

Automated Bicycle Rental and Share Program  
Contract No. 00417

THIS AGREEMENT made and entered into as of this 29<sup>th</sup> day of November, 2017 by and between Ride On Miami, LLC, a corporation organized and existing under the laws of the State of Florida, having its principal office at 2153 Coral Way, Suite 400, Miami, FL 33145 (hereinafter referred to as the "Concessionaire"), and Miami-Dade County, a political subdivision of the State of Florida, through Miami-Dade Department of Transportation and Public Works, having its principal office at 701 N.W. 1<sup>st</sup> Court, Miami, Florida 33136 (collectively hereinafter referred to as "the County"),

WITNESSETH:

WHEREAS, the Concessionaire has offered to provide automated bicycle rental and share services, on an exclusive basis, that shall conform to the Scope of Services for Miami-Dade County's Request for Proposals ("RFP") No. 00417 and all associated addenda and attachments, incorporated herein by reference; and the requirements of this Agreement; and,

WHEREAS, the Concessionaire has submitted a written proposal(s) dated September 2, 2016, hereinafter referred to as the "Concessionaire's Proposal" which is incorporated herein by reference; and,

WHEREAS, the County desires to procure from the Concessionaire such automated bicycle rental and share services for the County, in accordance with the terms and conditions of this Agreement;

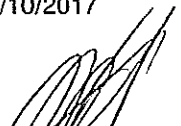
NOW, THEREFORE, in consideration of the mutual covenants and agreements herein contained, the parties hereto agree as follows:

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**ARTICLE 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 words "Contract" or "Agreement" to mean collectively these terms and conditions, the Scope of Services of the Request for Proposal, all other appendices and attachments hereto, all amendments issued hereto, RFP No. 00417 and all associated addenda, and the Concessionaire's Proposal.
- b) The words "Contract Date" to mean the date on which this Agreement is effective, which is the date on which the Land Use Agreement shall commence pursuant to Article 15.
- c) The words "Contract Manager" to mean Miami-Dade County's Director, Internal Services Department, or the duly authorized representative designated to manage the Contract.
- d) The word "Concessionaire" to mean Ride On Miami, LLC and its permitted successors and the words "Concession Area" to have the meaning set forth in Article 11(b).
- e) The word "Days" to mean Calendar Days.
- f) The word "Deliverables" to mean all documentation and any items of any nature submitted by the Concessionaire to the County's Project Manager for review and approval pursuant to the terms of this Agreement.
- g) 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 Project 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 Project Manager.
- h) The words "Extra Work" or "Additional Work" to mean additions or deletions or modifications to the Services as required in this Contract, as directed and/or approved by the County.
- i) The words "Project Manager" to mean the County Mayor or the duly authorized representative designated to manage the Project.
- j) The words "Scope of Services" to mean the description of work to be performed by the Concessionaire, as stated in the Request for Proposal.
- k) The words "Service Date" to mean with respect to a Concession Area, the date on which such Concession Area firstly becomes fully installed and operational.
- l) The words "Service End Date" to mean with respect to a Concession Area, the date on which such Concession Area definitely ceases to be operational. In no event shall the Service End Date extend beyond the overall term of the contract as it may be extended in accordance with Article 5.
- m) The word "subcontractor" or "subconsultant" to mean any person, entity, firm or corporation, other than the employees of the Concessionaire, who furnishes labor and/or materials, in connection with the Work, whether directly or indirectly, on behalf and/or under the direction of the Concessionaire and whether or not in privity of Contract with the



Concessionaire.

- n) The words "Work", "Services", "Program", or "Project" to mean all matters and things required to be done by the Concessionaire in accordance with the provisions of this Contract.

## ARTICLE 2. ORDER OF PRECEDENCE

If there is a conflict between or among the provisions of this Agreement, the order of precedence is as follows: 1) these terms and conditions, 2) the Concessionaire's Proposal, and 3) the Miami-Dade County's RFP No. 00417 and any associated addenda and attachments thereof.

## ARTICLE 3. RULES OF INTERPRETATION

- a) References to a specified Article, section or schedule shall be construed as reference to that specified Article, or section of, or schedule to this Agreement unless otherwise indicated.
- b) Reference to any agreement or other instrument shall be deemed to include such agreement or other instrument as such agreement or other instrument may, from time to time, be modified, amended, supplemented, or restated in accordance with its terms.
- c) The terms "hereof", "herein", "hereinafter", "hereby", "herewith", "hereto", and "hereunder" shall be deemed to refer to this Agreement.
- d) The titles, headings, captions and arrangements used in these Terms and Conditions are for convenience only and shall not be deemed to limit, amplify or modify the terms of this Contract, nor affect the meaning thereof.

## ARTICLE 4. NATURE OF THE AGREEMENT

- a) This Agreement incorporates and includes all prior negotiations, correspondence, conversations, agreements, and understandings applicable to the matters contained in this Agreement. The parties agree that there are no commitments, agreements, or understandings concerning the subject matter of this 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 representations 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 Concessionaire shall provide the services set forth in the Scope of Services, and render full and prompt cooperation with the County in all aspects of the Services performed hereunder.
- c) The Concessionaire acknowledges that this Agreement requires the performance of all things necessary for or incidental to the effective and complete performance of all Work and Services under this Contract. All things not expressly mentioned in this Agreement but necessary to carrying out its intent are required by this Agreement, and the Concessionaire shall perform the same as though they were specifically mentioned, described and delineated.



- d) The Concessionaire shall furnish all labor, materials, tools, supplies, and other items required to perform the Work and Services that are necessary for the completion of this Contract. All Work and Services shall be accomplished at the direction of the County's Project Manager in compliance with the Agreement.
- e) The Concessionaire acknowledges that the County shall be responsible for making all policy decisions regarding the Scope of Services. The Concessionaire agrees to provide input on policy issues in the form of recommendations. The Concessionaire agrees to implement any and all changes in providing Services hereunder as a result of a policy change implemented by the County. The Concessionaire 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.

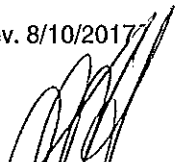
In the event a County initiates a policy change that results in a significant adverse financial impact for the Concessionaire, the Concessionaire shall reserve the right to submit a claim for an equitable adjustment as compensation for a loss of revenue or any other cost impact. The County will conduct a fair and reasonable review of the claim and render a determination of entitlement for an equitable adjustment.

- f) **ADDITIONAL COUNTY DEPARTMENTS OR GOVERNMENTAL AGENCY MAY BE ADDED:** It is hereby agreed and understood that services as herein agreed upon by this Agreement are executed on behalf of the County's Department of Transportation and Public Works. It is hereby agreed and understood that any County department or other governmental agency may be added to this contract by a separate Agreement (herein after referred to as "Additional Agreements). Additionally, it is hereby agreed and understood that the Concessionaire may enter into separate agreements similar to this Agreement with any County department or other governmental agency or private party.

The Concessionaire shall use reasonable efforts to cause that terms and conditions similar to those contained in Article 11 "Manner of Performance for Concession Services", as specified by this Agreement, shall apply to Additional Agreements to be performed in the State of Florida. Such Additional Agreements may specify locations for Concession Areas as mutually agreed upon by other County departments or governmental agencies or private parties and Concessionaire.

#### ARTICLE 5. CONTRACT TERM

The Contract shall become effective on the date indicated on the first page of this Agreement and shall continue through the last day of the sixtieth (60<sup>th</sup>) month from the Contract Date. The County, at its sole discretion, reserves the right to exercise the Option to Renew ("OTR") this Contract for a period of three (3) additional years, subject to FTA and FDOT approval. The County reserves the right to exercise its option to extend this Contract for up to one hundred-eighty (180) calendar days beyond the current Contract period and will notify the Concessionaire in writing of the extension. This Contract may be extended beyond the initial one hundred-eighty (180) calendar day extension period by mutual agreement between the County and the Concessionaire, upon approval by the Board of County Commissioners. The County will provide not less than a sixty (60) day advanced written notice to Concessionaire of the County's intent to either elect the OTR or terminate the Agreement on the contract expiration date.



## ARTICLE 6. NOTICE REQUIREMENTS

All notices required or permitted under this Agreement shall be in writing and shall be deemed sufficiently served if delivered by Registered or Certified Mail, with return receipt requested; or delivered personally; or delivered via fax or e-mail (if provided below) and followed with delivery of hard copy; and in any case addressed as follows:

(1) to the County

- a) DTPW Director:  
Miami-Dade County  
Attention:  
Phone:  
Fax:  
E-mail:

and,

- a) Chief or Right of Way, Utilities and Joint Development:  
Miami-Dade Transportation and Public Works  
Right of Way, Utilities and Joint Development Division  
701 N.W. 1<sup>st</sup> Court, Suite 1500 West  
Miami, FL 33136  
Phone: (786) 469-5244  
E-mail:

(2) To the Concessionaire

Attention:  
Phone:  
Fax:  
E-mail:

Either party may at any time designate a different address and/or contact person by giving notice as provided above to the other party. Such notices shall be deemed given upon receipt by the addressee.

