

operation and reduced services, as may be determined by the City Manager or his/her designee pursuant to the procedures established under **Subsections 2(a) – (e)** hereof.

SECTION 10. MAINTENANCE.

10.1 The Concessionaire accepts the use of the Concession Areas in their "AS IS, WHERE IS" condition. Concessionaire assumes sole responsibility and expense for maintenance, including the collection and daily removal of litter, garbage and debris of the following areas: 1) the Concession Areas, including all facilities and equipment thereon; 2) any Buffer Zone (as defined in **Subsection 2.7** hereof) immediately adjacent to any portion of the Concession Areas; 3) any Lifeguard Facility Zone (as defined in **Subsection 2.5** hereof) immediately adjacent to any portion of the Concession Areas; 4) any Handicap Zone immediately adjacent to any portion of the Concession Areas; 5) the area within fifty (50) feet of any of the Concessionaire's storage areas located outside of a Concession Area; 6) the area within ten (10) feet of any outdoor ashtray required to be placed and maintained by Concessionaire pursuant to this Agreement (and including ashtrays provided by Concessionaire pursuant to the Public Beachfront Outdoor Ashtray Program contemplated in **Subsection 3.9.5**, and ashtrays provided by Concessionaire for use by its patrons); 7) any area within fifty (50) feet of a food and beverage dispensing facility; and 8) the Dune area landward and adjacent to any portion of the Concession Areas (NOTE: for purposes of this **Section 10**, and of any other section of the Agreement which references the term "areas outside of the Concession Areas," that term shall be deemed to reference and include only the specific areas described in Nos. (2) through (8) above).

10.1.1 As an additional requirement of its maintenance responsibilities, Concessionaire shall provide throughout the Term, at its sole cost and expense, sand sifting equipment, whether manual or motorized, and staff appropriately trained and/or certified to operate same, within all Concession Areas and those "areas outside of the Concession Areas" as defined in **Subsection 10.1**, but not including the Area defined in Subsection 10.1(8) above. Sand sifting shall occur no less than two (2) times weekly in each Concession Area and in each of the areas outside of the Concession Areas. On or before the Effective Date, Concessionaire shall provide the City Manager or his/her designee with photographs and specifications of the sand sifting equipment it shall employ, which shall be included as **Exhibit 10.1.1** hereof.