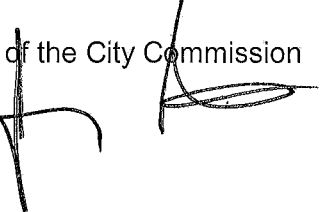


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Procurement Department, 1755 Meridian Avenue, 3rd Floor, Miami Beach, Florida 33139, www.miamibeachfl.gov, 305-673-7490

COMMISSION MEMORANDUM

TO: Mayor Dan Gelber and Members of the City Commission

FROM: Jimmy L. Morales, City Manager 

DATE: February 13, 2019

SUBJECT: **REQUEST APPROVAL TO ISSUE REQUEST FOR PROPOSALS (RFP) NO. 2019-046-WG FOR PROFESSIONAL TENNIS MANAGEMENT AND OPERATIONS SERVICES AT THE CITY'S FLAMINGO PARK TENNIS CENTER**

ADMINISTRATION RECOMMENDATION

Authorize the issuance of the RFP.

BACKGROUND

The City of Miami Beach, Florida is inviting proposals for the exclusive right to provide comprehensive professional tennis management and operations services for the Flamingo Park Tennis Center, in accordance with the terms, conditions and specifications contained herein.

On April 23, 2014, The City of Miami Beach entered into an agreement with Miami Beach Tennis Management, pursuant to RFP 095-2013ME, for tennis management and operations services at the City's Flamingo and North Shore Tennis Centers. The initial term of the agreement was for a three (3) year term with two (2) additional one-year renewal options. The agreement for the City's Flamingo Park Tennis Center is effective through May 2019.

On July 26, 2017, the Mayor and City Commission adopted Resolution No. 2017-29935, approving Amendment No. 1 to the Agreement, providing for the removal of the North Shore Tennis Center from the scope of the Agreement.

The operation of the City of Miami Beach's Flamingo Park Tennis Center shall include the operations and maintenance of the tennis courts, pro shop, and a food and beverage concession. Services shall include those customarily associated with the operation of a public tennis center and permitted special events related to the tennis center activities.

SCOPE OF SERVICES

The management of the public tennis facilities shall include the operation and maintenance of the tennis courts, pro shop, a food and beverage concessions and other tennis related operations as approved by the City.

- **STATEMENT OF WORK.** Please Reference, Appendix C, Page 26, RFP 2019-046-WG for Professional Tennis Management and Operation Services at the City's Flamingo Park Tennis Center (attached).
- **SUBMITTAL REQUIREMENTS.** Please Reference Section 0300, Page 12 RFP 2019-046-WG for Professional Tennis Management and Operation Services at the City's Flamingo Park Tennis Center (attached).

- **CRITERIA FOR EVALUATION.** Please Reference Section 0400, Page 15 RFP 2019-046-WG for Professional Tennis Management and Operation Services at the City's Flamingo Park Tennis Center (attached).

Following the receipt of proposals an Evaluation Committee will review proposals in accordance with the criteria established in the RFP.

Additionally, I am considering appointing the following individuals to serve on the Evaluation Committee for this project:

- David Berger, Resident and Parks and Recreational Facilities Advisory Board Member
- Javier Figueira, Parks Facilities Manager, Parks and Recreation Department, City of Miami Beach
- Zhaoming Guan, Superintendent of Recreation, Parks and Recreation Department, City of Miami
- Andrew Plotkin, Resident and Parks and Recreational Facilities Advisory Board Member
- Erin Weislow, Recreation Administrator, Parks and Recreation Department, City of Doral

I am also considering the following individuals as alternates:


- Lucinda Alonso, Recreation Program Manager, Parks and Recreation Department, City of Miami Beach
- Omar Luna, Director, Parks and Recreation Department, City of Miami Springs

CONCLUSION

The City Manager recommends that the Mayor and Commission authorize the issuance of the RFP 2019-046-WG for Professional Tennis Management and Operation Services at the City's Flamingo Park Tennis Center.

ATTACHMENTS

Attachment A: RFP 2019-046-WG for Professional Tennis Management and Operation Services at the City's Flamingo Park Tennis Center

JLM /  / EC / JR / AD / KB / WG

REQUEST FOR PROPOSALS (RFP)

Professional Tennis Management and Operations Services at the City's Flamingo Park Tennis Center

2019-046-WG

RFP ISSUANCE DATE: FEBRUARY 13, 2019

PROPOSALS DUE: MARCH 20, 2019 @ 3:00 PM

ISSUED BY:

MIAMI BEACH

William Garviso, Procurement Contracting

Officer II

PROCUREMENT DEPARTMENT

1755 Meridian Avenue, 3rd Floor, Miami Beach, FL 33139

305.673.7000 x 6650 | WilliamGarviso@miamibeachfl.gov | www.miamibeachfl.gov

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SECTION 0200**INSTRUCTIONS TO RESPONDENTS & GENERAL CONDITIONS**

1. GENERAL. This Request for Proposals (RFP) is issued by the City of Miami Beach, Florida (the "City"), as the means for prospective Proposers to submit their qualifications, proposed scopes of work and cost proposals (the "proposal") to the City for the City's consideration as an option in achieving the required scope of services and requirements as noted herein. All documents released in connection with this solicitation, including all appendixes and addenda, whether included herein or released under separate cover, comprise the solicitation, and are complementary to one another and together establish the complete terms, conditions and obligations of the Proposers and, subsequently, the successful Proposer(s) (the "contractor[s]") if this RFP results in an award.

The City utilizes **PublicPurchase** (www.publicpurchase.com) for automatic notification of competitive solicitation opportunities and document fulfillment, including the issuance of any addendum to this RFP. Any prospective Proposer who has received this RFP by any means other than through **PublicPurchase** must register immediately with **PublicPurchase** to assure it receives any addendum issued to this RFP. **Failure to receive an addendum may result in disqualification of proposal submitted.**

2. PURPOSE.

The City of Miami Beach, Florida is inviting proposals for the exclusive right to provide comprehensive professional tennis management and operations services for the Flamingo Park Tennis Center, in accordance with the terms, conditions and specifications contained herein.

On April 23, 2014, The City of Miami Beach entered into an agreement with Miami Beach Tennis Management, pursuant to RFP 095-2013ME, for tennis management and operations services at the City's Flamingo and North Shore Tennis Centers. The initial term of the agreement for both centers was for a three (3) year term with two (2) additional one-year renewal options. However, on July 26, 2017, the Mayor and City Commission adopted Resolution No. 2017-29935, removing the North Shore Tennis Center from the scope of the Agreement. The agreement for the City's Flamingo Park Tennis Center is effective through May 2019. The management and operations of the North Shore tennis facility are currently not under consideration and are not part of the scope of this RFP.

The operation of the City of Miami Beach's Flamingo Park Tennis Center shall include the operations and maintenance of the tennis courts, pro shop, and a food and beverage concession. Services shall include those customarily associated with the operation of a public tennis center and permitted special events related to the tennis center activities.

3. ANTICIPATED RFP TIMETABLE. The tentative schedule for this solicitation is as follows:

RFP Issued	February 13, 2019
Pre-Proposal Meeting	February 26, 2019 @ 10:00AM EST
Deadline for Receipt of Questions	March 10, 2019 @ 3:00PM EST
Responses Due	March 20, 2019 @ 3:00PM EST
Evaluation Committee Review	March 27, 2019 @ 9:00AM EST
Proposer Presentations	TBD (If Applicable)
Tentative Commission Approval Authorizing Negotiations	May 8, 2019

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Contract Negotiations

Following Commission Approval

4. PROCUREMENT CONTACT. Any questions or clarifications concerning this solicitation shall be submitted to the Procurement Contact noted below:

William Garviso, CPPB

(305) 673-7000 #6650

WilliamGarviso@miamibeachfl.gov

Additionally, the City Clerk is to be copied on all communications via e-mail at: RafaelGranado@miamibeachfl.gov; or via facsimile: 786-394-4188.

The Bid title/number shall be referenced on all correspondence. All questions or requests for clarification must be received no later than ten (10) calendar days prior to the date proposals are due as scheduled in Section 0200-3. All responses to questions/clarifications will be sent to all prospective Proposers in the form of an addendum.

5. PRE-PROPOSAL MEETING OR SITE VISIT(S). Only if deemed necessary by the City, a pre-proposal meeting or site visit(s) may be scheduled.

A Pre-PROPOSAL conference will be held as scheduled in Anticipated RFP Timetable section above at the following address:

City of Miami Beach
Procurement Department
Conference Room
1755 Meridian Avenue, 3rd Floor
Miami Beach, Florida 33139

Attendance (in person or via telephone) is encouraged and recommended as a source of information, but is not mandatory. Proposers interested in participating in the Pre-Proposal Submission Meeting via telephone must follow these steps:

- (1) Dial the TELEPHONE NUMBER: 1- 888-270-9936 (Toll-free North America)
- (2) Enter the MEETING NUMBER: 5804578

Proposers who are interested in participating via telephone should send an e-mail to the contact person listed in this RFP expressing their intent to participate via telephone.

6. PRE-PROPOSAL INTERPRETATIONS. Oral information or responses to questions received by prospective Proposers are not binding on the City and will be without legal effect, including any information received at pre-submittal meeting or site visit(s). The City, by means of Addenda will issue interpretations or written addenda clarifications considered necessary by the City in response to questions. Only questions answered by written addenda will be binding and may supersede terms noted in this solicitation. Addendum will be released through *PublicPurchase*. Any prospective proposer who has received this RFP by any means other than through *PublicPurchase* must register immediately with *PublicPurchase* to assure it receives any addendum issued to this RFP. Failure to receive an addendum may result in disqualification of proposal. Written questions should be received no later than the date outlined in the **Anticipated RFP Timetable** section.

7. CONE OF SILENCE. This RFP is subject to, and all proposers are expected to be or become familiar with, the City's Cone of Silence Requirements, as codified in Section 2-486 of the City Code. Proposers shall be solely responsible for ensuring that all applicable provisions of the City's Cone of Silence are complied with, and shall be subject to any and all sanctions, as prescribed therein, including rendering their response voidable, in the event of such non-compliance. Communications regarding this solicitation are to be submitted in writing to the Procurement Contact named herein with a copy to the City Clerk at rafaelgranado@miamibeachfl.gov

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8. SPECIAL NOTICES. You are hereby advised that this solicitation is subject to the following ordinances/resolutions, which may be found on the City Of Miami Beach website: <http://web.miamibeachfl.gov/procurement/scroll.aspx?id=79113>

- | | |
|--|--|
| • CONE OF SILENCE..... | CITY CODE SECTION 2-486 |
| • PROTEST PROCEDURES..... | CITY CODE SECTION 2-371 |
| • DEBARMENT PROCEEDINGS..... | CITY CODE SECTIONS 2-397 THROUGH 2-485.3 |
| • LOBBYIST REGISTRATION AND DISCLOSURE OF FEES..... | CITY CODE SECTIONS 2-481 THROUGH 2-406 |
| • CAMPAIGN CONTRIBUTIONS BY VENDORS..... | CITY CODE SECTION 2-487 |
| • CAMPAIGN CONTRIBUTIONS BY LOBBYISTS ON PROCUREMENT ISSUES..... | CITY CODE SECTION 2-488 |
| • REQUIREMENT FOR CITY CONTRACTORS TO PROVIDE EQUAL BENEFITS FOR DOMESTIC PARTNERS..... | CITY CODE SECTION 2-373 |
| • LIVING WAGE REQUIREMENT..... | CITY CODE SECTIONS 2-407 THROUGH 2-410 |
| • PREFERENCE FOR FLORIDA SMALL BUSINESSES OWNED AND CONTROLLED BY VETERANS AND TO STATE-CERTIFIED SERVICE-DISABLED VETERAN BUSINESS ENTERPRISES..... | CITY CODE SECTION 2-374 |
| • FALSE CLAIMS ORDINANCE..... | CITY CODE SECTION 70-300 |
| • ACCEPTANCE OF GIFTS, FAVORS & SERVICES..... | CITY CODE SECTION 2-449 |

9. PUBLIC ENTITY CRIME. A person or affiliate who has been placed on the convicted vendor list following a conviction for public entity crimes may not submit a bid on a contract to provide any goods or services to a public entity, may not submit a bid on a contract with a public entity for the construction or repair of a public building or public work, may not submit bids on leases of real property to public entity, may not be awarded or perform work as a contractor, supplier, sub-contractor, or consultant under a contract with a public entity, and may not transact business with any public entity in excess of the threshold amount provided in Sec. 287.017, for CATEGORY TWO for a period of 36 months from the date of being placed on the convicted vendor list.

10. COMPLIANCE WITH THE CITY'S LOBBYIST LAWS. This RFP is subject to, and all Proposers are expected to be or become familiar with, all City lobbyist laws. Proposers shall be solely responsible for ensuring that all City lobbyist laws are complied with, and shall be subject to any and all sanctions, as prescribed therein, including, without limitation, disqualification of their responses, in the event of such non-compliance.

11. DEBARMENT ORDINANCE: This RFP is subject to, and all proposers are expected to be or become familiar with, the City's Debarment Ordinance as codified in Sections 2-397 through 2-406 of the City Code.

12. WITH THE CITY'S CAMPAIGN FINANCE REFORM LAWS. This RFP is subject to, and all Proposers are expected to be or become familiar with, the City's Campaign Finance Reform laws, as codified in Sections 2-487 through 2-490 of the City Code. Proposers shall be solely responsible for ensuring that all applicable provisions of the City's Campaign Finance Reform laws are complied with, and shall be subject to any and all sanctions, as prescribed therein, including disqualification of their responses, in the event of such non-compliance.

13. CODE OF BUSINESS ETHICS Pursuant to City Resolution No.2000-23879, the Proposer shall adopt a Code of Business Ethics ("Code") and submit that Code to the Procurement Division with its response or within five (5) days upon receipt of request. The Code shall, at a minimum, require the Proposer, to comply with all applicable governmental rules and regulations including, among others, the conflict of interest, lobbying and ethics provision of the City of Miami Beach and Miami Dade County.

14. AMERICAN WITH DISABILITIES ACT (ADA). Call 305-673-7490 to request material in accessible format; sign language interpreters (five (5) days in advance when possible), or information on access for persons with disabilities. For more information on ADA compliance, please call the Public Works Department, at 305-673- 7000, Extension 2984.

15. POSTPONEMENT OF DUE DATE FOR RECEIPT OF PROPOSALS. The City reserves the right to postpone

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the deadline for submittal of proposals and will make a reasonable effort to give at least three (3) calendar days written notice of any such postponement to all prospective Proposers through *PublicPurchase*.

16. PROTESTS. Proposers that are not selected may protest any recommendation for selection of award in accordance with the proceedings established pursuant to the City's bid protest procedures, as codified in Sections 2-370 and 2-371 of the City Code (the City's Bid Protest Ordinance). Protest not timely made pursuant to the requirements of the City's Bid Protest Ordinance shall be barred.

17. JOINT VENTURES. Joint Ventures are not allowed. Proposals shall be submitted only by the prime contractor. Proposals may, however, identify other sub-contractors or sub-consultants to the prime Proposer who may serve as team members.

18. VETERAN BUSINESS ENTERPRISES PREFERENCE. Pursuant to City Code Section 2-374, the City shall give a preference to a responsive and responsible Proposer which is a small business concern owned and controlled by a veteran(s) or which is a service-disabled veteran business enterprise, and which is within five percent (5%) of the lowest responsive, responsible proposer, by providing such proposer an opportunity of providing said goods or contractual services for the lowest responsive proposal amount (or in this RFP, the highest proposal amount). Whenever, as a result of the foregoing preference, the adjusted prices of two (2) or more proposers which are a small business concern owned and controlled by a veteran(s) or a service-disabled veteran business enterprise constitute the lowest proposal pursuant to an RFP or oral or written request for quotation, and such proposals are responsive, responsible and otherwise equal with respect to quality and service, then the award shall be made to the service-disabled veteran business enterprise.

