

MIAMI BEACH

City of Miami Beach, 1700 Convention Center Drive, Miami Beach, FL 33139, www.miamibeachfl.gov

TOURISM, CULTURE AND ECONOMIC DEVELOPMENT DEPARTMENT
Office of Real Estate
Tel: 305-673-7193 / Fax: 786-394-4539

July 1, 2018

Miami Beach, FL 33139

RE: TEMPORARY AUTHORIZATION TO OPERATE ONE (1) COOKING AND HEATING CONCESSION FACILITY (THE "MOBILE COOKING/HEATING CONCESSION FACILITY") SEAWARD OF _____ LOCATED AT _____ MIAMI BEACH, FLORIDA FOR THE LIMITED PERIOD COMMENCING JULY 1, 2018 AND ENDING DECEMBER 31, 2018.

Dear _____:

Please be advised that the City of Miami Beach ("City") has concluded its review of your request for authorization to operate the above referenced beachfront concession. All of the required documentation has been appropriately submitted and your request has been approved subject to the following conditions:

1. _____ (hereinafter referred to as Upland Owner / Concessionaire) is hereby authorized to operate the following beach concession(s):

Food and Non-Alcoholic Beverages (Cooking / Heating allowed) pursuant to Resolution No. 2018-_____ authorizing a limited exception to section 6(c) of the Third Amended and Restated Rules and Regulations for Beachfront Concession Operations (the "Rules and Regulations") for a six month pilot program, during which term Concessionaire shall be the site operator, as subcontracting for the operation of the mobile cooking/heating Concession Facility shall not be permitted.

2. Any City Business Tax Receipt(s) required for the beachfront concession(s) authorized in Paragraph 1 above must be secured concurrent with your acceptance of the terms and conditions of said authorization. Said acceptance shall be deemed to have occurred upon execution of this Letter Agreement by all parties hereto. Please be reminded that the respective City Business Tax Receipt(s) must be obtained **prior** to the placement of any equipment or facilities on the beachfront and **prior** to commencement of any beachfront operation.
3. Concessionaire understands and agrees to submit to the City, concurrent with this fully executed Letter Agreement, the annual fee in the amount of _____ for use of the beachfront area located at _____. Said fee shall be subject to increases in accordance with the City's Business Tax Receipt rate schedule.
4. In exchange for use of the beachfront area to operate the mobile cooking/heating Concession Facility, Upland Owner / Concessionaire agrees to pay the City a monthly fee, in the amount equal to **Ten Thousand and 00/100 (\$10,000) Dollars**, plus applicable taxes, on or before the first day of each month during the term(s) of this Letter Agreement.
5. Concessionaire agrees that any change, modification, or other deviation or amendment to the Application for Beachfront Concession submitted pursuant to this request for authorization must be approved in writing by the City said approval to be at the City Manager's sole discretion, prior to implementation of same.
6. Nothing herein contained shall be construed to relieve the Concessionaire or its employees from

complying with the Rules and Regulations, subject to the approved exceptions set forth in Section 1 herein, or any other applicable City, County, State, or Federal laws or requirements. The City may provide notice of amendments to the Rules and Regulations as a courtesy; however, it shall ultimately be the Concessionaire's responsibility to be aware of and, as deemed necessary by Concessionaire, to obtain the latest version of the Rules and Regulations.

7. The authorization granted herein does not provide for the placement of any concession facility, or storage facility, on the beachfront unless such facilities have received appropriate City Design Review approval, if required.
8. Notwithstanding any provisions contained in the Rules and Regulations, Concessionaire agrees and understands that in the event a "Hurricane Warning" is issued by the Miami-Dade County Office of Emergency Management, **Concessionaire shall completely remove from the beach all Beach Concession trailers, dispensing facilities, stands, storage facilities, equipment, and all other items, within four (4) hours of said "Hurricane Warning."** Be further advised that failure to comply with the requirements contained in this paragraph may be considered grounds for termination of this authorization.
9. Concessionaire shall indemnify, defend and hold the City harmless from all claims, liability, losses, and causes of action which may arise out of the Concessionaire's operation and/or use of the beachfront pursuant to this authorization and shall pay all claims and losses of any nature whatsoever in connection therewith and shall defend all suits, in the name of the City, and shall pay all costs (including attorney's fees) and judgments which may issue thereon. This indemnification shall not be limited in any way by the type or amount of insurance carried by Concessionaire. For purposes of this Letter Agreement, Concessionaire shall be deemed to include any employees, agents, and/or any other person or entity acting under the direction or control of the Concessionaire. This paragraph is expressly intended to survive termination and/or expiration of this Letter Agreement.
10. Any litigation between the parties, arising out of, or in connection with this Letter Agreement, shall be initiated in the court system of the County of Miami-Dade, State of Florida.
11. The authorization granted herein shall not be construed to vest any additional rights upon the Concessionaire that do not otherwise exist, except for the privilege of temporary use of the beachfront in accordance with the conditions set forth herein, in the Rules and Regulations and all other applicable Municipal, State, County and Federal law.
12. Concessionaire is hereby notified that all beaches are public and, as such, concession operations shall not restrict, or appear to restrict access, or limit in any manner the public nature and/or ambiance of the beachfront. Concession facilities shall be deployed in a manner that assures public access and encourages public use of the beach, taking into consideration the characteristics of the individual property involved. Failure to comply with this paragraph may result in revocation of this authorization.

NOTWITHSTANDING ANYTHING TO THE CONTRARY, THE CITY MANAGER MAY TERMINATE THIS LETTER AGREEMENT AND REVOKE THE CONCESSION AUTHORIZATION GRANTED HEREIN, AT ANY TIME AND AT ITS SOLE DISCRETION, FOR CONVENIENCE AND WITHOUT CAUSE, WITHOUT INCURRING ANY LIABILITY, BY PROVIDING THIRTY (30) DAYS WRITTEN NOTICE TO CONCESSIONAIRE, WHICH TERMINATION SHALL BE EFFECTIVE AS OF THE DATE SPECIFIED IN SAID WRITTEN NOTICE.

The undersigned, _____, as authorized representative for _____, hereby understands and acknowledges the terms and conditions outlined above and agrees to abide therewith.

Authorized Representative for

Date

Witness

Jimmy L. Morales, City Manager

Date