

**AMENDMENT NO. 2 TO THE
AGREEMENT BETWEEN
THE CITY OF MIAMI BEACH, FLORIDA
AND
THE SABRINA COHEN FOUNDATION, INC.
FOR AN ADAPTIVE RECREATION CENTER**

This Amendment No. 2 (Amendment) to the Funding, Collaboration and Management Agreement dated November 2, 2017 ("Agreement"), by and between the City of Miami Beach ("City"), and the Sabrina Cohen Foundation, Inc. (the "Foundation"), is entered into as of this ____ day of July, 2019:

RECITALS

WHEREAS, on October 31, 2017, the Mayor and City Commission adopted Resolution No. 2017-30082, approving and authorizing the Mayor and City Clerk to execute the Agreement with the Foundation, for the Foundation to raise the funds and be responsible for all of the expenses related to the City's design, development and construction of an Adaptive Recreation Center ("Center") to be located at a portion of the City's "P72" surface parking lot at the 53rd Street and Collins Avenue (the "P72 Lot"); and

WHEREAS, the City would be the owner of the Center, which will be used for the primary purpose of providing the general public and specifically, persons living with physical and cognitive disabilities, including seniors living with disabilities and able-bodied individuals with temporary injuries, with an accessible access point to the beach and related beach programming; and

WHEREAS, on July 2, 2018, pursuant to the Agreement's terms, the Mayor and City Commission adopted Resolution No. 2018-30377, approving, in the City's proprietary capacity, the Concept Plan for the Center, a copy of which is attached hereto and incorporated by reference as Exhibit "A-1"; and

WHEREAS, on January 16, 2019, the City Commission approved Amendment No. 1 via Resolution No. 2019-3067 updating certain technical references, consistent with the Concept Plan approved by the City Commission on July 2, 2018 and applicable provisions of the City Code; and

WHEREAS, the City and the Foundation desire to amend the Agreement and accomplish the purposes outlined in this Amendment No. 2.

NOW THEREFORE, in consideration of the mutual promises and conditions contained herein, and other good and valuable consideration, the sufficiency of which is hereby acknowledged, the City and Consultant hereby agree to amend the Agreement as follows:

1. **ABOVE RECITALS.**

The above recitals are true and correct and are incorporated as part of this Amendment.

2. **MODIFICATIONS.** The Agreement is hereby amended (deleted items ~~struck through~~ and inserted items underlined) as follows:

Section 7.1.b of the Agreement is hereby amended as follows:

b. The FOUNDATION commits to the following fundraising schedule and deadlines, based on the estimated budget of Project Costs for the Base Concept Design:

- (i) 25% of Project Costs raised (in cash, donation pledges and grant commitments) within ~~twelve (12)~~ twenty-four (24) months following the City Commission's approval of the Concept Plan;
- (ii) 50% of Project Costs raised (in cash, donation pledges and grant commitments) within ~~twenty-four (24)~~ thirty-six (36) months following the City Commission's approval of the Concept Plan;
- (iii) 100% of Project Costs raised (in cash, donation pledges and grant commitments) within ~~thirty-six (36)~~ forty-eight (48) months following the City Commission's approval of the Concept Plan.

3. **RATIFICATION.**

Except as amended herein, all other terms and conditions of the Agreement shall remain unchanged and in full force and effect. In the event there is a conflict between the provisions of this Amendment and the Agreement, the provisions of this Amendment shall govern.

IN WITNESS WHEREOF, the parties hereto have caused this Amendment to be executed by their appropriate officials, as of the date first entered above.

THE REMAINDER OF THIS PAGE IS INTENTIONALLY LEFT BLANK.

SABRINA COHEN FOUNDATION, INC.:

By: _____
Name:
Secretary

Name:
President

CITY OF MIAMI BEACH, FLORIDA:

ATTEST:

By: _____
Rafael Granado, City Clerk

Dan Gelber, Mayor

APPROVED AS TO
FORM & LANGUAGE
& FOR EXECUTION

Rafael Granado 7/9/19
City Attorney Date