19. DETERMINATION OF AWARD. The final ranking results of Step 1 & 2 outlined in Section 0400, Evaluation of Proposals, will be considered by the City Manager who may recommend to the City Commission the Proposer(s) s/he deems to be in the best interest of the City or may recommend rejection of all proposals. The City Manager's recommendation need not be consistent with the scoring results identified herein and takes into consideration Miami Beach City Code Section 2-369, including the following considerations:

- (1) The ability, capacity and skill of the Proposer to perform the contract.
- (2) Whether the Proposer can perform the contract within the time specified, without delay or interference.
- (3) The character, integrity, reputation, judgment, experience and efficiency of the Proposer.
- (4) The quality of performance of previous contracts.
- (5) The previous and existing compliance by the Proposer with laws and ordinances relating to the contract.

The City Commission shall consider the City Manager's recommendation and may approve such recommendation. The City Commission may also, at its option, reject the City Manager's recommendation and select another Proposal or Proposals which it deems to be in the best interest of the City, or it may also reject all Proposals.

20. NEGOTIATIONS. Following selection, the City reserves the right to enter into further negotiations with the selected Proposer. Notwithstanding the preceding, the City is in no way obligated to enter into a contract with the selected Proposer in the event the parties are unable to negotiate a contract. It is also understood and acknowledged by Proposers that no property, contract or legal rights of any kind shall be created at any time until and unless an Agreement has been agreed to; approved by the City; and executed by the parties.

21. POSTPONEMENT/CANCELLATION/ACCEPTANCE/REJECTION. The City may, at its sole and absolute discretion, reject any and all, or parts of any and all, responses; re-advertise this RFP; postpone or cancel, at any time, this RFP process; or waive any irregularities in this RFP, or in any responses received as a result of this RFP. Reasonable efforts will be made to either award the proposer the contract or reject all proposals within one-hundred twenty (120) calendar days after proposal opening date. A proposer may withdraw its proposal after expiration of one hundred twenty (120) calendar days from the date of proposal opening by delivering written notice of withdrawal to the Procurement Department prior to award of the contract by the City Commission.

22. PROPOSER'S RESPONSIBILITY. Before submitting a response, each Proposer shall be solely responsible for making any and all investigations, evaluations, and examinations, as it deems necessary, to ascertain all conditions and requirements affecting the full performance of the contract. Ignorance of such conditions and requirements, and/or failure to make such evaluations, investigations, and examinations, will not relieve the Proposer from any obligation to comply with every detail and with all provisions and requirements of the contract, and will not be accepted as a basis for any subsequent claim whatsoever for any monetary consideration on the part of the Proposer.

23. COSTS INCURRED BY PROPOSERS. All expenses involved with the preparation and submission of Proposals, or any work performed in connection therewith, shall be the sole responsibility (and shall be at the sole cost and expense) of the Proposer, and shall not be reimbursed by the City.

24. RELATIONSHIP TO THE CITY. It is the intent of the City, and Proposers hereby acknowledge and agree, that the successful Proposer is considered to be an independent contractor, and that neither the Proposer, nor the Proposer's employees, agents, and/or contractors, shall, under any circumstances, be considered employees or agents of the City.

24. OCCUPATIONAL HEALTH AND SAFETY. In compliance with Chapter 442, Florida Statutes, any toxic substance listed in Section 38F-41.03 of the Florida Administrative Code delivered as a result of this proposal must be accompanied by a Material Safety Data Sheet (MSDS) which may be obtained from the manufacturer.

25. ENVIRONMENTAL REGULATIONS. The City reserves the right to consider a proposer's history of citations and/or violations of environmental regulations in investigating a proposer's responsibility, and further reserves the right to declare a proposer not responsible if the history of violations warrant such determination in the opinion of the City. Proposer shall submit with its proposal, a complete history of all citations and/or violations, notices and dispositions thereof. The non-submission of any such documentation shall be deemed to be an affirmation by the Proposer that there are no citations or violations. Proposer shall notify the City immediately of notice of any citation or violation which proposer may receive after the proposal opening date and during the time of performance of any contract awarded to it.

26. TAXES. The City of Miami Beach is exempt from all Federal Excise and State taxes.

27. MISTAKES. Proposers are expected to examine the terms, conditions, specifications, delivery schedules, proposed pricing, and all instructions pertaining to the goods and services relative to this RFP. Failure to do so will be at the Proposer's risk and may result in the Proposal being non-responsive.

28. PAYMENT. Payment will be made by the City after the goods or services have been received, inspected, and found to comply with contract, specifications, free of damage or defect, and are properly invoiced. Invoices must be consistent with Purchase Order format.

29. COPYRIGHT, PATENTS & ROYALTIES. Proposer shall indemnify and save harmless the City of Miami Beach,

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Florida, and its officers, employees, contractors, and/or agents, from liability of any nature or kind, including cost and expenses for, or on account of, any copyrighted, patented, or unpatented invention, process, or article manufactured or used in the performance of the contract, including its use by the City of Miami Beach, Florida. If the Proposer uses any design, device or materials covered by letters, patent, or copyright, it is mutually understood and agreed, without exception, that the proposal prices shall include all royalties or cost arising from the use of such design, device, or materials in any way involved in the work.

30. DEFAULT: Failure or refusal of the selected Proposer to execute a contract following approval of such contract by the City Commission, or untimely withdrawal of a response before such award is made and approved, may result in a claim for damages by the City and may be grounds for removing the Proposer from the City's vendor list.

31. MANNER OF PERFORMANCE. Proposer agrees to perform its duties and obligations in a professional manner and in accordance with all applicable Local, State, County, and Federal laws, rules, regulations and codes. Lack of knowledge or ignorance by the Proposer with/of applicable laws will in no way be a cause for relief from responsibility. Proposer agrees that the services provided shall be provided by employees that are educated, trained, experienced, certified, and licensed in all areas encompassed within their designated duties. Proposer agrees to furnish to the City any and all documentation, certification, authorization, license, permit, or registration currently required by applicable laws, rules, and regulations. Proposer further certifies that it and its employees will keep all licenses, permits, registrations, authorizations, or certifications required by applicable laws or regulations in full force and effect during the term of this contract. Failure of Proposer to comply with this paragraph shall constitute a material breach of this contract.

Where contractor is required to enter or go on to City of Miami Beach property to deliver materials or perform work or services as a result of any contract resulting from this solicitation, the contractor will assume the full duty, obligation and expense of obtaining all necessary licenses, permits, and insurance, and assure all work complies with all applicable laws. The contractor shall be liable for any damages or loss to the City occasioned by negligence of the Proposer, or its officers, employees, contractors, and/or agents, for failure to comply with applicable laws.

32. SPECIAL CONDITIONS. Any and all Special Conditions that may vary from these General Terms and Conditions shall have precedence.

33. NON-DISCRIMINATION. The Proposer certifies that it is in compliance with the non-discrimination clause contained in Section 202, Executive Order 11246, as amended by Executive Order 11375, relative to equal employment opportunity for all persons without regard to race, color, religion, sex or national origin. In accordance with the City's Human Rights Ordinance, codified in Chapter 62 of the City Code, Proposer shall prohibit discrimination by reason of race, color, national origin, religion, sex, intersexuality, gender identity, sexual orientation, marital and familial status, and age or disability.

34. DEMONSTRATION OF COMPETENCY. The city may consider any evidence available regarding the financial, technical, and other qualifications and abilities of a Proposer, including past performance (experience) in making an award that is in the best interest of the City, including:

- A. Pre-award inspection of the Proposer's facility may be made prior to the award of contract.
- B. Proposals will only be considered from firms which are regularly engaged in the business of providing the goods and/or services as described in this solicitation.
- C. Proposers must be able to demonstrate a good record of performance for a reasonable period of time, and have sufficient financial capacity, equipment, and organization to ensure that they can satisfactorily perform the services if awarded a contract under the terms and conditions of this solicitation.
- D. The terms "equipment and organization", as used herein shall, be construed to mean a fully equipped and well established company in line with the best business practices in the industry, and as determined by the City of Miami Beach.
- E. The City may consider any evidence available regarding the financial, technical, and other qualifications and abilities of a Proposer, including past performance (experience), in making an award that is in the best interest of the City.
- F. The City may require Proposer s to show proof that they have been designated as authorized representatives of a manufacturer or supplier, which is the actual source of supply. In these instances, the City may also require material information from the source of supply regarding the quality, packaging, and characteristics of the products to be supply to the City.

35. ASSIGNMENT. The successful Proposer shall not assign, transfer, convey, sublet or otherwise dispose of the contract, including any or all of its right, title or interest therein, or his/her or its power to execute such contract, to any person, company or corporation, without the prior written consent of the City.

36. LAWS, PERMITS AND REGULATIONS. The Proposer shall obtain and pay for all licenses, permits, and inspection fees required to complete the work and shall comply with all applicable laws.

37. OPTIONAL CONTRACT USAGE. When the successful Proposer (s) is in agreement, other units of government or non-profit agencies may participate in purchases pursuant to the award of this contract at the option of the unit of government or non-profit agency.

38. VOLUME OF WORK TO BE RECEIVED BY CONTRACTOR. It is the intent of the City to purchase the goods and services specifically listed in this solicitation from the contractor. However, the City reserves the right to purchase any goods or services awarded from state or other governmental contract, or on an as-needed basis through the City's spot market purchase provisions.

39. DISPUTES. In the event of a conflict between the documents, the order of priority of the documents shall be as follows:

- A. Any contract or agreement resulting from the award of this solicitation; then
- B. Addendum issued for this solicitation, with the latest Addendum taking precedence; then
- C. The solicitation; then
- D. The Proposer's proposal in response to the solicitation.

40. INDEMNIFICATION. The Proposer shall indemnify and hold harmless the City and its officers, employees, agents and instrumentalities from any and all liability, losses or damages, including attorney's fees and costs of defense, which the City 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 the agreement by the contractor or its employees, agents, servants, partners, principals or subcontractors. The contractor 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 City, where applicable, including appellate proceedings, and shall pay all costs, judgments, and attorney's fees which may be incurred thereon. The Proposer expressly understands and agrees that any insurance protection required by this Agreement or otherwise provided by the contractor shall in no way limit the responsibility to indemnify, keep and save harmless and defend the City or its officers, employees, agents and instrumentalities as herein provided. The above indemnification provisions shall survive the expiration or termination of this Agreement.

41. CONTRACT EXTENSION. The City reserves the right to require the Contractor to extend contract past the stated termination date for a period of up to 120 days in the event that a subsequent contract has not yet been awarded. Additional extensions past the 120 days may occur as needed by the City and as mutually agreed upon by the City and the contractor.

42. FLORIDA PUBLIC RECORDS LAW. Proposers are hereby notified that all Bid including, without limitation, any and all information and documentation submitted therewith, are exempt from public records requirements under Section 119.07(1), Florida Statutes, and s. 24(a), Art. 1 of the State Constitution until such time as the City provides notice of an intended decision or until thirty (30) days after opening of the proposals, whichever is earlier. Additionally, Contractor agrees to be in full compliance with Florida Statute 119.0701 including, but not limited to, agreement to (a) Keep and maintain public records that ordinarily and necessarily would be required by the public agency in order to perform the services; (b) provide the public with access to public records on the same terms and conditions that the public agency would provide the records and at a cost that does not exceed the cost provided in this chapter or as otherwise provided by law; (c) Ensure that public records that are exempt or confidential and exempt from public records disclosure requirements are not disclosed except as authorized by law; (d) Meet all requirements for retaining public records and transfer, at no cost, to the public agency all public records in possession of the contractor upon termination of the contract and destroy any duplicate public records that are exempt or confidential and exempt from public records disclosure requirements. All records stored electronically must be provided to the public agency in a format that is compatible with the information technology systems of the public agency.

43. OBSERVANCE OF LAWS. Proposers are expected to be familiar with, and comply with, all Federal, State, County, and City laws, ordinances, codes, rules and regulations, and all orders and decrees of bodies or tribunals having jurisdiction or authority which, in any manner, may affect the scope of services and/or project contemplated by this RFP (including, without limitation, the Americans with Disabilities Act, Title VII of the Civil Rights Act, the EEOC Uniform Guidelines, and all EEO regulations and guidelines). Ignorance of the law(s) on the part of the Proposer will in no way relieve it from responsibility for compliance.

44. CONFLICT OF INTEREST. All Proposers must disclose, in their Proposal, the name(s) of any officer, director, agent, or immediate family member (spouse, parent, sibling, and child) who is also an employee of the City of Miami Beach. Further, all Proposers must disclose the name of any City employee who owns, either directly or indirectly, an interest of ten (10%) percent or more in the Proposer entity or any of its affiliates.

45. MODIFICATION/WITHDRAWALS OF PROPOSALS. A Proposer may submit a modified Proposal to replace all or any portion of a previously submitted Proposal up until the Proposal due date and time. Modifications received after the Proposal due date and time will not be considered. Proposals shall be irrevocable until contract award unless withdrawn in writing prior to the Proposal due date, or after expiration of **120** calendar days from the opening of Proposals without a contract award. Letters of withdrawal received after the Proposal due date and before said expiration date, and letters of withdrawal received after contract award will not be considered.

46. EXCEPTIONS TO RFP. Proposers must clearly indicate any exceptions they wish to take to any of the terms in this RFP, and outline what, if any, alternative is being offered. All exceptions and alternatives shall be included and clearly delineated, in writing, in the Proposal. The City, at its sole and absolute discretion, may accept or reject any or all exceptions and alternatives. In cases in which exceptions and alternatives are rejected, the City shall require the Proposer to comply with the particular term and/or condition of the RFP to which Proposer took exception to (as said term and/or condition was originally set forth on the RFP).

47. ACCEPTANCE OF GIFTS, FAVORS, SERVICES. Proposers shall not offer any gratuities, favors, or anything of monetary value to any official, employee, or agent of the City, for the purpose of influencing consideration of this Proposal. Pursuant to Sec. 2-449 of the City Code, no officer or employee of the City shall accept any gift, favor or service that might reasonably tend improperly to influence him in the discharge of his official duties.

48. SUPPLEMENTAL INFORMATION. City reserves the right to request supplemental information from Proposers at any time during the RFP solicitation process, unless otherwise noted herein.

49. ADDITIONAL ITEMS / SERVICES. Although this solicitation and resultant contract identifies specific goods, services or facilities ("items"), it is hereby agreed and understood that the City may require additional items to be added to the Contract which are ancillary or supplemental to the items specified herein and required to complete the work. When additional items are required to be added to the Contract, awarded vendor(s), as applicable to the item being requested, under this contract may be invited to submit price quote(s) for the additional items. If these quote(s) are determined to be fair and reasonable, then the additional items will be awarded to the current contract vendor(s) through either a Purchase Order (or Change Order if Purchase Order already exists) or an amendment to the Contract. Additional items with a cumulative value of \$50,000 or less may be approved by the City Manager. City Commission approval is required for additional items with a cumulative value greater than \$50,000.

The City may determine to obtain price quotes for the additional items from other vendors in the event that fair and reasonable pricing is not obtained from the current contract vendors, or for other reasons at the City's discretion.

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SECTION 0300 PROPOSAL SUBMITTAL INSTRUCTIONS AND FORMAT

1. SEALED PROPOSALS. One original Proposal (preferably in 3-ring binder) must be submitted in an opaque, sealed envelope or container on or before the due date established for the receipt of proposals. Additionally, ten (10) bound copies and one (1) electronic format (CD or USB format) are to be submitted. The following information should be clearly marked on the face of the envelope or container in which the proposal is submitted: solicitation number, solicitation title, Proposer name, Proposer return address. Proposals received electronically, either through email or facsimile, are not acceptable and will be rejected.

2. LATE PROPOSALS. Proposals are to be received on or before the due date established herein. **Any Proposal received after the deadline established for receipt of Proposals will be considered late and not be accepted or will be returned to Proposer unopened.** The City does not accept responsibility for any delays, natural or otherwise.