## ARTICLE 7. PAYMENT FOR SERVICES/AMOUNT OBLIGATED

The Concessionaire warrants that it has reviewed the County's requirements and has asked such questions and conducted such other inquiries as the Concessionaire deemed necessary in order to determine the price the Concessionaire will charge to provide the Work and Services to be performed under this Contract. The revenue sharing agreement for services performed under this Contract, shall be in accordance with the terms and conditions of Article 11(b).

All Services undertaken by the Concessionaire before County's approval of this Contract shall be at the Concessionaire's risk and expense.

## ARTICLE 8. PRICING

The terms and conditions for revenue sharing shall remain in full force and effect for the term of the Contract, including any option or extension periods.

**ARTICLE 9. METHOD AND TIMES OF PAYMENT****a) Rent**

"Rent" is herein collectively defined as "Initial Rent", "Minimum Guaranteed Rent", and "Participation Rent (percent of Concessionaire's gross income from Sales, Loyalty Program, Advertising, and Sponsorship)", as defined by Paragraph 2.12 of RFP No. 00417 and in accordance with Article 11(b). Concessionaire shall pay to the County, Rent on a quarterly basis for the period beginning on the Contract Date and throughout the Term of this Agreement, including all renewals hereof. The amount(s) for Rent are defined by Article 11 (b) of this Agreement. Payments are due on the 20<sup>th</sup> day of each month and late payments are due on the last day of each month, which commences a new quarter during the Term of the Agreement.

Payment of rent for the first and last quarters of the Agreement, or any extension thereof, shall be prorated in accordance with the number of days the Agreement was in effect that quarter.

Payments shall be made by check payable to "Miami-Dade County" and submitted to:

Miami-Dade County Dept. of Transportation and Public Works  
701 N.W 1st Court, Suite 1500 West  
Miami, Florida 33136

The County may at any time designate a different address and/or contact person by giving written notice to the other party.

**b) Late Payments**

In the event that any payment of rent due the County shall remain overdue for a period of fifteen (15) days after the due date, a late charge equal to ten percent (10%) of the amount overdue shall become immediately due and payable to the County as liquidated damages. In the event that both the rent and late charges are not paid to the County within thirty (30) days after due date, as described above, then the County, in addition to all of the rights and remedies provided for herein, shall have all the rights and remedies afforded to the County by law in the case of nonpayment of rent and late charges which are not consistent with the rights, remedies and limitations on remedies contained herein.

**ARTICLE 10. INDEMNIFICATION AND INSURANCE**

The Concessionaire 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 Concessionaire or its employees, agents, servants, partners principals or subcontractors. The Concessionaire shall pay all claims and losses in connection therewith and shall investigate and defend all 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 Concessionaire expressly understands and agrees that any insurance protection required by this Agreement or otherwise provided by the Concessionaire 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.





The Concessionaire shall furnish to the Procurement Management Services Department, 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 Concessionaire as required by Florida Statute 440.
- B. Commercial General Liability Insurance on a comprehensive basis, in an amount not less than \$300,000 combined single limit per occurrence for bodily injury and property damage. 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 \$300,000 combined single limit per occurrence for bodily injury and property damage.

The insurance coverage required shall include those classifications, as listed in standard liability insurance manuals, which most nearly reflect the operations of the Contractor.

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.

The Concessionaire shall assure that the Certificates of Insurance required in conjunction with this Section remain in full force for the term of the Contract, including any renewal or extension periods that may be exercised by the County. If the Certificate(s) of Insurance is scheduled to expire during the term of the Contract, the Concessionaire shall submit new or renewed Certificate(s) of Insurance to the County a minimum of ten (10) calendar days before such expiration. In the event that expired Certificates of Insurance are not replaced or renewed to cover the Contract period, the County may suspend the Contract until the new or renewed certificates are received by the County in the manner prescribed herein. If such suspension exceeds thirty (30) calendar days, the County may, at its sole discretion, terminate the Contract for cause and the Concessionaire shall be responsible for all direct and indirect costs associated with such termination.

**NOTE: CERTIFICATE HOLDER MUST READ:**

**MIAMI-DADE COUNTY  
111 NW 1<sup>ST</sup> STREET  
SUITE 2340  
MIAMI, FL 33128**

**ARTICLE 11. MANNER OF PERFORMANCE FOR CONCESSION SERVICES****a) General Conditions for Service**

1. The Concessionaire shall provide the Services described herein in a competent and professional manner, in accordance with the terms and conditions of this Agreement. The County shall be entitled to a competent and professional performance of all Services described herein and to full and prompt cooperation by the Concessionaire in all aspects of the Services. At the written request of the County pursuant to Article 11(a) (3) below, the Concessionaire shall promptly remove from the project any Concessionaire's employee, subcontractor, or any other person performing Services hereunder. The County and the Concessionaire agree that such removal of any of its employees does not require the termination or demotion of any employee by the Concessionaire.
2. The Concessionaire agrees to defend, hold harmless and indemnify the County and shall be liable and responsible for any and all claims, suits, actions, damages and costs (including attorney's fees and court costs) made against the County, occurring on account of, arising from or in connection with the removal and replacement of any Concessionaire's personnel performing services hereunder at the behest of the County. Removal and replacement of any Concessionaire's personnel as used in this Article shall not require the termination and or demotion of such Concessionaire's personnel.
3. The Concessionaire agrees that at all times it will employ, maintain and assign to the performance of the Services a sufficient number of competent and qualified professionals and other personnel to meet the requirements to which reference is hereinafter made. The Concessionaire agrees to adjust its personnel staffing levels or to replace any its personnel if so directed upon reasonable written request from the County, should the County make a determination, in its sole discretion, which said personnel staffing is inappropriate or that any individual is not performing in a manner consistent with the requirements for such a position.
4. The Concessionaire warrants and represents that its personnel have the proper skill, training, background, knowledge, experience, rights, authorizations, integrity, character and licenses as necessary to perform the Services described herein, in a competent and professional manner.
5. The Concessionaire shall at all times cooperate with the County and coordinate its respective work efforts to most effectively and efficiently maintain the progress in performing the Services.
6. The Concessionaire shall comply with all provisions of all federal, state and local laws, statutes, ordinances, and regulations that are applicable to the performance of this Agreement.
7. Subject to Section 11(d), and 11(f), for the period starting on the Service Date of the last Concession Area to become fully installed and operational and ending on the Service End Date of the first Concession Area to cease operations, the total number of bicycles and kiosks approved for service under the Agreement, as it may be amended in accordance with provisions of Article 11, must be maintained by the Concessionaire for the term of the Agreement.

**b) Revenue Structure**

For the purpose of calculating the Concessionaire's gross revenue, gross revenue shall be based on the gross proceeds of income effectively collected by Concessionaire, after the payment of federal, state, and local taxes and advertising agency fees, generated from each station/location providing bicycle rental and sharing services. Each location where bicycle rental and share services are provided (with kiosk and bicycles), in accordance with the scope of RFP No. 00417, shall herein after be referred to as "Concession Area". The County acknowledges that Concessionaire may expand its electric bicycle sharing network by installing new station other than the Concession Areas and enter into additional concession agreements with other persons or local government entities.

The revenue structure for Concession Areas is established in accordance with the following:

1. Initial Rent:

The County shall receive from Concessionaire, \$125 per month for each Concession Area within the scope of services, commencing from the Contract Date until the Service Date for each Concession Area. An initial payment to the County by Concessionaire, in the amount of \$2,875.00, is due within thirty (30) days from the Contract Date.

2. Minimum Guaranteed Rent:

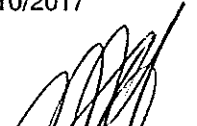
The County shall receive from Concessionaire, \$125 per month for each Concession Area within the scope of services, commencing from the Service Date for each Concession Area through the Service End Date for each Concession Area.

3. Sales:

The County shall receive from Concessionaire, a percent share of revenue from its sales, which shall commence from the Service Date for each Concession Area through the Service End Date for each Concession Area, as follows:

- i. The County shall receive from Concessionaire, 25% of revenue from all rides initiated from Concession Areas within the scope of services.
- ii. The County shall receive from Concessionaire, 25% of revenue from fixed transit pass revenue (unlimited bicycle sharing plan for a period specified by Concessionaire), proportionally shared for Concession Areas within the scope of services.

