of the Ocean Terrace Concession Area (which agreement would utilize the Boucher Brothers, as City's concessionaire).



JLM/MT/MMM