3. PROPOSAL FORMAT. In order to maintain comparability, facilitate the review process and assist the Evaluation Committee in review of Proposals, it is strongly recommended that Proposals be organized and tabbed in accordance with the sections and manner specified below. Hard copy submittal should be tabbed as enumerated below and contain a table of contents with page references. Electronic copies should also be tabbed and contain a table of contents with page references. Proposals that do not include the required information will be deemed non-responsive and will not be considered.

4. OMITTED OR ADDITIONAL INFORMATION. With exception of the Proposal Certification Form (Appendix A) and the Cost/Revenue Proposal, if applicable, the City reserves the right to seek any omitted information/documentation or any additional information from Proposer or other source(s), including but not limited to: any firm or principal information, applicable licensure, resumes of relevant individuals, client information, financial information, or any information the City deems necessary to evaluate the capacity of the Proposer to perform in accordance with contract requirements. Failure to submit any omitted or additional information in accordance with the City's request shall result in proposal being deemed non-responsive.

TAB 1 Required Forms

1.1 Table of Contents. The table of contents should indicate the tabs, sections with tabs and page numbers to facilitate the evaluation committee's review.

1.2 Proposal Certification, Questionnaire & Requirements Affidavit (Appendix A). Failure to submit the signed Proposal Certification Form with the Proposal shall result in Proposal being deemed non-responsive.

1.1 Organizational Chart. Provide an organizational chart that identifies all individuals, principals and sub-consultant/sub-contractors to be utilized for the project. If awarded, no changes to the proposed individuals or sub-consultant/sub-contractors shall be allowed, but will not be unreasonably withheld, without the prior written consent of the City.

TAB 2 Experience & Qualifications

2.1 Qualifications of Proposing Firm and/or its Principals. Submit detailed information regarding the relevant experience and proven track record of the firm and/or its principals in providing the scope of services similar as identified in this solicitation, including, providing management and operation of tennis center facilities similar to the Miami Beach Tennis Center and the Flamingo Park Tennis Center, including but not limited to:

- management and operation of tennis facility; and
- developing and managing tennis programming, academies, tournaments and community activations; and
- managing pro shop operations, including scheduling or management of tennis lessons, equipment repairs, food and beverage and merchandise sales. for each project that the proposer submits as evidence of similar experience, the following is required: project description, agency name, agency contact, contact telephone & email, and year(s) and term of engagement; and
- evidence of tennis (hard surface and clay) court maintenance experience and operations, including evidence maintaining courts to the manufacturer's maintenance standards; and
- evidence of a proven track record of producing and hosting local and international tennis tournaments.

2.2 Qualifications of Proposer Team. Provide an organizational chart of all personnel and sub-consultants, including the Head Teaching Professional and any third-party court maintenance contractor, to be used for this project if awarded, the role that each team member will play in providing the services detailed herein and each team members' qualifications. Particular attention should be paid to the following areas including membership or certification in the following areas:

- A Head Teaching Professional that is a certified Tennis Professional by USPTA and/or PTR. The Head Tennis Professional and/or Center Manager(s) must demonstrate knowledge and experience in tennis instruction and related activities, facility management, tennis court maintenance and related activities, as well as, knowledge of the legal requirements that are involved in this type of operation.
- If a third-party subcontractor is being hired for maintenance of the clay courts, provide documented evidence of its experience in this field, including but not limited to: verifiable experience by means of prior employment confirmation, copies of prior agreement, or any other documents that verify the required experience.

A resume of key personnel, including education, experience, and any other pertinent information, shall be included for each Proposal team member to be assigned to this contract.

TAB 3 Approach and Methodology

3.1 Approach to Scope of Work. Submit detailed information addressing how Proposer will achieve each portion of the scope of services and technical requirements outlined in Appendix C, Statement of Work, including (at a minimum) each of the scope related items identified on pages 26 – 38 of Appendix C.

3.2 Operational Plan. Submit a detailed Operational Plan which describes the operating policies and procedures to be employed by the management company, as well as all requirements, corporate responsibility, staffing, distribution, food & beverage operations, and maintenance of the facility (exclusive of court maintenance).

3.3 Court Maintenance Plan. Submit a detailed plan which includes, at a minimum, the party (prime or sub-contractor) and the procedures (materials, schedules, testing, inspection, etc.) that will assure that the courts are maintained in accordance with the manufacturer specifications.

MIAMI BEACH

3.4 Non-Compete Requirements for Instructors. Submit details explaining how Proposer will ensure that any external instruction engaged in by personnel identified in Tab 2 shall not, directly or indirectly, compete with the Tennis Center's business which includes private coaching and/or instruction at other City-owned neighborhood courts.

TAB 4 Public Benefit

4.1 Maximizing Economic Impact. Proposers may submit detailed information regarding any local, national and international tennis tournament(s) that the Proposer will attract to the City that will result in a positive economic impact.

4.2 Other Value-Added Public Benefits. Proposers may submit detailed information on how Proposer will include other value-added public benefits in the delivery of the proposed services, which may include any other benefits, such as: summer camps, after school programs, special events, tournaments, etc.

TAB 5 Revenue Proposal

Submit a completed Revenue Proposal Form (Appendix E).

4. FINANCIAL CAPACITY. Within three (3) business days of request by the City, each Proposer shall arrange for Dun & Bradstreet to submit a Supplier Qualification Report (SQR) directly to the Procurement Contact named herein. No proposal will be considered without receipt, by the City, of the SQR directly from Dun & Bradstreet. The cost of the preparation of the SQR shall be the responsibility of the Proposer. The Proposer shall request the SQR report from D&B at:

<https://supplierportal.dnb.com/webapp/wcs/stores/servlet/SupplierPortal?storeId=11696>

Proposers are responsible for the accuracy of the information contained in its SQR. It is highly recommended that each Proposer review the information contained in its SQR for accuracy prior to submittal to the City and as early as possible in the solicitation process. For assistance with any portion of the SQR submittal process, contact Dun & Bradstreet at 800-424-2495.

5. ADDITIONAL INFORMATION OR CLARIFICATION. After proposal submittal, the City reserves the right to require additional information from Proposers (or Proposer team members or sub-consultants) to determine: qualifications (including, but not limited to, litigation history, regulatory action, or additional references); and financial capability (including, but not limited to, annual reviewed/audited financial statements with the auditors notes for each of their last two complete fiscal years).

The City reserves the right to request any documentation omitted, with exception of the Revenue (as applicable) Proposal Form (Appendix E), Proposal Certification, Questionnaire & Requirements Affidavit (Appendix A), and Bid Bond (if applicable). Submittals received that do not include the Cost/Revenue Proposal Form, completed as required and fully executed, or Bid Bond (if applicable) shall be deemed non-responsive. Bidder must submit any omitted documentation within three (3) business days upon request from the City, or the bid may be deemed non-responsive. Non-responsive bid packages will receive no further consideration.

SECTION 0400**PROPOSAL EVALUATION**

1. Evaluation Committee. An Evaluation Committee, appointed by the City Manager, shall meet to evaluate each Proposal in accordance with the requirements set forth in the solicitation. If further information is desired, Proposers may be requested to make additional written submissions of a clarifying nature or oral presentations to the Evaluation Committee. The evaluation of proposals will proceed in a two-step process as noted below. It is important to note that the Evaluation Committee will score the qualitative portions of the proposals only. The Evaluation Committee does not make an award recommendation to the City Manager. The results of Step 1 & Step 2 Evaluations will be forwarded to the City Manager who will utilize the results to make a recommendation to the City Commission. In the event that only one responsive proposal is received, the City Manager, after determination that the sole responsive proposal materially meets the requirements of the RFP, may, without an evaluation committee, recommend to the City Commission that the Administration enter into negotiations. The City, in its discretion, may utilize technical or other advisers to assist the evaluation committee in the evaluation of proposals.

2. Step 1 Evaluation. The first step will consist of the qualitative criteria listed below to be considered by the Evaluation Committee. The second step will consist of quantitative criteria established below to be added to the Evaluation Committee results by the Procurement Department. An Evaluation Committee, appointed by the City Manager, shall meet to evaluate each Proposal in accordance with the qualifications criteria established below for Step 1, Qualitative Criteria. In doing so, the Evaluation Committee may review and score all proposals received, with or without conducting interview sessions.

Step 1 - Qualitative Criteria	Maximum Points
Experience and Qualifications	40
Approach and Methodology	40
Public Benefit	10
TOTAL AVAILABLE STEP 1 POINTS	90

- Step 2 Evaluation.** Following the results of Step 1 Evaluation of qualitative criteria, the Proposers may receive additional quantitative criteria points to be added by the Procurement Department to those points earned in Step 1, as follows.

Step 2 – Quantitative Criteria	Maximum Points
Revenue Proposal	10
Veterans Preference	5
TOTAL AVAILABLE STEP 2 POINTS	5

4. Revenue Proposal Evaluation. The cost proposal points shall be developed in accordance with the following formula:

Sample Objective Formula for Revenue Points				
Vendor	Vendor Revenue Proposal	Example Maximum Allowable Points (Points noted are for illustrative purposes only. Actual points are noted above.)	Formula for Calculating Points (cost of proposal being evaluated / highest revenue proposal X maximum allowable points = awarded points) Round to	Total Points Awarded
Vendor A	\$200	20	$\$200 / \$200 \times 20 = 20$	20
Vendor B	\$150	20	$\$150 / \$200 \times 20 = 15$	15
Vendor C	\$100	20	$\$100 / \$200 \times 20 = 10$	10

5. Determination of Final Ranking. At the conclusion of the Evaluation Committee Step 1 scoring, Step 2 Points will be added to each evaluation committee member's scores by the Procurement Department. Step 1 and 2 scores will be converted to rankings in accordance with the example below:

		Proposer A	Proposer B	Proposer C
Committee Member 1	Step 1 Points	82	76	80
	Step 2 Points	22	15	12
	Total	104	91	92
	Rank	1	3	2
Committee Member 2	Step 1 Points	79	85	72
	Step 2 Points	22	15	12
	Total	101	100	84
	Rank	1	2	3
Committee Member 2	Step 1 Points	80	74	66
	Step 2 Points	22	15	12
	Total	102	89	78
	Rank	1	2	3
Low Aggregate Score		3	7	8
Final Ranking*		1	2	3

* Final Ranking of the Evaluation Committee Process shall be presented to the City Manager for further due diligence and recommendation to the City Commission. Final Ranking does not constitute an award recommendation until such time as the City Manager has made his recommendation to the City Commission, which may be different than final ranking results.

APPENDIX A

MIAMI BEACH

Proposal Certification, Questionnaire & Requirements Affidavit

2019-046-WG

Professional Tennis Management
and Operations Services at the City's
Flamingo Park Tennis Center

PROCUREMENT DEPARTMENT
1755 Meridian Avenue, 3rd Floor
Miami Beach, Florida 33139

Solicitation No: 2019-046-WG	Solicitation Title: Professional Tennis Management and Operations Services at the City's Flamingo Park Tennis Center	
Procurement Contact: William Garviso, CPPB	Tel: 305 673-7000 #6650	Email: WilliamGarviso@miamibeachfl.gov

PROPOSAL CERTIFICATION, QUESTIONNAIRE & REQUIREMENTS AFFIDAVIT

Purpose: The purpose of this Proposal Certification, Questionnaire and Requirements Affidavit Form is to inform prospective Proposers of certain solicitation and contractual requirements, and to collect necessary information from Proposers in order that certain portions of responsiveness, responsibility and other determining factors and compliance with requirements may be evaluated. **This Proposal Certification, Questionnaire and Requirements Affidavit Form is a REQUIRED FORM that must be submitted fully completed and executed.**

1. General Proposer Information.

FIRM NAME:		
NO. OF YEARS IN BUSINESS:	NO. OF YEARS IN BUSINESS LOCALLY:	NO. OF EMPLOYEES:
OTHER NAME(S) PROPOSER HAS OPERATED UNDER IN THE LAST 10 YEARS:		
FIRM PRIMARY ADDRESS (HEADQUARTERS):		
CITY:		
STATE:	ZIP CODE:	
TELEPHONE NO.:		
TOLL FREE NO.:		
FAX NO.:		
FIRM LOCAL ADDRESS:		
CITY:		
STATE:	ZIP CODE:	
PRIMARY ACCOUNT REPRESENTATIVE FOR THIS ENGAGEMENT:		
ACCOUNT REP TELEPHONE NO.:		
ACCOUNT REP TOLL FREE NO.:		
ACCOUNT REP EMAIL:		
FEDERAL TAX IDENTIFICATION NO.:		

The City reserves the right to seek additional information from Proposer or other source(s), including but not limited to: any firm or principal information, applicable licensure, resumes of relevant individuals, client information, financial information, or any information the City deems necessary to evaluate the capacity of the Proposer to perform in accordance with contract requirements.

1. **Veteran Owned Business.** Is Proposer claiming a veteran owned business status?

☐ YES ☐ NO

SUBMITTAL REQUIREMENT: Proposers claiming veteran owned business status shall submit a documentation proving that firm is certified as a veteran-owned business or a service-disabled veteran owned business by the State of Florida or United States federal government, as required pursuant to ordinance 2011-3748.

2. **Conflict Of Interest.** All Proposers must disclose, in their Proposal, the name(s) of any officer, director, agent, or immediate family member (spouse, parent, sibling, and child) who is also an employee of the City of Miami Beach. Further, all Proposers must disclose the name of any City employee who owns, either directly or indirectly, an interest of ten (10%) percent or more in the Proposer entity or any of its affiliates.

SUBMITTAL REQUIREMENT: Proposers must disclose the name(s) of any officer, director, agent, or immediate family member (spouse, parent, sibling, and child) who is also an employee of the City of Miami Beach. Proposers must also disclose the name of any City employee who owns, either directly or indirectly, an interest of ten (10%) percent or more in the Proposer entity or any of its affiliates

3. **References & Past Performance.** Proposer shall submit at least three (3) references for whom the Proposer has completed work similar in size and nature as the work referenced in solicitation.

SUBMITTAL REQUIREMENT: For each reference submitted, the following information is required: 1) Firm Name, 2) Contact Individual Name & Title, 3) Address, 4) Telephone, 5) Contact's Email and 6) Narrative on Scope of Services Provided.

4. **Suspension, Debarment or Contract Cancellation.** Has Proposer ever been debarred, suspended or other legal violation, or had a contract cancelled due to non-performance by any public sector agency?

☐ YES ☐ NO

SUBMITTAL REQUIREMENT: If answer to above is "YES," Proposer shall submit a statement detailing the reasons that led to action(s).

5. **Vendor Campaign Contributions.** Proposers are expected to be or become familiar with, the City's Campaign Finance Reform laws, as codified in Sections 2-487 through 2-490 of the City Code. Proposers shall be solely responsible for ensuring that all applicable provisions of the City's Campaign Finance Reform laws are complied with, and shall be subject to any and all sanctions, as prescribed therein, including disqualification of their Proposals, in the event of such non-compliance.

SUBMITTAL REQUIREMENT: Submit the names of all individuals or entities (including your sub-consultants) with a controlling financial interest as defined in solicitation. For each individual or entity with a controlling financial interest indicate whether or not each individual or entity has contributed to the campaign either directly or indirectly, of a candidate who has been elected to the office of Mayor or City Commissioner for the City of Miami Beach.

6. **Code of Business Ethics.** Pursuant to City Resolution No.2000-23879, each person or entity that seeks to do business with the City shall adopt a Code of Business Ethics ("Code") and submit that Code to the Procurement Department with its proposal/response or within five (5) days upon receipt of request. The Code shall, at a minimum, require the Proposer, to comply with all applicable governmental rules and regulations including, among others, the conflict of interest, lobbying and ethics provision of the City of Miami Beach and Miami Dade County.