Revenue sharing shall apply when a ride originates at locations (Concession Area) identified by the scope of this Agreement, in accordance with the RFP. The Parties agree that revenue-sharing is alternative to the Minimum Guaranteed Rent and that, in each quarter, the Concessionaire shall pay whichever of the two forms of compensation is higher.



4. Advertising:

The County shall receive from Concessionaire, a percent share of gross revenue from advertisers for Concession Areas located within the scope of services, as follows:

12%	For any portion of Gross Advertising Revenue not exceeding \$500,000
18%	For any portion of Gross Advertising Revenue between \$500,001 and \$1,000,000
25%	For any portion of Gross Advertising Revenue exceeding \$1,000,001

The County and Concessionaire agree that use for conventional advertisement on kiosks is allowed. The County agrees that, if a change in the County's ordinances shall allow digital advertising signs, including without limitation any ordinance repealing or modifying Section 33-96 of the Code of Miami-Dade County, the Concessionaire shall be immediately authorized to operate such digital advertising signs in the Concession Areas.

5. Sponsorship:

The County shall receive from Concessionaire, a percent share of gross revenue from sponsorships for Concession Areas located within the scope of services, as follows:

12%	For any portion of Gross Sponsorship Revenue not exceeding \$500,000
18%	For any portion of Gross Sponsorship Revenue between \$500,001 and \$1,000,000
25%	For any portion of Gross Sponsorship Revenue exceeding \$1,000,001

c) **Underutilized Concession Area(s)**

Upon request by Concessionaire, the County shall deem a Concession Area as "Underutilized" as herein stated. Starting on the second Service Year and until the end of the Term, upon presentation by Concessionaire of usage data for a Station indicating that the quantity of daily rentals or member uses originating from that Concession Area falls below the Average Program Usage (as defined below), the County shall use reasonable efforts to cooperate with Concessionaire to transfer such Concession Area to another location and shall amend the site plan and site list accordingly. For purposes of this Article, the Average Program Usage shall be defined as two and a half (2.5) bicycle trips per day for each bicycle during any given six-month period.

d) **High-Risk Concession Area(s)**

The parties acknowledge that each station with a kiosk and bicycles (jointly, a "Concession Area") will be located in areas accessible to the public and may, therefore, be stolen, damaged or vandalized by the public. If, at any time during the Term of this Contract, as a result of Vandalism, a Concession Area (or a part thereof) shall suffer damages, whether in a single or more episodes of Vandalism, for an amount exceeding ten percent (10%) of



the initial cost of such Concession Area (including the equipment installed or parked at such Concession Area), Concessionaire may, in its sole discretion, upon five (5) days' prior written notice to the County:

- i. discontinue the Service at such Concession Area and to collect any equipment installed or parked at such Concession Area; or
- ii. relocate the Concession Area at another location reasonably designated by Concessionaire and the County.

In the event that a bicycle or kiosk is damaged for any reason, Concessionaire shall, at a minimum, commence repairs within forty-eight (48) hours upon receiving notice from the County and, in any event, complete repairs or if irreparable, replace the damaged bicycle(s) within ten (10) days from the first date of removal. At that time, the fully repaired Kiosk, bicycle or a replacement bicycle shall be put back into service. The County shall not bear any costs for vandalized and/or damaged equipment.

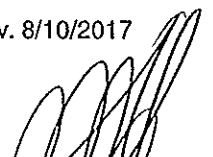
**e) Concession Area Displacement**

In the event the County requests the removal of a Concession Area from circulation that is fully operational, in service, and the conditions of Paragraph 11.c are not applicable, one of the following shall apply:

- i. For the purpose of this provision, a "service area" is defined as: 1) the designated facility serviced by a Concession Area or; 2) the identified customer base (by point of origin or destination) serviced a Concession Area.
- ii. In the event the Concessionaire is able to relocate a displaced Concession Area to a viable location, as determined by both Concessionaire and the County, in the same service area as the displaced location, the Concessionaire shall be entitled to a reimbursement of the actual cost of site preparation and equipment installation at the new Concession Area. In consideration of unique site requirements at each Concession Area that affect installation costs, the Concessionaire shall submit for payment by the County, verification of its' site specific costs as deemed acceptable by the County.
- iii. In the event the Concessionaire is unable to relocate a displaced Concession Area to a new location, in the same service area as the displaced location, Concessionaire shall be solely entitled to a reimbursement of the actual cost of site preparation and equipment installation at the displaced Concession Area, exclusive of equipment costs.

**f) Maintenance/Repair**

Subject to Article 11(d), the total number of bicycles and kiosks approved for service under the Agreement, as it may be amended by mutual agreement of the parties, must be maintained by the Concessionaire for the term of the Agreement. The Concessionaire shall maintain, at its sole cost and expense, the Concession Areas and all equipment



thereon, as required to operate the program, in accordance with the following:

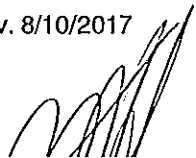
- i. Concessionaire shall be solely responsible for the day to day operation, maintenance, and repair of all Concession Areas. Concessionaire shall maintain the Concession Areas and all equipment thereon in good working order and condition. Concessionaire shall keep all equipment free of graffiti. The Concessionaire shall remove such graffiti, trim overgrown grass, remove overflowing trash within 24 hours of its discovery by Concessionaire, or after receipt of such graffiti concerns from the County or the public.
- ii. All damage of any kind to a Concession Area and any equipment thereon shall be the sole obligation of Concessionaire. Concessionaire shall repair all damaged, missing or non-operational equipment within 48 hours of its discovery by Concessionaire, or after receipt of such Concession Area maintenance concerns from the County or the public.
- iii. Concessionaire shall be responsible to obtain all necessary approvals and permits and pay for fees as required by the County and any other agencies to maintain and upgrade each Concession Area.

#### **ARTICLE 12. ADVERTISING**

The Concessionaire shall use reasonable efforts to engage in activities specifically related to the selling of advertising at Concession Areas in the manner and form as prescribed by the Concessionaire, in its sole and absolute discretion, within the limits herein set forth. The Concessionaire shall use reasonable efforts to sell advertising at Concession Areas, inclusive of bicycles if deemed applicable by the Concessionaire, which produce the greatest amount of revenue for the County.

##### **a) Advertising Standards**

- i. The Concessionaire shall provide, install and maintain high quality, expertly designed, conventional or digital, commercial advertising displays. The Concessionaire shall adhere to generally accepted principles of advertising in relation to good taste and truth in advertising. Whenever a question arises as to the propriety of an advertisement, the Concessionaire may submit the advertisement to the DTPW Director, or County's Project Manager, for review and approval prior to installation.
- ii. In addition, the Concessionaire shall comply with the following:
  - No advertising shall contain the words "STOP", "LOOK", "DRIVE IN", "DANGER" or any other word, symbol, or displays designed to distract vehicular traffic.
  - No advertising shall contain material that is obscene, as defined in Section 847.001 Florida Statutes.
  - No advertising shall be for businesses engaged in any activity that requires the exclusion of minors pursuant to Chapter 847, Florida Statutes.
  - Tobacco advertising or electronic cigarette advertising shall not be allowed.



- Political or political campaign advertising shall not be allowed.
- Advertising of alcoholic beverages, as defined by Section 561.01, Florida Statutes, shall be permitted with the following restrictions:
  1. No advertising for alcoholic beverages shall be within one-quarter mile of any type of public or private school including pre-schools, elementary schools, middle schools high schools, colleges and universities;
  2. No advertising for alcoholic beverages shall be within one-quarter mile of houses of worship, including churches, synagogues, temples, and mosques
- iii. No advertising for alcoholic beverages shall be within one-quarter mile of Hospitals or addiction treatment centers;
- iv. The Concessionaire shall submit a copy of all ads for alcoholic beverages to the Department of Transportation and Public Works' ("DTPW") Project Manager.
- v. No advertising shall contain libelous material or material detrimental to the operation or goals of the County.

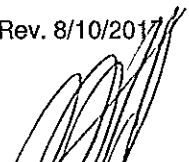
**b) Advertising Removal**

- i. The County's Project Manager will require the Concessionaire to remove any advertising that fails to comply with Article 12 (a). The Concessionaire shall remove advertising, and any other likewise advertising from the Concession Area, and bicycles if applicable, within three (3) business days upon issuance of a written requirement from the County's Project Manager to remove said advertising.
- ii. In the event the Concessionaire fails to remove the advertising as specified herein, the County may take necessary actions to remove the advertisement. The Concessionaire is obligated to reimburse the County for actions taken under this provision. The County is not liable for any damages in connection therewith.