SUBMITTAL REQUIREMENT: Proposer shall submit firm's Code of Business Ethics. In lieu of submitting Code of Business Ethics, Proposer may submit a statement indicating that it will adopt, as required in the ordinance, the City of Miami Beach Code of Ethics, available at <http://www.miamibeachfl.gov/city-hall/procurement/procurement-related-ordinance-and-procedures/>

7. **Living Wage.** Pursuant to Section 2-408 of the City of Miami Beach Code, as same may be amended from time to time, covered employees shall be paid the required living wage rates listed below:

1. ~~Effective January 1, 2018, covered employees must be paid a living wage rate of no less than \$11.62 per hour with health care benefits of at least \$2.26 per hour, or a living wage rate of no less than \$13.88 per hour without health care benefits.~~
2. ~~Effective January 1, 2019, covered employees must be paid a living wage rate of no less than \$11.70 per hour with health care benefits of at least \$2.74 per hour, or a living wage rate of no less than \$14.44 per hour without health care benefits.~~
3. ~~Effective January 1, 2020, covered employees must be paid a living wage rate of no less than \$11.78 per hour with health care benefits of at least \$3.22 per hour, or a living wage rate of no less than \$15.00 per hour without health care benefits.~~

The living wage rate and health care benefits rate may, by Resolution of the City Commission be indexed annually for inflation using the Consumer Price Index for all Urban Consumers (CPI-U) Miami/Ft. Lauderdale, issued by the U.S. Department of Labor's Bureau of Labor Statistics. Notwithstanding the preceding, no annual index shall exceed three percent (3%). The City may also, by resolution, elect not to index the living wage rate in any particular year, if it determines it would not be fiscally sound to implement same (in a particular year).

Proposer's failure to comply with this provision shall be deemed a material breach under this proposal, under which the City may, at its sole option, immediately deem said Proposer as non-responsive, and may further subject Proposer to additional penalties and fines, as provided in the City's Living Wage Ordinance, as amended. Further information on the Living Wage requirement is available at <http://www.miamibeachfl.gov/city-hall/procurement/procurement-related-ordinance-and-procedures/>.

SUBMITTAL REQUIREMENT: No additional submittal is required. By virtue of executing this affidavit document, Proposer agrees to the living wage requirement. Any payroll request made by the City during the contract term shall be completed electronically via the City's electronic compliance portal, LCP Tracker (LCPTracker.net).

8. **Equal Benefits for Employees with Spouses and Employees with Domestic Partners.** When awarding competitively solicited contracts valued at over \$100,000 whose contractors maintain 51 or more full time employees on their payrolls during 20 or more calendar work weeks, the Equal Benefits for Domestic Partners Ordinance 2005-3494 requires certain contractors doing business with the City of Miami Beach, who are awarded a contract pursuant to competitive proposals, to provide "Equal Benefits" to their employees with domestic partners, as they provide to employees with spouses. The Ordinance applies to all employees of a Contractor who work within the City limits of the City of Miami Beach, Florida, and the Contractor's employees located in the United States, but outside of the City of Miami Beach limits, who are directly performing work on the contract within the City of Miami Beach.

- A. Does your company provide or offer access to any benefits to employees with spouses or to spouses of employees?
☐ YES ☐ NO
- B. Does your company provide or offer access to any benefits to employees with (same or opposite sex) domestic partners* or to domestic partners of employees?
☐ YES ☐ NO
- C. Please check all benefits that apply to your answers above and list in the "other" section any additional benefits not already specified. Note: some benefits are provided to employees because they have a spouse or domestic partner, such as bereavement leave; other benefits are provided directly to the spouse or domestic partner, such as medical insurance.

BENEFIT	Firm Provides for Employees with Spouses	Firm Provides for Employees with Domestic Partners	Firm does not Provide Benefit
Health			
Sick Leave			
Family Medical Leave			
Bereavement Leave			

If Proposer cannot offer a benefit to domestic partners because of reasons outside your control, (e.g., there are no insurance providers in your area willing to offer domestic partner coverage) you may be eligible for Reasonable Measures compliance. To comply on this basis, you must agree to pay a cash equivalent and submit a completed Reasonable Measures Application (attached) with all necessary documentation. Your Reasonable Measures Application will be reviewed for consideration by the City Manager, or his designee. Approval is not guaranteed and the City Manager's decision is final. Further information on the Equal Benefits requirement is available at <http://www.miamibeachfl.gov/city-hall/procurement/procurement-related-ordinance-and-procedures/>.

9. **Public Entity Crimes.** Section 287.133(2)(a), Florida Statutes, as currently enacted or as amended from time to time, states that a person or affiliate who has been placed on the convicted vendor list following a conviction for a public entity crime may not submit a proposal, proposal, or reply on a contract to provide any goods or services to a public entity; may not submit a proposal, proposal, or reply on a contract with a public entity for the construction or repair of a public building or public work; may not submit proposals, proposals, or replies on leases of real property to a public entity; may not be awarded or perform work as a contractor, supplier, subcontractor, or consultant under a contract with any public entity; and may not transact business with any public entity in excess of the threshold amount provided in s. 287.017 for CATEGORY TWO for a period of 36 months following the date of being placed on the convicted vendor list.

SUBMITTAL REQUIREMENT: No additional submittal is required. By virtue of executing this affidavit document, Proposer agrees with the requirements of Section 287.133, Florida Statutes, and certifies it has not been placed on convicted vendor list.

10. **Non-Discrimination.** Pursuant to City Ordinance No.2016-3990, the City shall not enter into a contract with a business unless the business represents that it does not and will not engage in a boycott as defined in Section 2-375(a) of the City Code, including the blacklisting, divesting from, or otherwise refusing to deal with a person or entity when such action is based on race, color, national origin, religion, sex, intersexuality, gender identity, sexual orientation, marital or familial status, age or disability.

SUBMITTAL REQUIREMENT: No additional submittal is required. By virtue of executing this affidavit document, Proposer agrees it is and shall remain in full compliance with Section 2-375 of the City of Miami Beach City Code.

11. **Moratorium on Travel to and the Purchase of Goods or Services from North Carolina and Mississippi.** Pursuant to Resolution 2016-29375, the City of Miami Beach, Florida, prohibits official City travel to the states of North Carolina and Mississippi, as well as the purchase of goods or services sourced in North Carolina and Mississippi. Proposer shall agree that no travel shall occur on behalf of the City to North Carolina or Mississippi, nor shall any product or services it provides to the City be sourced from these states.

SUBMITTAL REQUIREMENT: No additional submittal is required. By virtue of executing this affidavit document, Proposer agrees it is and shall remain in full compliance with Resolution 2016-29375.

12. **Fair Chance Requirement.** Pursuant to Section 2-376 of the City Code, the City shall not enter into any contract resulting from a competitive solicitation, unless the proposer certifies in writing that the business has adopted and employs written policies, practices, and standards that are consistent with the City's Fair Chance Ordinance, set forth in Article V of Chapter 62 of the City Code ("Fair Chance Ordinance"), and which, among other things, (i) prohibits City contractors, as an employer, from inquiring about an applicant's criminal history until the applicant is given a conditional offer of employment; (ii) prohibits advertising of employment positions with a statement that an individual with a criminal record may not apply for the position, and (iii) prohibits placing a statement on an employment application that a person with a criminal record may not apply for the position.

SUBMITTAL REQUIREMENT: No additional submittal is required at this time. By virtue of executing this affidavit, Proposer certifies that it has adopted policies, practices and standards consistent with the City's Fair Chance Ordinance. Proposer agrees to provide the City with supporting documentation evidencing its compliance upon request. Proposer further agrees that any breach of the representations made herein shall constitute a material breach of contract, and shall entitle the City to the immediate termination for cause of the agreement, in addition to any damages that may be available at law and in equity.

13. **Acknowledgement of Addendum.** After issuance of solicitation, the City may release one or more addendum to the solicitation which may provide additional information to Proposers or alter solicitation requirements. The City will strive to reach every Proposer having received solicitation through the City's e-procurement system, PublicPurchase.com. However, Proposers are solely responsible for assuring they have received any and all addendum issued pursuant to solicitation. This Acknowledgement of Addendum section certifies that the Proposer has received all addendum released by the City pursuant to this solicitation. Failure to obtain and acknowledge receipt of all addenda may result in proposal disqualification.

Initial to Confirm Receipt		Initial to Confirm Receipt		Initial to Confirm Receipt	
	Addendum 1		Addendum 6		Addendum 11
	Addendum 2		Addendum 7		Addendum 12
	Addendum 3		Addendum 8		Addendum 13
	Addendum 4		Addendum 9		Addendum 14
	Addendum 5		Addendum 10		Addendum 15

If additional confirmation of addendum is required, submit under separate cover.

DISCLOSURE AND DISCLAIMER SECTION

The solicitation referenced herein is being furnished to the recipient by the City of Miami Beach (the "City") for the recipient's convenience. Any action taken by the City in response to Proposals made pursuant to this solicitation, or in making any award, or in failing or refusing to make any award pursuant to such Proposals, or in cancelling awards, or in withdrawing or cancelling this solicitation, either before or after issuance of an award, shall be without any liability or obligation on the part of the City.

In its sole discretion, the City may withdraw the solicitation either before or after receiving proposals, may accept or reject proposals, and may accept proposals which deviate from the solicitation, as it deems appropriate and in its best interest. In its sole discretion, the City may determine the qualifications and acceptability of any party or parties submitting Proposals in response to this solicitation.

Following submission of a Bid or Proposal, the applicant agrees to deliver such further details, information and assurances, including financial and disclosure data, relating to the Proposal and the applicant including, without limitation, the applicant's affiliates, officers, directors, shareholders, partners and employees, as requested by the City in its discretion.

The information contained herein is provided solely for the convenience of prospective Proposers. It is the responsibility of the recipient to assure itself that information contained herein is accurate and complete. The City does not provide any assurances as to the accuracy of any information in this solicitation.

Any reliance on these contents, or on any permitted communications with City officials, shall be at the recipient's own risk. Proposers should rely exclusively on their own investigations, interpretations, and analyses. The solicitation is being provided by the City without any warranty or representation, express or implied, as to its content, its accuracy, or its completeness. No warranty or representation is made by the City or its agents that any Proposal conforming to these requirements will be selected for consideration, negotiation, or approval.

The City shall have no obligation or liability with respect to this solicitation, the selection and the award process, or whether any award will be made. Any recipient of this solicitation who responds hereto fully acknowledges all the provisions of this Disclosure and Disclaimer, is totally relying on this Disclosure and Disclaimer, and agrees to be bound by the terms hereof. Any Proposals submitted to the City pursuant to this solicitation are submitted at the sole risk and responsibility of the party submitting such Proposal.

This solicitation is made subject to correction of errors, omissions, or withdrawal from the market without notice. Information is for guidance only, and does not constitute all or any part of an agreement.

The City and all Proposers will be bound only as, if and when a Proposal (or Proposals), as same may be modified, and the applicable definitive agreements pertaining thereto, are approved and executed by the parties, and then only pursuant to the terms of the definitive agreements executed among the parties. Any response to this solicitation may be accepted or rejected by the City for any reason, or for no reason, without any resultant liability to the City.

The City is governed by the Government-in-the-Sunshine Law, and all Proposals and supporting documents shall be subject to disclosure as required by such law. All Proposals shall be submitted in sealed proposal form and shall remain confidential to the extent permitted by Florida Statutes, until the date and time selected for opening the responses. At that time, all documents received by the City shall become public records.

Proposers are expected to make all disclosures and declarations as requested in this solicitation. By submission of a Proposal, the Proposer acknowledges and agrees that the City has the right to make any inquiry or investigation it deems appropriate to substantiate or supplement information contained in the Proposal, and authorizes the release to the City of any and all information sought in such inquiry or investigation. Each Proposer certifies that the information contained in the Proposal is true, accurate and complete, to the best of its knowledge, information, and belief.

Notwithstanding the foregoing or anything contained in the solicitation, all Proposers agree that in the event of a final unappealable judgment by a court of competent jurisdiction which imposes on the City any liability arising out of this solicitation, or any response thereto, or any action or inaction by the City with respect thereto, such liability shall be limited to \$10,000.00 as agreed-upon and liquidated damages. The previous sentence, however, shall not be construed to circumvent any of the other provisions of this Disclosure and Disclaimer which imposes no liability on the City.

In the event of any differences in language between this Disclosure and Disclaimer and the balance of the solicitation, it is understood that the provisions of this Disclosure and Disclaimer shall always govern. The solicitation and any disputes arising from the solicitation shall be governed by and construed in accordance with the laws of the State of Florida.

PROPOSER CERTIFICATION

I hereby certify that: I, as an authorized agent of the Proposer, am submitting the following information as my firm's proposal; Proposer agrees to complete and unconditional acceptance of the terms and conditions of this document, inclusive of this solicitation, all attachments, exhibits and appendices and the contents of any Addenda released hereto, and the Disclosure and Disclaimer Statement; proposer agrees to be bound to any and all specifications, terms and conditions contained in the solicitation, and any released Addenda and understand that the following are requirements of this solicitation and failure to comply will result in disqualification of proposal submitted; Proposer has not divulged, discussed, or compared the proposal with other Proposals and has not colluded with any other proposer or party to any other proposal; proposer acknowledges that all information contained herein is part of the public domain as defined by the State of Florida Sunshine and Public Records Laws; all responses, data and information contained in this proposal, inclusive of the Statement of Qualifications Certification, Questionnaire and Requirements Affidavit are true and accurate.

Name of Proposer's Authorized Representative:	Title of Proposer's Authorized Representative:
Signature of Proposer's Authorized Representative:	Date:

APPENDIX B

MIAMI BEACH

"No Bid" Form

2019-046-WG

Professional Tennis Management
and Operations Services at the City's
Flamingo Park Tennis Center

PROCUREMENT DEPARTMENT
1755 Meridian Avenue, 3rd Floor
Miami Beach, Florida 33139

Note: It is important for those vendors who have received notification of this solicitation but have decided not to respond, to complete and submit the attached "Statement of No Bid." The "Statement of No Bid" provides the City with information on how to improve the solicitation process. Failure to submit a "Statement of No Bid" may result in not being notified of future solicitations by the City.

Statement of No Bid

**WE HAVE ELECTED NOT TO SUBMIT A PROPOSAL AT THIS TIME FOR
REASON(S) CHECKED AND/OR INDICATED BELOW:**

☐ Workload does not allow us to proposal

☐ Insufficient time to respond

☐ Specifications unclear or too restrictive

☐ Unable to meet specifications

☐ Unable to meet service requirements

☐ Unable to meet insurance requirements

☐ Do not offer this product/service

☐ OTHER. (Please specify)

We do ☐ do not ☐ want to be retained on your mailing list for future proposals
of this type product and/or service.

Signature: _____

Title: _____

Legal Company Name: _____

Note: Failure to respond, either by submitting a proposal or this completed form,
may result in your company being removed from our vendors list.

PLEASE RETURN TO:

CITY OF MIAMI BEACH

PROCUREMENT DEPARTMENT

ATTN: William Garviso, CPPB

PROPOSAL #2019-046-WG

1755 MERIDIAN AVENUE, 3rd FLOOR

MIAMI BEACH, FL 33139

APPENDIX C

MIAMI BEACH

Statement of Work

2019-046-WG

Professional Tennis Management
and Operations Services at the City's
Flamingo Park Tennis Center

PROCUREMENT DEPARTMENT
1755 Meridian Avenue, 3rd Floor
Miami Beach, Florida 33139

C1. Statement of Work Required.

The management of the public tennis facilities shall include the operation and maintenance of the tennis courts, pro shop, a food and beverage concessions and other tennis related operations as approved by the City.

1. PREMISES TO BE MANAGED

The City-owned Flamingo Park Tennis Center, located at 1200 Meridian Avenue, together with all buildings, improvements and fixtures located thereon in their "as is" condition. Please note the City will be responsible for payment to a 3rd party independent contractor to evaluate the overall maintenance of the courts at the Tennis Center prior to Contractor assuming operations. Contractor and City will agree on baseline conditions for the facility with the expectation for the Tennis Center to be returned to the City in same condition.

- Flamingo Park Tennis Center – 17 Fast-Dry subsurface watered clay tennis courts, Musco sports lighting on all courts, Tennis Center/Pro-shop with locker rooms, interior meeting and storage space, outdoor patio seating areas, hitting wall (practice court) and in park parking lot.

Present Tennis Center Hours

Monday – Friday 8:00AM-10:00PM

Saturday – Sunday 8:00AM – 9:00PM

2. SERVICES TO BE PROVIDED AND MANAGEMENT COMPANY STANDARDS

The operation of the City of Miami Beach's Flamingo Park Tennis Center shall include the operations and maintenance of the tennis courts, pro shop, a food and beverage concession as determined by the City but which shall not, in any event conflict with those certain food and beverages offered by the City's exclusive vending concessionaire's agreement, as such agreement specifically mentions the inclusion of tennis centers, facilities and other tennis related operations as approved by the City. Services shall include those customarily associated with the operation of a public tennis center and permitted special events related to the tennis center activities. Services shall include but not be limited to:

- Provide, promote and instruct lessons in the game of tennis by certified and licensed tennis professionals to individuals, groups and clinics. Said service shall offer the tennis patron a choice of instructor levels, and hourly fee commensurate with the instructor's level and industry standards.
- Provide the City of Miami Beach Parks and Recreation Programs: two (2) courts twice per week for two (2) hours on a schedule to be determined by the City, to provide free instructional lessons to after school participants, at no cost to the City.
- Coach tennis teams sanctioned and approved by the City's Parks and Recreation Department, such services to be provided for a coaching fee or free, depending on mutual advance agreement of the City.
- Offer demonstrations and instruction on all aspects of the game of tennis in promotion of the Center. Such demonstrations may be either for a fee or free of charge, depending on mutual advance agreement of the City.
- Establishment and management of tournaments including those requested by the City, including participation in establishing specific needs for individual tournaments.

- Promote junior tennis by establishing a junior tennis team or league (s).
- Provide advice to the City of changes, regarding the tennis industry in general, tennis rules and regulations, equipment and promotional methods associated with the operation of public tennis facilities.
- Provide seasonal group clinics to the community.
- Overall Management of the City's Flamingo Park Tennis Center while utilizing the City of Miami Beach Parks and Recreation Department's recreation software system, for the purposes of tracking reservations, financials, memberships, concessions, merchandise, etc. and in accordance with City directives and policies including but not limited to:
 - a. Tennis court reservation services.
 - b. Tennis membership services.
 - c. Facility / court monitoring to prevent lessons being given while courts are closed.
 - d. Tennis lesson reservations.
 - e. Food and beverage concession/ service acceptable to the City.
 - f. Pro shop operations.
 - g. Daily and routine maintenance of the buildings, facilities, courts, machinery and grounds as determined by the City, which may include but not limited to:
 - Windscreens
 - Nets
 - Lines
 - Weeds and Algae on Courts
 - Restrooms
 - Pro Shop and Facility Cleanliness
 - Litter Control
 - Interior Landscaping
 - h. Booking of local, regional and state, international or charity tennis tournaments.
 - i. Marketing, promotion and advertising of the City's Flamingo Park Tennis Center to residents, day guests and Miami Beach hotels.
 - j. Provision of summer and specialty camps based on the established City of Miami Beach Parks and Recreation Department's format.
 - k. Must adhere to all City of Miami Beach established tennis center fees, regulations and rules.
 - l. Tennis professionals must possess and maintain a Business Tax Receipt (aka-Occupational License).
 - m. Collection and accounting of all revenues through the City's software system.
 - n. Payment and accounting of all expenses in a timely manner.
 - o. Formulation and implementation of operating programs, business plans, and budgets.
 - p. Recruitment and retainment of personnel including background checks, training and performance management. All personnel must undergo drug screening and must be hired according to specific job descriptions. Also see Section I: Screening, Interviewing, Testing and Training. Background checks must comply with State Law, including the Jessica Lunsford Act, as applicable.
 - q. Preparation of monthly and annual Financial Statements, which the City reserves the right to audit at any time.

- r. Operate the City's Flamingo Park Tennis Center as determined by established professional tennis management best practices and the City, to include having a manager and/or Tennis Director on site during all operational or open hours to handle day to day operations and customer concerns.
- s. At minimum, comply with the City's facility and courts' maintenance standards as established by the City and the tennis courts manufacturer's standards and guidelines for hydrocourts (see Exhibit C) or other tennis court systems installed at the City's Flamingo Park Tennis Center. The management company will be responsible for corrective actions when identified within a reasonable amount of time based on industry standards for such repairs, or immediate corrective action shall be taken by the management company when it addresses life safety situations. Designated staff will be required to attend industry standard training on court maintenance as mandated by the City and as necessary. If court maintenance deficiencies are found by City staff, the City may require court inspections from an outside vendor at the expense of the management company.
- t. The management company must supply their own tools to maintain the courts and surrounding areas within the tennis center, as well as provide water coolers and cups at the courts for patron use.
- u. The management company and its employees and/or independent contractors, and its sub-contractor employees shall wear appropriate tennis apparel or company uniform, such that Center patrons can easily identify its employees and/or independent contractor.

3. MANAGEMENT COMPANY STANDARDS:

3.1 Quality of Operation/Operation Plan: The management company shall provide all maintenance services required herein in a workmanlike and professional manner; shall conform to professional and industry standards; shall keep all areas in a clean, orderly and safe condition that is satisfactory to the City at all times. The management company agrees to be bound by all applicable Federal, State, City, and Municipal laws, ordinances and regulations to the same extent as if said requirements were expressly written herein. In the event that the management company is unable to meet the City's cleanliness, maintenance standards or scope of services required herein to the satisfaction of the City, the City reserves the right to increase the hours of operation and/or required staff at no additional cost to the City.

3.2 Personnel

The management company must provide a proposed staffing plan, including sub-contractors for maintenance, if any, detailing the number of workers, man-hours, shift schedules, routing schedules, and job tasks for each worker during all hours of operation. This plan must include coverage of the entire service area for all services required pursuant to this proposal. The staffing plan must be approved by the City. The management company must provide an adequate number of employees and man-hours, as agreed to during negotiations with the City, in order to complete the services provided for herein to the City. The management company shall provide full resumes of the key personnel assigned, including any sub-contractor, if any, to this proposal and must meet the qualifications stated in said job descriptions. The management company must provide a copy of the Personnel Contract detailing the terms of employment for coaches, instructors, maintenance and office staff personnel.

- The Management Company must have a Head Teaching Professional that is a certified Tennis Professional by USPTA and/or PTR. The Head Tennis Professional and/or Center

Manager(s) must demonstrate knowledge and experience in tennis instruction and related activities, facility management, tennis court maintenance and related activities, as well as, knowledge of the legal requirements that are involved in this type of operation

The management company's and sub-contractor's employees shall be clean, courteous, qualified, efficient and neat. The management company or sub-contractor shall not employ any person or persons who shall use improper language or act in a loud or boisterous or otherwise improper or inefficient manner. The management company agrees to remove from service any employee or sub contractor's employee whose conduct the City determines to be detrimental to the best interests of the City.

3.3 Uniforms and Identification

All employees shall wear clean uniforms at all times. Uniforms shall consist of shirts, pants, shorts, hats, appropriate footwear, and cold/wet weather gear (when necessary). Each uniform shall display the name and logo only and the uniform shall be approved by the City. The cost of the uniforms shall be the responsibility of the management company.

4. Equipment

The City recommends, at minimum, the following maintenance equipment (or its equivalent) to be procured for use by the management company personnel on a daily basis and as appropriate to the task:

- a) Blowers
- b) Trimmers
- c) Hot water/pressure washing
- d) Trash cans with rollers
- e) Brooms & pans
- f) Rakes
- g) Ice Machine
- h) Giliberti court maintenance equipment
- i) Court grooming materials (i.e. Aussie Sweeps, rollers, etc.)

Alternatives to this recommended equipment list may be recommended at the discretion of the proposer as long as the appropriate specifications and product information is provided to the City in advance.

All specified equipment purchased for this contract shall be used by the management company for the performance of this contract and shall have a prominently displayed standardized logo to be approved by the City. The proposer must submit a list of all equipment, with quantities, which is intended to be used in connection of the performance of this contract.

The management company shall maintain, in accordance with the manufacturer's specifications and maintenance requirements, all equipment, whether City owned or owned by the management company, herein specified and purchased. All equipment shall be kept clean, fully functional and free of damage.

5. Maintenance Supplies

- a) The management company shall bear at its own expense all costs of operating and furnishing tennis court maintenance services and shall pay all costs connected with the fulfillment of this contract.

- b) The management company will be required to supply and furnish at its sole cost and expense any and all supplies necessary to properly maintain the tennis courts and the surrounding areas inclusive of clay, coarse material, nets, lines and hardware.
- c) All products and supplies used and furnished must conform to the highest industry standards.
- d) The management company will be responsible for supplying garbage bags and be responsible for all cost associated with trash removal.
- e) The Contractor shall provide the designated City staff, a list of all cleaning solvents, solutions, agents, chemicals, detergents, and any other fluids or materials used in the provision of the maintenance services, and their corresponding OSHA Material Safety Data Sheets, where applicable.

6. Communications

The successful management company shall submit to the City - for review and approval prior to the initiation of contract activities - a communication plan addressing routine, scheduled, and emergency maintenance and repair activities that may impact the operation of the City's Flamingo Park Tennis Center. All communications shall be directed to the appropriate City staff.

7. Safety Regulations

The management company and its sub-Contractors, if any, shall adhere to the Occupational Safety and Health Administration's (OSHA's) most recently published Safety and Health Regulations and general Occupational Safety and Health Standards, where applicable.

8. Fines and Penalties

The City reserves the right to levy fines against the management company when it has been determined that it is not meeting the necessary work requirements. The table below depicts areas where fines will be levied and the time frame allowed for deficiency correction.

<i>Work Activity</i>	<i>Deficiency Correction Period</i>
Quality of Operations	24 hours
Personnel Shortages	4 hours
Personnel Payroll	24 hours
Personnel External Instruction	24 hours
Personnel Dress Code	8 hours
Equipment Deficiencies	72 hours
Supplies	8 hours
Program Management	24 hours
Communications	48 hours
Life Safety Maintenance	2 hours

Fines for failures to complete corrective action for any of the work activities listed above is as follows:

- \$100 after failing to complete corrective action after two (2) notifications
- \$200 after three (3) notifications
- \$500 after four (4) notifications

If additional time is required to complete corrective action, a written request must be submitted for approval to the City prior to the end of the grace period. The basis for the implementation of fines and penalties includes but is not limited to the following:

- Quality of Operations – Inability to provide service in a workmanlike and professional manner; failure to conform to professional and industry standards; unable to provide maintenance services in a manner in clean orderly and safe condition; and inability to meet the City's established tennis court maintenance standards in accordance with the Tennis Court Manufacturer's standards and guidelines for hydro-courts (see Exhibit C) or other similar tennis court system.
- Personnel Shortages – Failure to provide a staffing plan that meets the maintenance coverage requirements of the service area, and/or failure to provide the necessary on-site personnel in accordance to the staffing plan approved by the City.
- Personnel Payroll – Failure to pay personnel in a timely manner and based on the terms specified in the Personnel Contract.
- Personnel External Instruction – Contractor is responsible for ensuring that any external instruction engaged in by personnel must not be such as to directly or indirectly compete with the Tennis Center's business, which includes private coaching and/or instruction at other City-owned neighborhood tennis courts.
- Personnel Dress Code – Failure of employees to meet uniform requirements, including wearing clean uniforms.
- Equipment Deficiencies – Inability to fully operate; in non-functional condition; in state of disrepair and or visibly damaged; lacking maintenance; and not generally maintained and in clean condition.
- Supplies – Failure to provide the supplies necessary for the proper execution of the program or maintenance service specified.
- Program Management – Failure to implement a comprehensive management program to respond to City and/ or stakeholder requests for services and maintenance issues covered by the Contract.
- Communications – Failure to submit an approved communications plan addressing routine, scheduled, and emergency maintenance and repair activities, and failure to provide timely notifications as previously prescribed.
- Safety Regulations – Failure to adhere to OSHA's most recently published Safety and Health Regulations and general Occupational Safety and Health Standards.

9. **Quality Control / Quality Assurance (QC/QA)**

The goal of the City is to improve the actual and perceived maintenance and playability of the tennis courts through a continuous quality improvement program driven by the management company's QC/QA Management Plan.

9.1 **QC/QA Management Plan**

The proposer shall submit a detailed plan outlining the quality management procedures and responsibilities for the workmanlike and professional performance of the key maintenance and repair processes associated with this Contract. The proposer shall describe how it will measure quality and performance thresholds for work performed under this Contract. The mutually agreed QC/QA Management plan will be subject to review and input by the City.

9.2 **Quality Control Plan**

The proposer shall list all subcontractors and suppliers and describe the system that it will use to manage, control, and document its own, sub-Contractors' and suppliers' activities to comply with all contract requirements.

9.3 Quality Assurance Plan

The proposer shall identify what specific activities shall be monitored; describe the performance standards and measures associated with these activities that will be used to determine if the work performed by personnel or by the sub-Contractor's personnel meets the requirements and intent of the Contract; and provide a format for reporting the results of the QC plan as part of a monthly activity report.

10. Reporting Requirements

The management company must provide a receipt to each customer for each transaction performed. Signage will be required to indicate that if no receipt is produced, the transaction will be free of charge.

10.1 Daily Activity Report

The management company shall update and maintain a daily maintenance log with maintenance information for reporting to the City.

10.2 Monthly Activity Report

10.2.1 The management company shall provide a monthly activity report/revenue report which shall be submitted to the City by the 10th day of each month.

10.2.2 The monthly reports shall include, but not be limited to the following information: a general description of the work performed, profit/loss reports for clinics, tournaments, lessons, etc. detailing revenues generated in the prior month, expenses incurred in the prior month and other performance measures as determined by the City.

10.2.3 The monthly report shall also include a work plan to adequately address Continuous Quality Improvement goals in the Management Company's QC/QA management plan.

10.2.4 The City reserves the right to add, delete or modify the data collected in order to adequately monitor performance of the management company.

The reporting of all revenues and expenses will be timely and on a monthly basis. The use of City owned software for recreation, revenue, and point of sale reporting is to be used.

10.3 Annual Report

The management company shall also provide to the City's designee an annual report with an established work plan and goals for the upcoming calendar year and quarterly reports including updates of the annual work plan and goals, Financial Statements, Revenue Summary Reports, Maintenance Summary Logs of materials used, etc...

12. Minimum Guarantee (MG)

In consideration of the City executing an agreement, the successful contractor shall guarantee and pay to the City an annual minimum fee to be paid on a monthly basis. In the event that the City chooses to extend the term of the concession agreement for any renewal term(s), the MG may be increased in a manner to be negotiated between the City and successful contractor.

The minimum acceptable annual amount shall be no less than \$100,000.00. Proposers are encouraged to offer a Minimum Guarantee in excess of this amount as the proposed Minimum Guarantee (MG) provided to the City shall be utilized to allocate points in the Evaluation Process.

13. Performance Bond or Alternate Security

The successful contractor shall furnish to the City a performance bond (in form acceptable to the city) or security deposit, in an amount not less than \$50,000.00. Said bond or security deposit

shall serve to secure the successful contractor's performance in accordance with the provisions of the agreement. In the event the successful proposer fails to perform in accordance with said provisions, the City may retain said bond or security deposit, as well as pursue any and all other legal remedies provided in the agreement, or as may be provided by applicable law.

14. Program Registration and Payment

All program registration shall be done through the City's registration and billing software system. The City retains exclusive rights to all of the data.

15. Fees Structure

The management company will collect all revenues generated at the City's Flamingo Park Tennis Center on behalf of the City and deposit them daily into an account that the City has access to if requested.

16. City's Responsibilities Under This Contract

The City will pay for local telephone, electricity, water.

17. Present Billing Rates

The present Billing Rates are specified below. The City reserves the right to negotiate the fee schedule with the successful proposer.