**ARTICLE 13. REPORTS**

**a) Program Records**

The Concessionaire shall maintain all books of accounts and records of gross revenues, hereinafter referred to as "Records", customarily used in this type of bike-sharing program. Records shall be in conformity with generally accepted accounting principles, and Records shall be kept at all times within the geographical boundaries of Miami-Dade County. The Records shall be kept by the Concessionaire for a period as specified in Article 21. Subject to Article 21, the Miami-Dade County Audit and Management Services Department and the Commission Auditor shall be permitted to audit and examine all such Records relating to this Contract, without cost and limitation as to time or frequency. All information obtained by the County or its authorized representatives from the Concessionaire's books and records will be kept confidential by the County and all such representatives, except in connection with the requirements of Florida Public Records Act.



**b) Audited Financial Report**

- A. Within 90 days from the end of a one-year period commencing on the Contract Date for this Contract, and for each one-year period thereafter, and within 30 days following termination of this Contract, the Concessionaire shall provide to the County's Project Manager an annual audited financial report.
- B. The audited financial report shall, at minimum, consist of the Concessionaire's schedule of gross amount received from sources of revenue, by calendar quarters, which are subject to the provisions of revenue sharing under Article 11 of this Contract.
- C. The report shall be prepared in conformance with the United States Generally Accepted Accounting Principles requirements for reports. The report shall contain an opinion of accuracy, prepared and attested to by an independent certified public accountant licensed in the state of Florida.

**c) Advertising Billings and Collections Report**

- A. The Concessionaire shall provide the County's Project Manager, a semiannual unaudited Billings and Collections Report on or before the 20th calendar day of each reporting period. This report shall provide an account of gross billings, net billings, and all collections for the previous period for advertising. This report shall be affirmed by the Concessionaire certifying the accuracy of such billings and collections.
- B. At a minimum, the Advertising Billings and Collections Report shall contain the following information:
  - 1. gross advertising revenue to date, itemized
  - 2. Advertising agency commissions paid, if applicable
  - 3. Monthly rate sheet for Concession Area advertising for the previous four (4) month period
  - 4. List of Advertising Clients for the previous four (4) month period
- C. Upon fifteen (15) days' notice and request from the County's Project Manager, the Concessionaire shall provide all active advertising contracts.

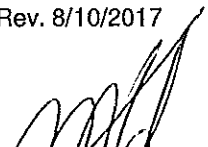
**d) Concession Area Sales Revenue Report**

The Concessionaire shall provide the County's Project Manager, a quarterly unaudited Concession Area Sales Report on or before the 20th calendar day from the day in which each reporting period ends. This report shall contain the following information:

- 1. List of Concession Area locations, identifying Concession Areas installed or removed
- 2. Total gross point of origin sales for the period
- 3. Total gross fixed transit pass sales for the period
- 4. Sponsorship revenue, prorated, for the previous four (4) month period

**e) Incident Report**

The Concessionaire shall provide the County's Project Manager, a quarterly Incident





Report on or before the 20th calendar day from the day in which each reporting period ends.

This report shall contain the following information:

1. List of Concession Area damaged/ vandalized with the date the incident was discovered or reported and the date the Concessionaire responded to the incident.
2. Synopsis of the type of damage and the Concessionaire's response to each incident.

**f) Changes to Report Information**

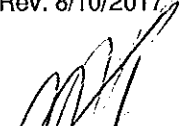
The Concessionaire or the County's Project Manager may change the required reporting information herein upon prior written consent from the County's Project Manager and the Concessionaire at least 30 days in advance of the reporting deadline date.

**g) Failure to Report**

If the Concessionaire fails to submit the contractually-required reports as specified, the County may take action necessary, such as to hire an independent certified public accountant to conduct a financial audit and prepare a report. The Concessionaire is obligated to reimburse the County for actions taken under this provision.

**ARTICLE 14. SUBMITTAL SCHEDULE**

- a) Concessionaire shall submit to the County's Project Manager, project documents within the time limits set forth below:
- i. Concession Area Location Plan, with the kiosk type (within 60 calendar days from the Contract Date), which plan shall include all locations identified in the Concessionaire's proposal.
  - ii. Specifications for each kiosk type (within 60 days from the Contract Date)
  - iii. Revised Concession Area Installation Plan (within 45 days from the Contract Date), which plan shall include the number of bicycles at each Concession Area. The Concessionaire shall install a minimum of five (5) bicycles at each Concession Area.
  - iv. Copy of draft Sponsorship Agreement (within 45 days after beginning negotiations of such draft with a prospective sponsor)
  - v. Preliminary list of advertising agencies selected by the Concessionaire (within 60 days from the Contract Date)
  - vi. "As Built" set of Site Drawings for any changes or improvements constructed on the Concession Areas by Concessionaire (within 30 days from completion of Kiosks installations)
  - vii. Reports, in accordance with the requirements of Article 13



- b) Submittals (i) and (iii) require County approval prior to the commencement of contracted services. The County shall return the submittal as approved, or with a direction to revise and resubmit, within no later than fifteen (15) calendar days from receipt of the submittal.

#### ARTICLE 15. LAND USE AGREEMENT

- a) The term of this Land Use Agreement, limited to the approved locations of Concession Areas, shall be in accordance with the provisions of Article 5, commencing upon the approval of the Lease by the Miami-Dade County Board of County Commissioners, the Federal Transit Administration (hereinafter referred to as "FTA"), the State of Florida Department of Transportation (hereinafter referred to as "FDOT"), and execution of the Concession Agreement by both the County and Concessionaire. The obligation of Concessionaire to pay rent associated with the Land Use Agreement, shall begin on the Commencement date, which is also referred to as the Contract Date. Provided that this Agreement has not been terminated by the County as the result of a default by Concessionaire which is not cured within the applicable grace period. The amount of rent to be paid to the County is incorporated into the payment provisions of Article 11.b.
- b) The County and Concessionaire recognize and acknowledge that the manner in which the Concession Areas are developed, used and operated by Concessionaire are matters of critical importance to the County and the general welfare of the community. Concessionaire agrees that at all times during the term of this Agreement, Concessionaire shall use diligent efforts to, as applicable to the location of the Concession area: 1) protect the safety of the Transportation system and to avoid any activities which may interfere with Transportation Operations and Maintenance; 2) ensure unobstructed public access to the property and the transit system; and 3) guarantee non-interference with transit operations.
- c) It is expressly understood that notwithstanding any provision of this Agreement and the County's status hereunder:
  - i. The County retains all of its sovereign prerogatives and rights as county under State of Florida laws and shall not be stopped from withholding or refusing to issue any approvals of and applications for buildings, zoning, planning or development under present or future laws and regulations of whatever nature applicable to the design, site improvements/changes and development of the Improvements/changes provided for in this Agreement; and
  - ii. the County is not obligated to grant any applications for building, zoning, planning or development under present or future laws and regulations of whatever nature applicable to the design, construction improvements/changes to sites and development of the Improvements/changes provided for in this Agreement.
- d) The County's approval of any of the Site Drawings shall not relieve Concessionaire of its obligations under law to file such plans with any department of Miami-Dade County or any other governmental authority having jurisdiction over the issuance of building or other permits and to take such steps as are necessary to obtain the issuance of such permits. Concessionaire acknowledges that any approval given by the County shall not constitute an opinion or agreement by the County that the plans are structurally sufficient or in compliance with any Laws or Ordinances or codes or other applicable regulations, and no such approval shall impose any liability upon the County. Concessionaire shall provide to



the County an "as built" set of Site Drawings for any improvements constructed on the Concession Areas by Concessionaire within thirty (30) days following completion of Kiosks installations.

- e) The County and Concessionaire agree that the Demised Premises will be used as a Concession Area by the Concessionaire for the purpose of providing the services specified by the contract. Other uses will be permitted only with the express written consent of the County, which consent shall not be unreasonably denied or withheld.
- f) If for any reason, not the fault of Concessionaire, the Demised Premises cannot be used as contemplated herein including denials of permits required for use of the locations identified by any municipal, county, state or federal authority; the Concessionaire shall have the right to amend the location of an approved Concession Area.
- g) The Concession Areas shall not be used for the following:
  - (i) any unlawful or illegal business, use or purpose, or for any business, use or purposes which is, at the discretion of the County based on the County's good faith and determination, immoral, disreputable, extra-hazardous, or constitutes a nuisance of any kind (public or private); or
  - (ii) any purpose which violates the Certificates of Occupancy (or other similar approvals of applicable governmental authorities).
- h) No covenant, agreement, lease, sublease, space lease, leasehold mortgage, sub-leasehold mortgage, conveyance or other instrument shall be effected or executed by Concessionaire, or any of its successors or assigns, whereby the sites or any portion thereof is restricted by Concessionaire, or any successor in interest, upon the basis of race, color, religion, sex or national origin in the sale, lease, use or occupancy thereof. Concessionaire shall comply with all applicable state and local laws, in effect from time to time, prohibiting discrimination or segregation in the sale, lease, use or occupancy of the Sites.
- i) Concessionaire shall not permit any vehicle to carry flammable or combustible liquids into or onto the Concession Areas within fifty (50) feet of the Transportation system structure or guideway dripline during or following completion of Kiosks installation and shall prohibit the storage of any flammable or combustible liquid or dangerous or explosive materials in or on the Sites within fifty (50) feet of the Transportation system structure or guideway dripline, provided that this restriction shall not apply to prevent the entry or parking of motor vehicles carrying flammable or combustible liquids solely for the purpose of their own propulsion or vehicles that may park temporarily on the Sites for delivery and/or pick-up of equipment or other materials as said term is defined by local, state and federal laws and regulations. Concessionaire shall not allow any such flammable or combustible liquids or hazardous or dangerous materials in or on the Sites. Concessionaire shall not be responsible and shall not incur costs, liability, fines or remediation costs for flammable or combustible liquids, Hazardous Materials and/or any contamination of the Sites by flammable or combustible liquids or Hazardous Materials not caused by Concessionaires, Members, or its agents, contractors, subcontractors, or employees.
- j) This Lease shall not be assigned, transferred, pledged, or otherwise encumbered without prior written approval of the County. Approval of assignment of the Lease, however, shall