ANNUAL MEMBERSHIP

Adult (Single)
Senior Citizen (65 and older)
Youth (under 18)
Family (2 adults/2 youth under 18)
(Each additional youth \$50)

RESIDENT

\$250 plus tax
\$175 plus tax
\$75 plus tax
\$540 plus tax

NON-RESIDENT

\$590 plus tax
\$465 plus tax
\$290 plus tax
\$1,290 plus tax

COURT RENTAL

Adults/Youth/Senior

RESIDENT

\$5.00 plus tax

NON-RESIDENT

\$11.75 plus tax

18. Customer Service Standards

City employees have been trained and are expected to perform to the City of Miami Beach's customer service standards. All vendors and contractors that are partnered with the City are also expected to perform and comply with these customer service standards. The customer service standards are provided below and are segmented based on different forms of customer interactions. Information is also provided on how these customer standards are monitored.

Telephone

- Telephones will be covered at all customer-contact points during normal business hours answering within the third ring.
- Phone messages received will be responded to (if requested) in a timely manner, two business days, even if just to acknowledge receipt. An estimate of time to resolve the problem to be given if applicable.
- Calls coming from external sources will be answered with a consistent greeting such as "Good morning, City of Miami Beach, Flamingo Park Tennis Center, John Smith, may I help you?"
- Employee will take responsibility for providing a solution and/or options to the customer's request.

- Request permission from the caller before transferring a call, provide the caller with the name and number of the person being transferred to, and stay on the line to announce the caller to the person receiving the transfer. If the transfer cannot be accomplished (busy, no answer or the person is unavailable), the employee will reconnect with the caller and ask if they want to leave a message.
- Voice mail messages shall follow the City of Miami Beach Customer Service Greeting guideline, which includes employee's full name, working hours, and optional phone number to call. When employee is away for an extended period of time, the voice mail message will communicate such absence and offer an option for the caller.
- Thank the customer for calling and ask if further assistance is needed prior to concluding the call.

Written Correspondence

- Correspondence start with a greeting
- E-mail signatures (e-mail) will include the name, title, department, division, and contact number.
- Activate the e-mail Out-of-Office Assistance when away from the office for an extended period of time.
- Acknowledge e-mails and faxes that require a response within two business days.
- Respond to letters within 5 business days.
- Use correct spelling and grammar, including accurate name and address.
- Provides complete, accurate, and precise information regarding their inquiry.
- Fax cover sheets will be legible and include name, telephone number, and the name and fax number of the receiver.

Personal Contact

- Respond to customers in a courteous manner... the customer is not always right, but always deserves to be treated with respect.
- A receipt will always be supplied to the customer.
- Provide accurate and understandable solutions/options to customer requests or directs the customer to the appropriate person who may have knowledge in the subject matter.
- Average or maximum wait time without an appointment should be no longer than 30 minutes or scheduled for a mutually convenient time.
- Counter will be staffed during business hours.
- Employees will dress in attire that is professional, tasteful, appropriate and consistent with the individual departmental policies. Staff will be in uniform at all times.

Cleanliness Index Standards

The Cleanliness Index (**Exhibit A**) is a set of standards that are used to measure the cleanliness of the City of Miami Beach's public areas.

The Cleanliness Index provides standards on rating the cleanliness on:

- Litter / Trash
- Litter / Garbage Cans
- Organic Materials

Monitoring our Standards

- Our customer service team will oversee all customer service standards.
- If we do not meet our standards, we will implement an action plan to improve our service.
- We will listen and do all we can to resolve issues.
- For questions and/or concerns, contact the Answer Center at 305-604-CITY.

19. City Special Events

In the event that the City, at its sole discretion, deems that it would be in the best interest of the City, the City reserves the right to utilize the Flamingo Park Tennis Center for City produced tennis related special events and/or other City sponsored special events productions such as local and international tennis tournaments. In such cases, the City will coordinate with the management company to cooperatively produce such events. The management company agrees that the number of courts utilized shall be determined by the City and that events will be held during the Center's operating hours. The management company will provide, at no charge, a minimum of 224 court days for City sanctioned events. If additional courts are required that exceed the minimum of 224 court days, a usage fee of \$138.50 per court, per day shall be applied. This usage fee shall be subject to CPI increase. The City at any time may require the use of all courts at no cost to the City with the approval of the City Commission. Paid members of the Flamingo Park Tennis Center will have access to play at the Miami Beach Tennis Center throughout the duration in which courts are impacted from the City sanctioned special event. The City grants the management company a first right of refusal to retain any income related to the special event and/or production as it pertains to food and beverage concessions, stringing and merchandise sales. The management company agrees that facility usage for events may include use of: locker rooms, activity rooms and office space, umpire chairs, umbrellas, coolers, scoreboards, net-sticks and the like. If negotiations between the City and the management company prove to be unsuccessful, the management company shall cease and desist operations during the term of, and in the area of the special event and/or production.

20. Corporate Responsibility

The management company shall provide a "Corporate Responsibility Plan", which describes in sufficient detail how the management company plans and expects to integrate into the Miami Beach community, and fit into the community as a "good corporate citizen". In developing their Plan, the management company's focus should be to establish a balance between developing opportunities with the City; stimulating and rewarding their employees; developing optimum customer satisfaction; working with and supporting our local community; and sustaining the environment where they operate.

Items to include in the management company's "Corporate Responsibility Plan" should address (but not necessarily be limited to) the following:

- A. The management company's approach, and policies and procedures, detailing the hiring and promotion of employees, including the following:
- In addition to the required Equal Benefits requirements, what other benefits, programs, and/or other compensation or incentives does the management company offer to its employees?
- B. In addition to subsection (A) above, describe any other programs that the management company maintains for the welfare and benefit of its employees.
- C. Is the management company a responsible corporate citizen and, to that end, what contribution(s) does the management company make to the community(ies) in which it currently does business? Describe how the management company is "making a difference" for the betterment of the community(ies) where it operates. Items to address may include, but not be limited to:
- Participation in local community organizations.
 - Membership in local civic and charitable organizations including, in particular, any specific programs and/or initiatives that the management company has either established or (if established) that the management company actively participates in.
- D. Is the management company's firm environmentally conscious; include any efforts and/or programs and/or initiatives that the management company has established, either within its firm or in the community, which demonstrate the management company's involvement in, and commitment to the betterment of the environment through resiliency and sustainability (i.e. "green initiatives").
- E. With regard to the City of Miami Beach, describe in sufficient detail what public benefits, including any specific programs, initiatives, and/or other contributions which the management company would plan to "give back" to the Miami Beach community should it be awarded this contract. This should include (but not be limited to) the management company's commitment to hire as many qualified Miami Beach residents as possible.

21. Screening, Interviewing, Testing And Training:

The management company will be responsible for screening, interviewing, testing, and training to include, but not be limited to:

- In depth interview that includes job preferences, experience, goals, interests, attitudes, motivation and other work-related attributes.
- All employees shall be subject to drug testing, fingerprinting, background checks, and other related pre-employment standards, by the City of Miami Beach Human Resources Department. Backgrounds checks, drug tests and other related safety and security checks shall apply to all employee(s) of the management company, its on-site subcontractors such as tennis professionals and all new employees who have not previously been through the background process in compliance with City of Miami Beach standards.
- Verification that its employees are not convicted sex offenders.
- Training employees on the City's Service Excellence program

APPENDIX D

MIAMI BEACH

Special Conditions

2019-046-WG

Professional Tennis Management
and Operations Services at the City's
Flamingo Park Tennis Center

PROCUREMENT DEPARTMENT
1755 Meridian Avenue, 3rd Floor
Miami Beach, Florida 33139

1. TERM OF CONTRACT. The contract shall commence upon effective date of fully executed agreement and shall be effective for five (5) years.

2. OPTION TO RENEW. The City, through its City Manager, will have the option to extend for two (2) additional two year periods at the City's sole discretion. Continuation of the contract beyond the initial period, and any option subsequently exercised, is a City prerogative, and not a right of the successful contractor.

3. PROTECTION OF PROPERTY. The Successful Contractor will at all times guard against damage to or loss of property belonging to the City of Miami Beach. It is the responsibility of the Successful Contractor to replace or repair any property lost or damaged by any of its employees. The City of Miami Beach may withhold payment or make such deductions as it might deem necessary to ensure reimbursement for loss or damage to property through negligence of the Successful Contractor, its employees or agents.

4. BACKGROUND CHECKS. The Successful Proposer and all employees of the Successful Proposer, prior to contact with any/all participants, must submit to a background check, at the expense of the successful proposer and at no cost to the City, in compliance with local, state and federal laws. The background check shall be completed by the City of Miami Beach's Human Resource Department at the expense of the Successful Proposer. The City shall have the right to refuse to allow any potential employee of the Successful Proposer to work on City property when it deems that their presence on City property is not in the City's best interest.

5. EXAMINATION OF SITES RECOMMENDED. Prior to submitting its offer it is advisable that the vendor visit the sites of the proposed work and become familiar with any conditions which may in any manner affect the work to be done or affect the equipment, materials and or labor required. The vendor is also advised to examine carefully the specifications and become thoroughly aware regarding any and all conditions and requirements that may in any manner affect the work to be performed under the contract. No additional allowances will be made because of lack of knowledge of these conditions.

APPENDIX E

MIAMI BEACH

Revenue Proposal Form

2019-046-WG

Professional Tennis Management
and Operations Services at the City's
Flamingo Park Tennis Center

PROCUREMENT DEPARTMENT
1755 Meridian Avenue, 3rd Floor
Miami Beach, Florida 33139

APPENDIX E REVENUE PROPOSAL FORM

Failure to submit, Revenue Proposal Form, in its entirety and fully executed by the deadline established for the receipt of proposals will result in proposal being deemed non-responsive and being rejected.

Bidder affirms that the prices stated on the Revenue proposal form below represents the entire Revenue of the items in full accordance with the requirements of this RFP, inclusive of its terms, conditions, specifications and other requirements stated herein, and that no claim will be made on account of any increase in wage scales, material prices, delivery delays, taxes, insurance, cost indexes or any other unless a cost escalation provision is allowed herein and has been exercised by the City Manager in advance. The Revenue Proposal Form shall be completed mechanically or, if manually, in ink. **Revenue Proposal Form completed in pencil shall be deemed non-responsive.** All corrections on the Revenue Proposal Form shall be initialed.

MINIMUM ANNUAL GUARANTEE TO THE CITY (MG)

See Paragraph 12 (p.33)

STATE THE ANNUAL MINIMUM GUARANTEE THAT THE PROPOSER WILL PROVIDE TO THE CITY TO BE PAID IN EQUAL MONTHLY INSTALLMENTS.

(Offers under \$100,000.00 will not be considered.)

\$ _____

Bidder's Affirmation

Company:	
Authorized Representative:	
Address:	
Telephone:	
Email:	
Authorized Representative's Signature:	

APPENDIX F

MIAMI BEACH

Insurance Requirements

2019-046-WG

Professional Tennis Management and
Operations Services at the City's Flamingo
Park Tennis Center

PROCUREMENT DEPARTMENT
1755 Meridian Avenue, 3rd Floor
Miami Beach, Florida 33139

MIAMI BEACH

INSURANCE REQUIREMENTS

This document sets forth the minimum levels of insurance that the contractor is required to maintain throughout the term of the contract and any renewal periods.

- XXX 1. Workers' Compensation and Employer's Liability per the Statutory limits of the state of Florida.
- XXX 2. Comprehensive General Liability (occurrence form), limits of liability \$ 1,000,000.00 per occurrence for bodily injury property damage to include Premises/ Operations; Products, Completed Operations and Contractual Liability. **Contractual Liability** and Contractual Indemnity (Hold harmless endorsement exactly as written in "insurance requirements" of specifications).
- XXX 3. Automobile Liability - \$1,000,000 each occurrence - owned/non-owned/hired automobiles included.
4. Excess Liability - \$.00 per occurrence to follow the primary coverages.
- XXX 5. The City must be named as and additional insured on the liability policies; and it **must** be stated on the certificate.
6. Other Insurance as indicated:
- | | |
|---|--------------------------|
| <u> </u> Builders Risk completed value | \$ <u> </u> .00 |
| <u> </u> Liquor Liability | \$ <u> </u> .00 |
| <u> </u> Fire Legal Liability | \$ <u> </u> .00 |
| <u> </u> Protection and Indemnity | \$ <u> </u> .00 |
| <u> </u> Employee Dishonesty Bond | \$ <u> </u> .00 |
| <u> </u> Other | \$ <u> </u> .00 |
- XXX 7. Thirty (30) days written cancellation notice required.
- XXX 8. Best's guide rating B+:VI or better, latest edition.
- XXX 9. The certificate must state the proposal number and title

The City of Miami Beach is self-insured. Any and all claim payments made from self-insurance are subject to the limits and provisions of Florida Statute 768.28, the Florida Constitution, and any other applicable Statutes.

EXHIBIT A

CLEANLINESS INDEX STANDARDS



Cleanliness Index for Streets, Sidewalks, Right-of-Ways, Parks, Parking, and Alleys

Index	Litter / Trash	Litter / Garbage Cans	Organic Materials	Fecal Matter
1 Extremely Clean	<ul style="list-style-type: none"> No litter and/or debris on entire block face. 	<ul style="list-style-type: none"> Can is in good working order and none are no more than 3/4 full. Can is in a clean condition free of items, such as stickers, graffiti. 	<ul style="list-style-type: none"> Isolated instances of small fresh organic material, such as leaves, branches, etc., cover the paved area. No large organic material, such as tree limbs or palm fronds on the ground. 	<ul style="list-style-type: none"> Fecal matter is not visible.
2 Clean	<ul style="list-style-type: none"> Isolated pieces of litter on the entire assessed area. The area is not void of litter, but may contain an isolated incidence of litter. 	<ul style="list-style-type: none"> Can is in good working order and none are no more than 3/4 full. There is isolated piece of trash outside of the can. Can is in a clean condition free of items, such as stickers, graffiti. 	<ul style="list-style-type: none"> Less than 10% of a 10 step distance paved area is covered by small organic materials, but occurring no more than 10% of the entire assessed area. If occurring in more than 10% of the entire assessed area, then add 1 point. No large organic material on the ground. 	<ul style="list-style-type: none"> Past residue of fecal matter. It seems that an attempt was made to clean the fecal matter, but residue was left behind.
3 Somewhat Clean	<ul style="list-style-type: none"> Small to moderate amounts of litter. In a 10 step distance the litter accumulation should account to less than 10 small pieces or 2-4 pieces of large litter, but occurring in no more than 10% of the entire assessed area. If the litter density is occurring between 10-25% of the assessed area, then add 1 point from the rating scale. If the litter density is occurring more than 25% of the assessed area, then add 2 points from the rating scale. <p><i>Guideline:</i> Is the litter something you notice, but your eye is not constantly drawn to it? The area has a clean appearance, but does need some attention.</p>	<ul style="list-style-type: none"> Can is functioning, but is full with trash, which can be seen from the eye level. There is no litter above the rain guard. There is some residue from past garbage. Can is in a clean condition, but may have one small isolated instance of a sticker or graffiti, which the eye is not drawn to it. 	<ul style="list-style-type: none"> Between 10% - 30% of a 10 step paved area is covered by organic materials, but occurring in no more than 10% of the entire assessed area. If occurring in more than 10% of the entire assessed area, then add 1 point. Between 1 and 3 pieces of large organic materials is on the ground. Isolated case of organic material accumulation caused by standing water and poor drainage. 	<ul style="list-style-type: none"> One instance of fecal matter is present on the public area.