not be unreasonably withheld or delayed and Concessionaire shall be released from all obligation, responsibility and liability under the Lease upon the County's consent to an Assignment or if the County is deemed to have given its consent as set forth herein.

The consent of the County shall be deemed to have been given to the Concessionaire in the event that the Concessionaire enters into any of the following transactions:

- i. the reorganization, merger, consolidation or other form of corporate transaction or series of transactions, in each case, with respect to which persons who were the shareholders of the Concessionaire immediately prior to such reorganization, merger or consolidation or other transaction do not, immediately thereafter, own more than 50% of the combined voting power entitled to vote generally in the election of directors of the reorganized, merged or consolidated company's then outstanding voting securities, in substantially the same proportions as their ownership immediately prior to such reorganization, merger, consolidation or other transaction;
  - ii. the sale, exchange, transfer or other disposition of all or substantially all of the assets of the Concessionaire, including, without limitation, the granting of a deed-in-lieu of foreclosure or any similar transfer to a creditor of the Concessionaire. The above shall be subject to the new party in any such transaction assuming all obligations of Concessionaire under the Lease as of the date of the transfer to the new party. In the event that there is a change of ownership of any kind, the new ownership shall submit all affidavits required by the County.
- k) Upon expiration or other termination of this Lease, Concessionaire shall immediately surrender possession of the Concession Areas, subject to Concessionaire's right to remove its personal property and trade fixtures, to the County in substantially the condition in which Concessionaire is required to maintain the Sites except for reasonable wear and tear and damage by fire or casualty. The County shall provide Concessionaire written notice specifying any correction or repairs required by Concessionaire under this Lease and Concessionaire shall have a period of thirty (30) days following the date of such notice in which to commence appropriate cure unless and until Concessionaire fails to commence and diligently pursue the appropriate cure after the above notice or complete same within a reasonable period of time, the County shall not have any remedy or cause of action by reason thereof against Concessionaire. If Concessionaire fails to repair or replace any damage to the Site(s) cause by Concessionaire, its agents, employees or invitees, in accordance with terms and conditions set forth herein the County may, at its option, cause all required maintenance, repairs or replacements to be made. Concessionaire shall promptly pay the County all costs incurred plus an administrative fee of twenty (20%) percent of such costs.

#### ARTICLE 16. EMPLOYEES OF THE CONTRACTOR

All employees of the Concessionaire shall be considered to be, at all times, employees of the Concessionaire under its sole direction and not employees or agents of the County, in the manner provided for in Article 11(a) (3). The Concessionaire shall supply competent employees. Miami-Dade County may require the Concessionaire to remove an employee it deems careless, incompetent, insubordinate or otherwise objectionable and whose continued employment on County property is not in the best interest of the County. Each employee shall have and wear proper identification.



**ARTICLE 17. INDEPENDENT CONTRACTOR RELATIONSHIP**

The Concessionaire 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 Concessionaire's sole direction, supervision and control. The Concessionaire shall exercise control over the means and manner in which it and its employees perform the work, and in all respects the Concessionaire's relationship and the relationship of its employees to the County shall be that of an independent contractor and not as employees and agents of the County. The Concessionaire does not have the power or authority to bind the County in any promise, agreement or representation other than specifically provided for in this Agreement.

**ARTICLE 18. AUTHORITY OF THE COUNTY'S PROJECT MANAGER**

- a) The Concessionaire hereby acknowledges that the County's Project 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 Concessionaire's Proposal; questions as to the interpretation of the Scope of Services; and claims for damages, compensation and losses.
- b) The Concessionaire shall promptly comply with every reasonable order of the Project Manager made in accordance with this Agreement, including the withdrawal or modification of any previous order and regardless of whether the Concessionaire agrees with the Project Manager's determination or order. Where orders are given orally, they will be issued in writing by the Project Manager as soon thereafter as is practicable.
- c) The Concessionaire must seek to resolve every difference concerning the Agreement with the Project Manager. In the event that the Concessionaire and the Project Manager are unable to resolve their difference within sixty (60) days from the date of written notice of such differences, the Concessionaire 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 Project Manager or anyone associated with this Project, acting personally, to seek to resolve 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). Any such dispute shall be brought, if at all, before the County Mayor within 10 days of the expiration of the sixty (60) day period set forth in Article 15(c).
- 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 Concessionaire'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 Concessionaire 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 Concessionaire, within sixty (60) days from the date on which the Concessionaire brought the dispute before the County Mayor. Except as such remedies may be limited or waived elsewhere in the Agreement, Concessionaire reserves the right to pursue any remedies available under law after exhausting the provisions of this Article.

#### **ARTICLE 19. MUTUAL OBLIGATIONS**

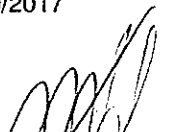
- a) This Agreement, including attachments and appendices to the Agreement, shall constitute the entire Agreement between the parties with respect hereto and supersedes all previous communications and representations or agreements, whether written or oral, with respect to the subject matter hereto unless acknowledged in writing by the duly authorized representatives of both parties.
- b) Nothing in this Agreement shall be construed for the benefit, intended or otherwise, of any third party that is not a parent or subsidiary of a party or otherwise related (by virtue of ownership control or statutory control) to a party.
- c) In those situations where this Agreement imposes an indemnity obligation on the Concessionaire, 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 any such claims if the Concessionaire fails to diligently defend such claims, and thereafter seek indemnity for costs from the Concessionaire.

#### **ARTICLE 20. QUALITY ASSURANCE/QUALITY ASSURANCE RECORD KEEPING**

The Concessionaire shall maintain, and shall require that its subcontractors and suppliers maintain, complete and accurate records to substantiate compliance with the requirements set forth in the Scope of Services. The Concessionaire and its subcontractors and suppliers, shall retain such records, and all other documents relevant to the Services furnished under this Agreement for a period of three (3) years from the expiration date of this Agreement and any extension thereof.

#### **ARTICLE 21. AUDITS**

- a) Concessionaire shall maintain its financial records pertaining to its revenue sources that are subject to the provisions of revenue sharing, for a period of five (5) years after the expiration or other termination of the Agreement. Such records shall be open and available to the County. Concessionaire shall maintain all such records at its principal office. All such records shall be delivered to a location specified by the County within ten (10) days from the date of the County's written notice, which shall be delivered in the form requested by the County.
- b) The County shall be entitled to audit Concessionaires records pertaining to its revenue sources that are subject to the provisions of revenue sharing, as often as deemed necessary by the County, throughout the term of the Agreement and within the period of five (5) years following the termination date of the Agreement. The County shall be



responsible for paying all costs associated with such audits, unless the audit(s) reveals a deficiency of five (5%) percent or more in Concessionaire's statement of gross receipts for any year or years audited, in which case Concessionaire shall pay to the County, within thirty (30) days of the audit being deemed final by the County, the cost of the audit and a sum equal to the amount of the deficiency revealed by the audit, plus interest.

- c) Concessionaire shall submit at the end of each contract year, throughout the term, an annual statement of gross receipts for its gross revenue in a form consistent with generally accepted accounting principles. Additionally, such statement shall be accompanied by a report from an independent Certified Public Accountant firm. Such records shall subsequently conform to Generally Accepted Accounting Principles requirements, as applicable, and shall only address those transactions related to this Agreement.
- d) Pursuant to Section 2-481 of the Miami-Dade County Code, the Concessionaire will grant reasonable 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 Concessionaire 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.

#### **ARTICLE 22. SUBSTITUTION OF PERSONNEL**

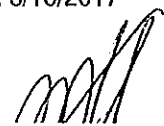
In the event the Concessionaire wishes to substitute personnel for the key personnel identified by the Concessionaire's Proposal, the Concessionaire must notify the County in writing and request written approval for the substitution at least ten (10) business days prior to effecting such substitution.

#### **ARTICLE 23. CONSENT OF THE COUNTY REQUIRED FOR ASSIGNMENT**

Subject to Article 15(j), Concessionaire shall not assign, transfer, convey or otherwise dispose of this Agreement, including its rights, title or interest in or to the same or any part thereof without the prior written consent of the County.

#### **ARTICLE 24. SUBCONTRACTUAL RELATIONS**

- a) If the Concessionaire will cause any part of this Agreement to be performed by a Subcontractor, the provisions of this Contract will apply to such Subcontractor and its officers, agents and employees in all respects as if it and they were employees of the Concessionaire; and the Concessionaire will not be in any manner thereby discharged from its obligations and liabilities hereunder, but will be liable hereunder for all acts and negligence of the Subcontractor, its officers, agents, and employees, as if they were employees of the Concessionaire. The services performed by the Subcontractor will be subject to the provisions hereof as if performed directly by the Concessionaire.
- b) The Concessionaire, before making any subcontract for any portion of the services, will state in writing to the County the name of the proposed Subcontractor, the portion of the Services which the Subcontractor is to do, the place of business of such Subcontractor, and such other information as the County may require. The County will have the right to require the Concessionaire not to award any subcontract to a person, firm or corporation disapproved by the County.
- c) Before entering into any subcontract hereunder, the Concessionaire will inform the Subcontractor fully and completely of all provisions and requirements of this Agreement relating either directly or indirectly to the Services to be performed. Such Services



performed by such Subcontractor will strictly comply with the requirements of this Contract.

- d) In order to qualify as a Subcontractor satisfactory to the County, in addition to the other requirements herein provided, the Subcontractor must be prepared to prove to the satisfaction of the County that it has the necessary facilities, skill and experience, and ample financial resources to perform the Services in a reasonably satisfactory manner. To be considered skilled and experienced, the Subcontractor must show to the satisfaction of the County that it has satisfactorily performed services of the same general type which is required to be performed under this Agreement.
- e) The County shall have the right to withdraw its consent to a subcontract if it reasonably appears to the County that the subcontract will delay, prevent, or otherwise impair the performance of the Concessionaire's obligations under this Agreement. All Subcontractors are required to protect the confidentiality of the County's and County's proprietary and confidential information. Concessionaire shall furnish to the County redacted copies of all subcontracts between Concessionaire and Subcontractors and suppliers hereunder. Within each such subcontract, there shall be a clause for the benefit of the County in the event the County finds the Concessionaire in breach of this Contract, permitting the County to request completion by the Subcontractor of its performance obligations under the subcontract. The clause shall include an option for the County to pay the Subcontractor directly for the performance by such Subcontractor. Notwithstanding, the foregoing shall neither convey nor imply any obligation or liability on the part of the County to any subcontractor hereunder as more fully described herein.

#### **ARTICLE 25. ASSUMPTION, PARAMETERS, PROJECTIONS, ESTIMATES AND EXPLANATIONS**

The Concessionaire understands and agrees that any assumptions, parameters, projections, estimates and explanations presented by the County were provided to the Concessionaire 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 therefrom; and any assumptions, parameters, projections, estimates and explanations shall not form the basis of any claim by the Concessionaire. The Concessionaire accepts all risk associated with using this information.

#### **ARTICLE 26. 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.

#### **ARTICLE 27. TERMINATION AND SUSPENSION OF WORK**

The County may at any time, in its sole discretion, with or without cause, terminate this Agreement by written notice to the Concessionaire, pursuant to Article 28.

- a) The County may suspend the service of the Concessionaire at any or all Concession Areas if the Concessionaire attempts to meet its contractual obligation with the County through fraud, misrepresentation or material misstatement.
- b) The County may, as a further sanction, may Terminate for Default/Cause or cancel this



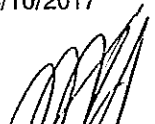


Agreement or any other contract(s) that such individual or corporation or other entity has with the County and that such individual, corporation or other entity shall be responsible for all direct and indirect costs associated with such termination or cancellation, including attorney's fees.

- c) The foregoing notwithstanding, any individual, corporation or other entity which attempts to meet its contractual obligations with the County through fraud, misrepresentation or material misstatement may be debarred from County contracting for up to five (5) years in accordance with the County debarment procedures. The Concessionaire may be subject to debarment for failure to perform and all other reasons set forth in Section 10-38 of the County Code.
- d) In the event that the County exercises its right to terminate this Agreement, the Concessionaire shall, upon receipt of such notice, unless otherwise directed by the County:
  - i. stop work on the date specified in the notice ("the Effective Termination Date");
  - ii. take such action as may be necessary for the protection and preservation of the County's materials and property;
  - iii. cancel orders;
  - iv. take no action which will increase the amounts payable by the County under this Agreement; and
- e) In the event that the County exercises its right to terminate this Agreement for Convenience, without cause, the County will indemnify Concessionaire of all reasonable capital cost, debt liability, and other substantiated costs and damages related to this termination. All indemnifications pursuant to this Article are subject to audit.

#### ARTICLE 28. EVENT OF DEFAULT

- a) An Event of Default shall mean a breach of this Agreement by the Concessionaire or the County. Without limiting the generality of the foregoing, and in addition to those instances referred to herein as a breach, an Event of Default of Concessionaire shall include the following:
  - i. the Concessionaire has not delivered Deliverables on a timely basis;
  - ii. the Concessionaire has refused or failed to supply enough properly skilled staff personnel;
  - iii. the Concessionaire has failed to make prompt payment to subcontractors or suppliers for any Services;
  - iv. the Concessionaire has become insolvent (other than as interdicted by the bankruptcy laws), or has assigned the proceeds received for the benefit of the Concessionaire's creditors, or the Concessionaire has taken advantage of any insolvency statute or debtor/creditor law or if the Concessionaire's affairs have been put in the hands of a receiver;
  - v. the Concessionaire has failed to obtain the approval of the County where required by



this Agreement;

- vi. the Concessionaire has failed to provide "adequate assurances" as required under subsection b below;
  - vii. the Concessionaire has failed in the representation of any warranties stated herein.
- b) When, in the opinion of the County, reasonable grounds for uncertainty exist with respect to the Concessionaire's ability to perform the Services or any portion thereof, the County may request that the Concessionaire, within the timeframe set forth in the County's request, provide adequate assurances to the County, in writing, of the Concessionaire's ability to perform in accordance with the terms of this Agreement. In the event that the Concessionaire fails to provide to the County the requested assurances within the prescribed timeframe, the County may:
- i. treat such failure as a repudiation of this Agreement; and
  - ii. resort to any remedy for breach provided herein or at law, including but not limited to, terminating the Agreement pursuant to Article 29 below.

#### **ARTICLE 29. NOTICE OF DEFAULT - OPPORTUNITY TO CURE**

If an Event of Default occurs in the determination of the County, the non-breaching party may so notify the breaching party ("Default Notice"), specifying the basis for such default, and advising the Concessionaire that actions required to cure such default begin immediately, and be completed within a reasonable time frame, or this Agreement may be terminated. Notwithstanding, the breaching party shall rectify the default to the non-breaching party's reasonable satisfaction within a thirty (30) day period. The non-breaching party may grant an additional period of such duration as such party shall deem appropriate without waiver of any of its rights hereunder, so long as the breaching party has commenced curing such default and is effectuating a cure with diligence and continuity during such thirty (30) day period or any other period which the non-breaching party prescribes. The default notice shall specify the date the Concessionaire shall discontinue the Services upon the Termination Date.

#### **ARTICLE 30. REMEDIES IN THE EVENT OF DEFAULT**

If an Event of Default occurs, the breaching party shall be liable for all direct damages resulting from the default. The parties shall also remain liable for any liabilities and claims related to the Concessionaire's default. The parties may also bring any suit or proceeding for specific performance or for an injunction.

#### **ARTICLE 31. PATENT AND COPYRIGHT INDEMNIFICATION**

- a) The Concessionaire 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 Concessionaire warrants that, to the best of its knowledge, all Deliverables furnished hereunder, including but not limited to: equipment, programs, documentation, software, analyses, applications, methods, ways, processes, and the like, do not infringe upon or violate any copyrights, trademarks, service marks, trade secrets, patent rights, other intellectual property rights or any other third party proprietary rights.