Cleanliness Index for Streets, Sidewalks, Right-of-Ways, Parks, Parking, and Alleys

Index	Litter / Trash	Litter / Garbage Cans	Organic Materials	Fecal Matter
4 Somewhat Dirty	<ul style="list-style-type: none"> Consistently scattered trash. In a 10 step distance the trash accumulation should account to more than 10 pieces of small litter or over 4 pieces of large litter occurring in no more than 10% of the entire assessed area. If the litter density is occurring between 10-25% of the assessed area, then add 1 point from the rating scale. If the litter density is occurring more than 25% of the assessed area, then add 2 points from the rating scale. <p><i>Guideline:</i> Trash or litter is obvious and your eye is constantly drawn to it.</p>	<ul style="list-style-type: none"> Can is full and there is trash above the rain guard. In some cases, there is evidence that there is improper use by the residents. Can is in a working condition, but contains items such as stickers or graffiti on them. Can has some damage, such as dents, but is usable. 	<ul style="list-style-type: none"> Between 30% - 50% of a 10 step paved area is covered by organic materials, but occurring in no more than 10% of the entire assessed area. If occurring in more than 10% of the entire assessed area, then add 1 point. Between 4 and 10 pieces of large organic materials is on the ground. 2 to 3 instances of organic material accumulation caused by standing water and poor drainage. The organic material is beginning to turn brown. 	<ul style="list-style-type: none"> Two instances of fecal matter are present on the public area.
5 Dirty	<ul style="list-style-type: none"> Consistent accumulation of trash. In a 10 step distance there are multiple piles of trash consisting of more than 10 pieces of small litter or over 4 pieces of large litter. If the litter density is occurring between 10-25% of the assessed area, then add 1 point from the rating scale. 	<ul style="list-style-type: none"> Can is full and there is trash above the rain guard and beginning to overflow since there is no room to put additional trash. There may be evidence of improper use by the residents. Can has considerable damage, but is usable. A large area of the can contains items such as stickers or graffiti on them. 	<ul style="list-style-type: none"> Over 50% of a 10 step paved area is covered by organic materials, but occurring in no more than 10% of the entire assessed area. If occurring in more than 10% of the entire assessed area, then add 1 point. Over 10 pieces of large organic materials is on the ground. 3-4 instances of organic material accumulation caused by standing water and poor drainage. Faint foul odor is present due to standing water. The organic material has been on the ground for some time and has turned brown. 	<ul style="list-style-type: none"> Three instances of fecal matter are present on the public area.

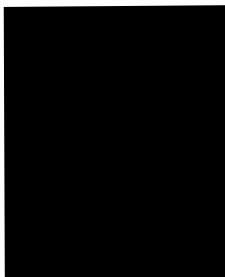


EXHIBIT B

SAMPLE AGREEMENT

**XXXXX AGREEMENT TO PROVIDE
PROFESSIONAL TENNIS MANAGEMENT
AND OPERATIONS SERVICES AT THE
CITY'S FLAMINGO PARK TENNIS
CENTER**

**THIS IS A SAMPLE AGREEMENT ONLY. FINAL AGREEMENT REQUIRES THE
APPROVAL OF THE CITY ATTORNEY AND THE CITY MANAGER.**

**AT ANY TIME PRIOR TO CONTRACT EXECUTION, THE CITY RESERVES THE
RIGHT TO MAKE ANY CHANGES TO THE AGREEMENT.**

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**AGREEMENT BETWEEN CITY OF MIAMI BEACH, FLORIDA
AND XXXXXXXXXXXX.
TO PROVIDE PROFESSIONAL TENNIS MANAGEMENT AND OPERATIONS SERVICES AT
THE CITY'S FLAMINGO PARK TENNIS CENTER**

THIS AGREEMENT made the ____ day of _____, 2019 ("Effective Date"), between the **CITY OF MIAMI BEACH**, a municipal corporation of the State of Florida (hereinafter called "City"), having its principal address at 1700 Convention Center Drive, Miami Beach, Florida, 33139, and _____, a Florida limited liability company, having its principal offices at _____ (hereinafter called "CONTRACTOR").

WITNESSETH

WHEREAS, on February XXX 2019, the City issued a Request for Proposals No. 2019-046-WG, for Professional Tennis Management and Operation Services at the City's Flamingo Park Tennis Center (the "RFP"); and

WHEREAS, on XXX 2019, the Mayor and City Commission accepted the recommendation of the City Manager and authorized the Administration to enter into negotiations with CONTRACTOR, as the most qualified proposer pursuant to the RFP, to manage and operate the Flamingo Park Tennis Center (the "Center").

WHEREAS, on XXX 2019, the Mayor and City Commission adopted Resolution Number XXXX, approving the award of Invitation to Bid ("ITB") XXXXX for professional management and operation services at the City's Flamingo Park Tennis Center.

NOW THEREFORE, in consideration of the Premises and the mutual covenants and conditions herein contained and other good and valuable consideration, the receipt and adequacy of which are hereby conclusively acknowledged, it is agreed by the parties hereto follows:

The City hereby grants to the CONTRACTOR, and the CONTRACTOR hereby accepts from the City, the exclusive right to operate and manage the Center, in conformance with the purposes and for the period stated herein, and subject to all the terms and conditions herein contained.

SECTION 1. TERM.

1.1 This Agreement shall be for an initial term of five (5) years. The Agreement shall be deemed by the parties hereto to have commenced on _____ (the "Commencement Date"), and shall terminate on _____.

3

4 1.2 The City shall have the right, at its sole option and discretion, and provided further that CONTRACTOR is in good standing under the Agreement, to renew this Agreement for two (2) additional one-year terms, by providing CONTRACTOR with at least sixty (60) days prior written notice of its intent to renew the Agreement.

1.4 **PRICES SHALL BE FIXED AND FIRM:** All prices quoted in the CONTRACTOR's proposal in response to the RFP, which prices are attached and incorporated as Exhibit XXX hereto, shall remain firm and fixed during the initial term of the Agreement. During the renewal term(s), the City may, at its sole option and discretion, consider price increases, based upon the cumulative

CPI increases since the Commencement Date or 3%, whichever is less. The CPI increase shall be determined by using the applicable Bureau of Labor Statistics (www.bls.gov) CPI-U index, and computing the percentage of increase from the Commencement Date, as the base month and year, as compared to the month and year of the first day of each renewal period. During the renewal term(s), the City may also, at its sole option and discretion, consider price increases based on increases mandated by the City's Living Wage Ordinance (as codified in Sections 2-407 through 2-410 of the City Code, and as may be amended from time to time); provided, however, that in considering cost escalations due to Living Wage increases, the City shall only consider the direct costs related to such increases, exclusive of overhead, profit, or any other related costs.

SECTION 2. CENTER TO BE MANAGED .

2.1 The City has employed the CONTRACTOR, and CONTRACTOR agrees, to operate, manage and maintain, the following City-owned recreational facilities (hereinafter such recreational facility may be referred to as the "Center"):

2.1.1 That certain City-owned recreational facility commonly known as the Flamingo Park Tennis Center, located at 1200 Meridian Avenue, Miami Beach, Florida 33139, together with all buildings, improvements and fixtures located thereon. The Center's premises are further delineated in Exhibit XXXX (Site Map of Flamingo Tennis Center), attached hereto.

2.2 CONTRACTOR herein accepts the Center, including, without limitation, all buildings, improvements, and fixtures located thereon, in their "as is" "where is" condition, and agrees that the City shall have no obligation to improve, repair, restore, refurbish, or otherwise incur any expense in improving or changing the condition of the Center at any time during the Term of this Agreement.

Prior to the Commencement Date, City and CONTRACTOR shall conduct a site inspection of the Center. CONTRACTOR shall, within ten (10) days of such inspection, notify the City of any necessary repairs, and the City shall make such repairs if, in its sole and reasonable discretion, it deems necessary. The City shall also, within ten (10) days of the inspection, notify CONTRACTOR of any initial necessary maintenance issues, such as lack of clay on courts, and the CONTRACTOR shall make such initial repairs within ten (10) days from notice. Notwithstanding the preceding, nothing in this Subsection 2.2 shall be deemed to release and/or excuse CONTRACTOR from its ongoing maintenance responsibilities throughout the Term of this Agreement including, without limitation, those prescribed in Section 11 hereof and Exhibit XXXX attached hereto.

2.3 This Agreement is subject to all existing utility lines or facilities, rights of way, and ingress and egress to City-retained areas, and the City's right to replace and/or maintain same, whether or not such matters have been recorded in the Public Records of Miami-Dade County, Florida. This shall include, but not be limited to, any and all underground and aboveground utilities located on the Center. The City also reserves the right to construct, install and maintain utilities that it deems, in its sole discretion, to be necessary or beneficial to the operation of the City. City agrees to give CONTRACTOR reasonable notice prior to commencing any such construction, installation, or maintenance of utilities that may result in a temporary closure of a court or courts, or any other portion of the Center. CONTRACTOR reserves the right to cancel or otherwise close all other portions of the Center including specific banks of courts, until such time as the work is completed or the closed Center or portion thereof can be re-opened, whichever comes first. Any disturbance or damage to City-owned or City-authorized utilities located on, under, or over the Center, caused as a result of CONTRACTOR'S negligence, shall be promptly repaired at CONTRACTOR'S expense.

SECTION 3. USE(S).

The CONTRACTOR is hereby authorized to conduct the following kind(s) of businesses and provide the following kind(s) of services within the Center, all at its sole cost and expense:

3.1 Public Tennis Facility.

CONTRACTOR agrees it will use the Center solely for the operation of first-class public tennis facilities. This use shall include the operation of the tennis courts; pro shop; food and beverage concession facilities that do not infringe on the City Vending Contracts (as defined in Section 3.3.6 herein) and which shall also require the prior written approval of the City; and CONTRACTOR's office. CONTRACTOR's services in connection with the uses set forth herein shall include those services proposed by CONTRACTOR in its response to the RFP, as attached and incorporated in Exhibit XXXX hereto, and permitted Special Events (as defined in Section 17) related to such public tennis center activities; provided, however, that in the event of a conflict between Exhibit XXXX and the terms of this Agreement, the terms of this Agreement shall take precedence.

No other use, business, or services shall be conducted by CONTRACTOR at the Center without the prior written consent of the City Manager.

CONTRACTOR agrees, acknowledges, covenants and represents to the City that the Center are for the use by the public; that such public use is a prime consideration; and must be balanced accordingly with the services to be provided by the CONTRACTOR, without restricting, or in any way limiting, the public access, nature, or ambiance of the Center. Accordingly, CONTRACTOR agrees, acknowledges, covenants and represents to City that the public's right to use the Center shall not be infringed upon by any activity of CONTRACTOR. This includes, without limitation, the monopolization of courts for lessons during identified "peak times".

CONTRACTOR hereby agrees, acknowledges, covenants, and represents to City that, during the term of this Agreement, it shall continually provide high-quality, first-class affordable tennis services to the City's residents and visitors; to meet the demands of the City's hotel community for access to high quality, first-class tennis facilities within Miami Beach; and to progressively upgrade tennis service at the Center throughout such Term.

3.2 Prohibited Activities.

CONTRACTOR will conduct its operations so as to maintain a reasonably quiet and tranquil environment for the adjacent areas and make no public disturbances.

CONTRACTOR shall not use the Center for any unlawful purpose and shall comply with all laws and permitting requirements now in force or hereafter adopted, applicable to the Center, and/ or uses and businesses conducted on the Center. CONTRACTOR agrees not to use the Center for, or to permit the operation of, any offensive, noisy or dangerous activity, nuisance or anything against public policy. There shall be no living quarters at the Center, nor shall anyone be permitted to live at the Center. Except as may result from acts of force majeure, CONTRACTOR agrees that it will not allow the Center to become unoccupied or vacant. CONTRACTOR shall take appropriate precautions to prevent fire on the Center; maintaining existing fire detection devices and extinguishing equipment at all times. CONTRACTOR will not permit the outside use of any musical instrument or noise-making device at the Center, which would be in violation of the City's Noise Ordinance, as same may be amended from time to time.

3.3 Food and Beverage Service.

3.3.1 CONTRACTOR may prepare or cause to be prepared for sale within City-approved locations within the Center, such cooked, prepared, and/or prepackaged foods and such

non-alcoholic beverages available for sale, as approved by the City Manager. As referred to herein, "prepared" foods and/or beverages shall be defined as including food that is prepared or re-heated in a microwave and/or hot beverages such as coffee and tea but shall exclude cooking/heating of food through the use of conventional cooking methods, such as stove top/conventional oven.

- 3.3.2 All food and beverage service to be offered must obtain the prior written approval of the City Manager. The City Manager shall also approve, in writing, the types of food and beverages, and prices for same, to be sold at the Center, prior to such sale; and shall further approve any changes, whether as to type of food and beverages to be sold, or as to changes in prices, in writing, prior to implementing a change. CONTRACTOR shall be solely responsible for updating and maintaining a current list (Menu) of all food and beverages, and prices for same, throughout the term of this Agreement. As of the Commencement Date, the City and CONTRACTOR have hereby approved the Menu, attached hereto and made a part hereof as Exhibit XXXX.
- 3.3.3 All food and beverages sold at the Center will be properly prepared and served in compliance with all applicable health and sanitary standards. The quality of food, food costs, and service shall be comparable to other municipal tennis center in the Miami-Dade County area. All food and beverage dispensing facilities shall be approved by the City and shall be maintained in a clean and sanitary manner. All food and beverages sold are intended for consumption on the Center's premises and shall be dispensed from inside the Center. Food and beverage containers for items permitted to be taken outside approved dispensing facilities will be subject to regulation by the CONTRACTOR for the purpose of controlling and preventing litter and promoting sustainability.
- 3.3.4 Food and beverage services shall be offered to patrons at all times as a reasonable demand for such service exists. All required licenses, permits and other certifications necessary to provide food and beverage services must be obtained and maintained by the CONTRACTOR at its sole cost.
- 3.3.5 Cooking and heating of food at the Center shall be considered by the City Manager, in writing, on a case by case basis and, if approved, such approval shall be in writing and shall only be permitted for Special Events (as defined in Section 17). For purposes of this subsection 3.3, "cooking and heating" shall not include a prohibition against food that is prepared or re-heated in a microwave and/or hot beverages such as coffee and tea.
- 3.3.6 Notwithstanding anything contained in this Section 3, or in the Agreement, CONTRACTOR's food and beverage service shall be subject to and shall not, under any event, conflict with, or otherwise violate, the City's exclusive vending contract with Coca-Cola Refreshments USA, Inc. d/b/a Florida Coca-Cola Bottling Company and Coca-Cola North America, a division of the Coca-Cola Company ("Coca-Cola Contract") and the City's exclusive vending contract with Bettoli Trading Corp. ("Bettoli Contract") (collectively referred to herein as the "City Vending Contracts"); copies of which are attached hereto and made a part hereof as composite Exhibit XXXX.

3.4 Sale of Tennis Pro Shop Related Items and Services.

CONTRACTOR may offer for sale those tennis related items such as tennis balls, tennis racquets, shoes, shirts, towels, etc., and offer related services such as equipment and ball machine rentals, racquet restringing, and grip replacement. Prices shall be substantially in accordance with the price ranges of other similar public tennis centers. A list of all items and services to be offered for sale, and the respective price ranges for same, must be approved in writing by the City Manager, prior to such sales and/or additions being implemented, and

updated, as deemed necessary, at the discretion of the City Manager. As of the Commencement Date, the City and CONTRACTOR have approved the types of merchandise which may be sold at the pro shop ("Pro Shop Merchandise"), attached hereto and made a part hereof as Exhibit XXXX. CONTRACTOR will provide a club basket available for use on a first come first serve basis for members and resident nonmembers. The club basket will be for a fee of \$10.00 per hour for members and \$20.00 per hour plus court fees for nonmembers. Usage of the club basket will be limited to no more than 2 players on a court.

3.5 Hurricane Evacuation Plan.

CONTRACTOR agrees to comply with the City's Hurricane Evacuation Plan and will cooperate fully with the instructions given by the City's representative to initiate the plan immediately upon notice of the issuance of a Hurricane Warning by the Miami-Dade County Office of Emergency Management. CONTRACTOR shall, at a minimum, secure the Center and all related materials and be responsible for the removal and reinstalling of windscreens in accordance with the procedures included in the City's Recreation Division Hurricane Evacuation Plan.