- c) The Concessionaire shall be liable and responsible for any and all claims made against the County for infringement by the Concessionaire of patents, copyrights, service marks, trade secrets or any other third party proprietary rights, by the use or supplying of any programs, documentation, software, analyses, applications, methods, ways, processes, and the like, in the course of performance or completion of, or in any way connected with, the Work, or the County's continued use of the Concession Areas furnished hereunder. Accordingly, the Concessionaire at its own expense, including the payment of reasonable attorney's fees, shall indemnify, and hold harmless the County and defend any action brought against the County with respect to any claim, demand, cause of action, debt, or liability.
- d) In the event any Deliverable or anything provided to the County by the Concessionaire hereunder, or portion thereof is held to constitute an infringement and its use is or may be enjoined, the Concessionaire 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 Concessionaire's expense, the rights provided under this Agreement to use the item(s).
- e) The Concessionaire 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 products hereunder. The Concessionaire shall enter into agreements with all suppliers and subcontractors at the Concessionaire's own risk. The County may reasonably reject any Deliverable 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.

## ARTICLE 32. CONFIDENTIALITY

- a) All materials, data, transactions of all forms, financial information, documentation, inventions, designs and methods obtained by the Concessionaire from the County in connection with the Services performed under this Agreement, constitute Confidential Information and may not, without the prior written consent of the County, be used by the Concessionaire or its employees, agents, subcontractors or suppliers for any purpose other than for the benefit of the County, unless required by law. In addition to the foregoing, all County employee information and County financial information shall be considered Confidential Information and shall be subject to all the requirements stated herein. Neither the Concessionaire nor its employees, agents, subcontractors or suppliers may sell, transfer, publish, disclose, display, license or otherwise make available to others any part of such Confidential Information without the prior written consent of the County. Additionally, the Concessionaire expressly agrees to be bound by and to defend, indemnify and hold harmless the County, and their officers and employees from the breach of any federal, state or local law in regard to the privacy of individuals.
- b) The Concessionaire shall advise each of its employees, agents, subcontractors and suppliers who may be exposed to such Confidential Information of their obligation to keep such information confidential and shall promptly advise the County in writing if it learns of any unauthorized use or disclosure of the Confidential Information by any of its employees or agents, or subcontractor's or supplier's employees, present or former. In addition, the Concessionaire agrees to cooperate fully and provide any assistance necessary to ensure the confidentiality of the Confidential Information.



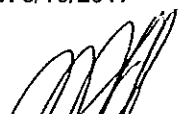
- c) It is understood and agreed that in the event of a breach of this Article damages may not be an adequate remedy and the County shall be entitled to injunctive relief to restrain any such breach or threatened breach. Unless otherwise requested by the County, upon the completion of the Services performed hereunder, the Concessionaire shall immediately turn over to the County all such Confidential Information existing in tangible form, and no copies thereof shall be retained by the Concessionaire or its employees, agents, subcontractors or suppliers without the prior written consent of the County. A certificate evidencing compliance with this provision and signed by an officer of the Concessionaire shall accompany such materials.

#### **ARTICLE 33. PROPRIETARY INFORMATION**

- a) As a political subdivision of the State of Florida, Miami-Dade County is subject to the stipulations of Florida's Public Records Law. The Concessionaire acknowledges that all computer software in the County's possession may constitute or contain information or materials which the County has agreed to protect as proprietary information from disclosure or unauthorized use and may also constitute or contain information or materials which the County has developed at its own expense, the disclosure of which could harm the County's proprietary interest therein.
- b) During the term of the contract, the Concessionaire will not use directly or indirectly for itself or for others, or publish or disclose to any third party, or remove from the County's property, any computer programs, data compilations, or other software which the County has developed, has used or is using, is holding for use, or which are otherwise in the possession of the County (hereinafter "Computer Software"). All third-party license agreements must also be honored by the contractors and their employees, except as authorized by the County and, if the Computer Software has been leased or purchased by the County, all hired party license agreements must also be honored by the contractors' employees with the approval of the lessor or Concessionaires thereof. This includes mainframe, minis, telecommunications, personal computers and any and all information technology software. The Concessionaire will report to the County any information discovered or which is disclosed to the Concessionaire which may relate to the improper use, publication, disclosure or removal from the County's property of any information technology software and hardware and will take such steps as are within the Concessionaire's authority to prevent improper use, disclosure or removal.

#### **ARTICLE 34. PROPRIETARY RIGHTS**

The Concessionaire hereby acknowledges and agrees that the County retains all rights, title and interests in and to all materials, data, documentation and copies thereof furnished by the County to the Concessionaire hereunder, including all copyright and other proprietary rights therein, which the Concessionaire as well as its employees, agents, subcontractors and suppliers may use only in connection with the performance of Services under this Agreement. The Concessionaire shall not, without the prior written consent of the County, use such documentation on any other project in which the Concessionaire or its employees, agents, subcontractors or suppliers are or may become engaged. Submission or distribution by the Concessionaire to meet official regulatory requirements or for other purposes in connection with the performance of Services under this Agreement, shall not be construed as publication in derogation of the County's copyrights or other proprietary rights.



**ARTICLE 35. VENDOR REGISTRATION/CONFLICT OF INTEREST**

a) Vendor Registration

The Concessionaire shall be a registered vendor with the County – Internal Services Department, Procurement Management Division, for the duration of this Agreement.

In becoming a Registered Vendor with Miami-Dade County, the Concessionaire confirms its knowledge of and commitment to comply with the following:

1. **Miami-Dade County Ownership Disclosure Affidavit**  
(Section 2-8.1 of the County Code)
2. **Miami-Dade County Employment Disclosure Affidavit**  
(Section 2-8.1(d)(2) of the County Code)
3. **Miami-Dade Employment Drug-free Workplace Certification**  
(Section 2-8.1.2(b) of the County Code)
4. **Miami-Dade Disability and Nondiscrimination Affidavit**  
  
(Section 2-8.1.5 of the County Code)
5. **Miami-Dade County Debarment Disclosure Affidavit**  
(Section 10.38 of the County Code)
6. **Miami-Dade County Vendor Obligation to County Affidavit**  
  
(Section 2-8.1 of the County Code)
7. **Miami-Dade County Code of Business Ethics Affidavit**  
  
(Section 2-8.1(f) and 2-11(b)(1) of the County Code through (6) and (9) of the County Code and Section 2-11.1(c) of the County Code)
8. **Miami-Dade County Family Leave Affidavit**  
(Article V of Chapter 11 of the County Code)
9. **Miami-Dade County Living Wage Affidavit**  
(Section 2-8.9 of the County Code)
10. **Miami-Dade County Domestic Leave and Reporting Affidavit**  
(Article 8, Section 11A-60 11A-67 of the County Code)
11. **Subcontracting Practices**  
(Ordinance 97-35)
12. **Miami-Dade County E-Verify Affidavit**  
(Executive Order 11-116)
13. **Subcontractor /Supplier Listing**  
(Section 2-8.8 of the County Code)
14. **Environmentally Acceptable Packaging**  
(Resolution R-738-92)
15. **W-9 and 8109 Forms**  
(as required by the Internal Revenue Service)
16. **FEIN Number or Social Security Number**  
In order to establish a file, the Concessionaire's Federal Employer Identification Number (FEIN) must be provided. If no FEIN exists, the Social Security Number of the owner or individual must be provided. This number becomes Concessionaire's "County Vendor Number". To comply with Section 119.071(5) of the Florida Statutes relating to the collection of an individual's Social Security Number, be aware that the County requests the Social Security Number for the following purposes:
  - Identification of individual account records
  - To make payments to individual/Concessionaire for goods and services provided to Miami-Dade County
  - Tax reporting purposes
  - To provide a unique identifier in the vendor database that may be used for searching and sorting departmental records
17. **Office of the Inspector General**  
(Section 2-1076 of the County Code)
18. **Small Business Enterprises**  
The County endeavors to obtain the participation of all small business enterprises pursuant to Sections 2-8.2, 2-8.2.3 and 2-8.2.4 of the County Code and Title 49 of the Code of Federal Regulations.
19. **Antitrust Laws**  
By acceptance of any contract, the Concessionaire agrees to comply with all antitrust laws of the United States and the State of Florida.

b) **Conflict of Interest/Code of Ethics**

Section 2-11.1(d) of Miami-Dade County Code requires that any County employee or any member of the employee's immediate family who has a controlling financial interest, direct or indirect, with Miami-Dade County or any person or agency acting for Miami-Dade County, competing or applying for a contract, must first request a conflict of interest opinion from the County's Ethics Commission prior to their or their immediate family member's entering into any contract or transacting any business through a firm, corporation, partnership or business entity in which the employee or any member of the employee's immediate family has a controlling financial interest, direct or indirect, with Miami-Dade County or any person or agency acting for Miami-Dade County. Any such contract or business engagement entered in violation of this subsection, as amended, shall be rendered voidable. All autonomous personnel, quasi-judicial personnel, advisory personnel, and employees wishing to do business with the County are hereby advised



they must comply with the applicable provisions of Section 2-11.1 of the Miami-Dade County Code relating to Conflict of Interest and Code of Ethics. In accordance with 2-11.1 (y), the Miami Dade County Commission on Ethics and Public Trust (Ethics Commission) shall be empowered to review, interpret, render advisory opinions and letters of instruction and enforce the Conflict of Interest and Code of Ethics Ordinance.

#### **ARTICLE 36. LOCAL, STATE, AND FEDERAL COMPLIANCE REQUIREMENTS**

Concessionaire 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) Equal Employment Opportunity ("EEO"), in compliance with Executive Order 11246 as amended and applicable to this Contract.
- b) Environmental Protection Agency ("EPA"), as applicable to this Contract.
- c) "Conflicts of Interest" Section 2-11 of the County Code, and Ordinance 01-199.
- d) Miami-Dade County Code Section 10-38 "Debarment".
- e) Miami-Dade County Ordinance 99-152, prohibiting the presentation, maintenance, or prosecution of false or fraudulent claims against Miami-Dade County.
- f) Chapter 33C of Miami-Dade County (Rapid Transit Zone)
- g) Miami-Dade Transit Adjacent Construction Manual
- h) Concessionaire will comply with all applicable Federal Transit Administration regulations, including but not limited to the requirements found in 49 CFR Part 26.7 binding the lessee or transferee not to discriminate based on race, color, national origin or sex; in 49 CFR Parts 27.7 and 27.9(b) and 37 binding the lessee or transferee not to discriminate based on disability and binding the same to compliance with the Americans with Disabilities Act with regard to any improvements constructed; and language contained in the Federal Transit Administration Master Agreement dated October 1, 2016, particularly relating to conflicts of interest, debarment and suspension.

The Concessionaire shall hold all licenses and/or certifications, obtain and pay for all permits and/or inspections, and comply with all laws, ordinances, regulations and building code requirements applicable to the work required herein. Damages, penalties, and/or fines imposed on the County or Concessionaire for failure to obtain and maintain required licenses, certifications, permits and/or inspections shall be borne by the Concessionaire. The Project Manager shall verify the certification(s), license(s), permit(s), etc. for the Concessionaire prior to authorizing work and as needed.

Notwithstanding any other provision of this Agreement, Concessionaire 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 Concessionaire, constitute a violation of any law or regulation to which Concessionaire is subject, including but not limited to laws and regulations requiring that Concessionaire conduct its operations in a safe and sound manner.

**ARTICLE 37. NONDISCRIMINATION – TITLE VI ASSURANCE**

- a) Concessionaire for herself 'himself, his/her heirs, personal representatives, successors in interest, and assigns, as a part of the consideration hereof, does hereby covenant and agree that in the event Improvements are constructed, maintained, or otherwise operated on the Concession Areas for the purpose for which a U.S. or State of Florida Department of Transportation program or activity is extended or for another purpose involving the provision of similar services or benefits, Concessionaire shall maintain and operate such Improvements and services in compliance with all other requirements imposed pursuant to Title 49, Code of Federal Regulations, Department of Transportation, Subtitle a, Office of the Secretary, Part 21, Nondiscrimination of Federally-Assisted Programs of the Department of Transportation - Effectuation of Title VI of the Civil Rights Act of 1964, and as said Regulations may be amended.
- b) Concessionaire for herself or himself, his/her personal representatives, successors in interest, and assigns, as a part of the consideration hereof, does hereby covenant and agree that:
  - (1) No person on the grounds of race, color, gender, sexual orientation, religion, disability or national origin shall be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination in the use of said facilities,
  - (2) That in the construction of or Improvements on, over or under such Land and the furnishing of services thereon, no person on the grounds of race, color, creed or national origin shall be excluded from the participation in, be denied the benefits of, or be otherwise subjected to discrimination, and
  - (3) That Concessionaire shall use the Concession Areas in compliance with all other requirements imposed by or pursuant to Title 49, Code of Federal Regulations, Department of Transportation, Subtitle a, Office of the Secretary, Patt. 21, Nondiscrimination in Federally-Assisted Programs of the Department of Transportation - Effectuation of Title VI of the Civil Rights Act of 1964, and as said Regulations may be amended.
- c) In the event of breach of any of the above nondiscrimination covenants, which is not cured as provided in Section 14.1 (b) hereof, Miami-Dade County, Florida shall have the right to terminate the Lease and to re-enter and repossess the Concession Areas and hold the same as if said Lease had never been made or issued.
- d) By entering into this Contract, the Concessionaire attests that it is not in violation of the Americans with Disabilities Act of 1990 (and related Acts) or Miami-Dade County Resolution No. R-385-95. If the Concessionaire or any owner, subsidiary or other firm affiliated with or related to the Concessionaire 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 Contract void. This Contract shall be void if the Concessionaire submits a false affidavit pursuant to this Resolution or the Concessionaire violates the Act or the Resolution during the term of this Contract, even if the Concessionaire was not in violation at the time it submitted its affidavit.





**ARTICLE 38. CONFLICT OF INTEREST**

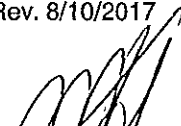
The Concessionaire represents that:

- 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 or been promised 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 Concessionaire in this Agreement. This Agreement is entered into by the Concessionaire 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 Concessionaire 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 Concessionaire or to the best of the Concessionaire's knowledge any subcontractor or supplier to the Concessionaire.
- c) Neither the Concessionaire nor any officer, director, employee, agency, parent, subsidiary, or affiliate of the Concessionaire shall have an interest which is in conflict with the Concessionaire'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 Concessionaire 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 Article 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 Concessionaire 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, Concessionaire shall promptly bring such information to the attention of the County's Project Manager. Concessionaire shall thereafter cooperate with the County's review and investigation of such information, and comply with the instructions Concessionaire receives from the Project Manager in regard to remedying the situation.

**ARTICLE 39. PRESS RELEASE OR OTHER PUBLIC COMMUNICATION**

Under no circumstances shall the Concessionaire 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 Concessionaire first obtains the written approval of the County. Such approval may be



withheld if for any reason the County believes that the publication of such information would be harmful to the public interest or is in any way undesirable; and

- b) Except as may be required by law, the Concessionaire and its employees, agents, subcontractors and suppliers will not represent, directly or indirectly, that any product or service provided by the Concessionaire or such parties has been approved or endorsed by the County.

#### **ARTICLE 40. BANKRUPTCY**

The County reserves the right to terminate this contract, if, during the term of any contract the Concessionaire has with the County, the Concessionaire becomes involved as a debtor in a bankruptcy proceeding, or becomes involved in a reorganization, dissolution, or liquidation proceeding, or if a trustee or receiver is appointed over all or a substantial portion of the property of the Concessionaire under federal bankruptcy law or any state insolvency law.

#### **ARTICLE 41. GOVERNING LAW**

This Contract, including appendices, and all matters relating to this Contract (whether in contract, statute, tort (such as negligence), or otherwise) shall be governed by, and construed in accordance with, the laws of the State of Florida. Venue shall be Miami-Dade County.

#### **ARTICLE 42. PUBLIC RECORDS AND CONTRACTS FOR SERVICES PERFORMED ON BEHALF OF MIAMI-DADE COUNTY**

The Concessionaire shall comply with the Public Records Laws of the State of Florida, including but 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 Concessionaire 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 CONTRACTOR HAS QUESTIONS REGARDING THE APPLICATION OF CHAPTER 119, FLORIDA STATUTES, TO THE CONTRACTOR'S DUTY TO PROVIDE PUBLIC RECORDS RELATING TO THIS CONTRACT, CONTACT THE CUSTODIAN OF PUBLIC RECORDS AT (305) 375-5773, ISD-VSS@MIAMIDADE.GOV, 111 NW 1<sup>st</sup> STREET, SUITE 1300, MIAMI, FLORIDA 33128**

**ARTICLE 43. SURVIVAL**

The parties acknowledge that any of the obligations in this Agreement will survive the term, termination and cancellation hereof. Accordingly, the respective obligations of the Concessionaire 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 Contract Date herein above set forth.

Concessionaire  
By: [Signature]  
Name: MIGUEL VITAL HUICI  
Title: CEO  
Date: 08/11/2017  
Attest: [Signature]  
Corporate Secretary/Notary Public

Miami-Dade County  
By: [Signature]  
Name: Carlos A. Gimenez  
Title: Mayor  
Date: 11/29/17  
Attest: [Signature]  
Clerk of the Board

Corporate Seal/Notary Seal

Approved as to form  
and legal sufficiency

[Signature]  
Assistant County Attorney