3.6 Personnel Background Checks.

CONTRACTOR shall comply with the requirements of Sections 1012.32 and 1012.465, Florida Statutes, requiring that only those employees who have successfully passed the background screening required by the referenced statutes, and who meet the standards established by the statutes, be allowed access to the Center and/or allowed to perform services under this Agreement. This requirement shall also extend to all Contractor representatives, agents, independent contractors, sub-contractors, or volunteers (such employees, representatives, agents, independent contractors, sub-contractors, or volunteers of CONTRACTOR shall be collectively referred to herein as "Personnel") performing duties under this Agreement.

The Personnel shall undergo the aforesaid background screening and a drug screening, as well as a credit history check for those positions that require the handling of money (collectively referred to herein as "Background Check Process") prior to entering the Center to begin employment and/or deliver services. The Background Check Process will be conducted by the City of Miami Beach Human Resources Department. CONTRACTOR will bear the cost, (currently estimated at approximately \$82.50 per employee, but subject to change from time to time), of acquiring the required Background Check Process, and any fee imposed by the Florida Department of Law Enforcement to maintain the records related to the background screening provided with respect to CONTRACTOR and its Personnel. Employment may be contingent upon satisfactory results as determined by the City.

The Personnel shall not be permitted to work at the Center until such time as the Background Check Process has been completed and the Personnel cleared to perform duties under this Agreement. If any Personnel is away from the job for a period of 45 or more days, the City will require a new Background Check Process.

The CITY and CONTRACTOR agree and acknowledge that the failure of CONTRACTOR to perform any of the duties described in Subsection 3.6 shall constitute a material breach of this Agreement, for which the City reserves the right to terminate immediately and without further liability to the City. CONTRACTOR agrees to indemnify and hold harmless the City, its officers and employees of any liability in the form of physical or mental injury, death or property damage resulting in CONTRACTOR's failure to comply with the requirements of this Subsection 3.6, or Sections 1012.32 and 1012.465, Florida Statutes.

CONTRACTOR agrees to require all of its Personnel to notify the CONTRACTOR and the City of any arrest(s) or conviction(s) of any offense within 24 hours of its occurrence. CONTRACTOR further agrees to immediately notify the City upon becoming aware that one of its Personnel, who was previously certified as completing the Background Check Process, is subsequently arrested

or convicted of any disqualifying offense. **Failure by CONTRACTOR to notify the City of such arrest or conviction within 24 hours of being put on notice shall constitute a material breach of this Agreement entitling the City to terminate this Agreement immediately, without further liability to the City.**

Business Tax Receipts.

CONTRACTOR shall obtain, at its sole cost and expense, any and all business tax receipts required by law for the proposed uses contemplated in this Agreement.

Without limiting the generality of the foregoing, securing the requisite business tax receipts, in addition to completing the Background Check Process in accordance with Subsection 3.6 hereof, shall be required and obtained for **each** individual professional tennis instructor providing lessons and/or clinics at the Center.

SECTION 4. FINANCIAL REQUIREMENTS.

4.1 Performance Bond or Alternative Security.

On or before the Commencement Date, CONTRACTOR shall furnish the City Manager with one of the following:

- (i) A Performance Bond, in the amount of Fifty Thousand Dollars (\$50,000), to secure the faithful performance of this Agreement. A cash deposit, irrevocable letter of credit, the establishment of a joint trust or certificate of deposit (collectively, the "Alternate Security") may also suffice, as determined by the City in its discretion. The form of the Performance Bond or Alternate Security shall be as required and pre-approved by the City's Chief Financial Officer. In the event that a Certificate of Deposit is approved, it shall be a Fifty Thousand Dollar (\$50,000) one-year Certificate of Deposit in favor of the City, which shall be automatically renewed, the original of which shall be held by City. The CONTRACTOR shall be required to maintain said Performance Bond or Alternate Security, as accepted by City, in full force and effect throughout the Term of this Agreement.
- (ii) A letter, in a form satisfactory to the City's Chief Financial Officer, from a federally insured financial institution evidencing, as of the date of the letter, CONTRACTOR'S ability to provide the necessary funds to perform pursuant to the Agreement.

The parties agree and acknowledge that the preceding conditions (i)-(ii) are intended to be conditions subsequent to the City's approval of this Agreement. Accordingly, in the event that CONTRACTOR does not satisfy the aforestated conditions on or before the Commencement Date, then the City Manager may immediately, without further demand or notice, and without liability to the City, terminate this Agreement without being prejudiced as to any remedies which may be available to him for breach of contract.

4.2 Payment of Expenses, City's Minimum Guarantee, Payment to Contractor, Reports.

In consideration of the rights granted the CONTRACTOR pursuant to this Agreement, and CONTRACTOR'S further agreement and acknowledgement to perform and furnish the management and operational services, professional skills and qualified personnel, systems, and materials consistent with the management and operations of other first-class, high quality public tennis center, the City and CONTRACTOR herein agree that the CONTRACTOR shall collect and maintain (in accordance with generally acceptable accounting principles) on behalf of the City, all

revenues, ~~as such term is defined in subsection 4.2.2~~, generated at and from the Center including, but not limited to, all tennis instruction, lessons and clinics; court rental fees, sales, equipment rental, pro shop sales, and the sale and operation of food and beverage concessions.

All said revenues collected by the CONTRACTOR shall be deposited into an account of the CONTRACTOR, established pursuant to this Agreement, and to be maintained solely for the sole and exclusive purpose(s) of the management, operation and maintenance of the Center, pursuant to this Agreement (including, without limitation, to pay for all budgeted operational expenses arising from the management or operation of the Center pursuant to this Agreement). Interest accrued in the account shall be part of the operating income.

~~Subject to City's withdrawal rights, as set forth in subsection 4.2.1, CONTRACTOR is authorized to withdraw from such account amounts necessary to pay, or reimburse CONTRACTOR, for the payment of all operational expenses arising from the management and operation of the Center pursuant to this Agreement, including its management fee and payroll expenses.~~

CONTRACTOR shall submit, within twenty-five (25) days following the close of each month, copies of records and reports related to the receipts and expenditures with respect to all expenses and revenues generated during such month at the Center. Such records and reports shall be in a form satisfactory to the City's Chief Financial Officer, and shall include a comparison of revenues and expenses for the two (2) months prior to the report being submitted. **The City shall have no obligation whatsoever to reimburse CONTRACTOR for any cash flow deficiencies.**

CONTRACTOR, upon receipt thereof from the depository bank, shall submit to the City copies of all deposits, withdrawals, and bank statements concerning the account established for the Center pursuant to this subsection 4.2. Additionally, there shall be a reconciliation of all accounting within 15 working days following the completion of each Agreement year during the Term hereof.

4.2.1 Notwithstanding anything to the contrary in this Subsection 4.2, the City shall, without limitation, ~~withdraw or be paid from the established bank account~~, on the last work day of each month during the Term of this Agreement, the following amounts:

- 1) The CONTRACTOR shall guarantee and pay to the City a monthly minimum fee to be paid on a monthly basis. The minimum acceptable annual amount shall be no less than \$100,000.00

Terms to be negotiated with CONTRACTOR after RFP process.

4.2.2 During the Term of this Agreement, CONTRACTOR shall prepare and submit to the City, prior to October 1st of each fiscal year (or portion thereof) that is within the Term, a proposed, detailed line-item annual operating budget for the Center, in compliance with a format reasonably requested by the City's Chief Financial Officer. CONTRACTOR shall also prepare and submit, prior to October 1st of each fiscal year (or portion thereof) that is within the Term, a cash flow budget, based on its submitted operating budget for such fiscal year. The operating budget and the cash flow budget shall be approved by the Chief Financial Officer, with such modifications as the Chief Financial Officer shall make.

The CONTRACTOR shall provide a monthly activity report/revenue report which shall be submitted to the City by the 10th day of each month. The monthly reports shall include, but not be limited to, the following information:

- (A) a comprehensive description of the work performed, profit/loss reports for clinics, tournaments, lessons, etc. detailing revenues generated in the prior month, expenses incurred in the prior month, and other performance measures as determined by the City.
- (B) a work plan to adequately address Continuous Quality Improvement goals in the CONTRACTOR's management plan.
- (C) a maintenance plan to adequately address court and facility maintenance in the CONTRACTOR's management plan.
- (D) the City reserves the right to add or modify the items required in the monthly report, as the City deems necessary, in its sole and reasonable discretion, in order to adequately monitor performance of the CONTRACTOR.

4.2.3 Costs incurred by CONTRACTOR that are required to be covered by the City pursuant to this Agreement, if any ("City Cost(s)"), may be reimbursed from the deposit account, at City's sole discretion, upon prior written notice to the City, and prior written consent from City Manager to process said reimbursement. A reimbursement for a City Cost shall not be deemed to be gross revenue of the Center for purposes of Section 4.2.2.

4.3 Sales and Use Tax.

Payment of any required Florida State Sales and Use Tax shall be the responsibility of CONTRACTOR. It is the City's intent that it is to receive all payments due from CONTRACTOR (as contemplated in 4.2.1) as net of such Florida State Sales and Use Tax.

SECTION 5. MAINTENANCE AND EXAMINATION OF RECORDS.

CONTRACTOR shall maintain current, accurate, and complete financial records on an accrual basis of accounting related to its operations pursuant to this Agreement. Systems and procedures used to maintain these records shall include a system of internal controls and all accounting records shall be maintained in accordance with generally accepted accounting principles and shall be open to inspection and audit, but not photocopying, by the City Manager upon reasonable prior request and during normal business hours. Such records and accounts shall include a breakdown of revenues, expenses, and profit and loss statements. CONTRACTOR shall maintain accurate receipt-printing cash registers or a like alternative at the Center which will record and show the payment for every sale made or service provided at the Center, and such other records shall be maintained as would be reasonably required by an independent CPA in order to audit a statement of annual revenues and profit and loss statement pursuant to generally accepted accounting principles.

SECTION 6. INSPECTION AND AUDIT.

CONTRACTOR shall maintain its financial records pertaining to its operations for a period of three (3) years after the conclusion of any contract year and such records shall be open and available to the City Manager or his designee, as deemed necessary by the City Manager or his designee, but shall not be subject to photocopying.

CONTRACTOR shall maintain all such records at its principal office, currently located at XXXXXXXX or, if moved to another location outside the City of Miami Beach, all such records shall be relocated, at CONTRACTOR'S expense, to a location in Miami Beach, within ten (10) days' written notice from the

City.

The City Manager or his designee shall be entitled to audit, but not photocopy, CONTRACTOR'S records pertaining to its operation as often as it deems reasonably necessary throughout the term of this Agreement, and three (3) times within the three (3) year period following termination of the Agreement, regardless of whether such termination results from the natural expiration of the term or for any other reason. The City shall be responsible for paying all costs associated with such audits, unless the audit(s) reveals a deficiency of five percent (5%) or more in CONTRACTOR'S statement of revenues for any year or years audited, in which case CONTRACTOR shall pay to the City, within thirty (30) days of the audit being deemed final (as specified below), the cost of the audit and a sum equal to the amount of the deficiency revealed by the audit, plus interest; provided, however, the audit shall not be deemed final until CONTRACTOR has received the audit and has had a reasonable opportunity to review the audit and discuss the audit with the City. Nothing contained within this Section shall preclude the City's audit rights for resort tax collection purposes. CONTRACTOR shall submit, within sixty (60) days from the end of each calendar year, an audited annual statement of revenues, in a form consistent with generally accepted accounting principles.

It is CONTRACTOR'S intent to stay informed of comments from and suggestions by the City regarding CONTRACTOR'S performance under the Agreement. Within thirty (30) days after the end of each contract year, CONTRACTOR and City shall meet to review CONTRACTOR's performance under the Agreement for the previous contract year. At the meeting, CONTRACTOR and City may discuss quality, operational, maintenance and any other issues regarding CONTRACTOR's performance under the Agreement.

SECTION 7. TAXES, ASSESSMENTS, AND UTILITIES.

- 7.1 CONTRACTOR agrees to and shall pay before delinquency all taxes (including but not limited to resort taxes) and assessments of any kind assessed or levied upon CONTRACTOR and with and/ or against the Center, except as provided in subsection 7.2, by reason of this Agreement or by reason of the business or other activities of CONTRACTOR upon or in connection with the Center. CONTRACTOR will have the right, at its own expense, to contest the amount or validity, in whole or in part, of any tax and/or assessment by appropriate proceedings diligently conducted in good faith.

CONTRACTOR may refrain from paying a tax or assessment to the extent it is contesting the assessment or imposition of same in a manner that is in accordance with law; provided, however, if, as a result of such contest, additional delinquency charges become due, CONTRACTOR shall be responsible for such delinquency charges, in addition to payment of the contested tax and/or assessment, if so ordered.

CONTRACTOR shall also pay for any fees imposed by law for licenses or permits for any business or activities of CONTRACTOR at the Center under this Agreement.

The CITY shall be responsible for payment of utilities used by, for, or on behalf of the operations contemplated herein including, telephone, basic cable, electricity, and water and sewer.

7.2 Procedure If Ad Valorem Taxes Assessed.

Notwithstanding Subsection 7.1, the parties agree that the operations contemplated herein are intended for public purposes and, therefore, no ad valorem taxes should be assessed by the Miami-Dade County Tax Appraiser. If, however, said taxes are assessed, City and CONTRACTOR agree that CONTRACTOR shall be responsible for real estate taxes which are

assessed against the portion of the Center's premises, more particularly described in the attached Exhibit XXXX, which describes the portion of the Center's premises being managed by CONTRACTOR at the Flamingo Park Tennis Center. If the entire City folio, where the Flamingo Tennis Center is located, is assessed and the Miami-Dade County Tax Appraiser does not identify which portion of the City folio relates to the CONTRACTOR's Area, CONTRACTOR shall be responsible for its proportionate share, determined by dividing the square footage managed by CONTRACTOR, which has been depicted on Exhibit XXXX, by the square footage for the City folio where the Flamingo Park Tennis Center is located.

SECTION 8. EMPLOYEES AND INDEPENDENT CONTRACTORS.

- 8.1 CONTRACTOR agrees that during the Term of this Agreement, _____ (the "Principal") shall have active, ongoing direct participation in the day to day operation, maintenance and management of the Center. In the event that the Principal is no longer associated with CONTRACTOR, or otherwise ceases to participate in the day to day operation, maintenance, and management of the Center pursuant to this Agreement, then the City, at its sole option, may terminate this Agreement for cause pursuant to Section 15. In the alternative, should the City not opt to terminate this Agreement as provided therein, it shall have prior written approval as to any replacement of the Principal subsequently offered by the CONTRACTOR.

In connection with the performance of its responsibilities hereunder, CONTRACTOR may hire Personnel (as defined in Subsection 3.6 herein), who will be the Personnel of the CONTRACTOR and not of the City, and who will be subject to a background Check Process, as set forth in Subsection 3.6 herein, at the expense of the CONTRACTOR. CONTRACTOR shall provide an adequate number of Personnel and man-hours in order to perform the services required under this Agreement to the satisfaction of the City. CONTRACTOR shall select the number, function, qualifications (as stated in the Job Descriptions provided in the attached Exhibit XXXX), compensation, including benefits (if any), and may, at its discretion and at any time, adjust or revise the terms and conditions relating to such Personnel, in order to ensure an adequate number of Personnel and man-hours to the satisfaction of the City. The CONTRACTOR must provide the City a copy of the Personnel Contract detailing the terms of employment for coaches, instructors, maintenance and office personnel.

- 8.2 The CONTRACTOR agrees that all personnel for the Center, shall be certified Tennis Professionals by USPTA, USTA, or USPTR or equivalent. The CONTRACTOR and personnel must demonstrate knowledge and experience in tennis instruction and related activities, facility management, tennis court maintenance and related activities, as well as, knowledge of the legal requirements that are involved in this type of operation. There must be onsite management by the CONTRACTOR at the Tennis Center during operating hours.
- 8.3 CONTRACTOR's Personnel shall wear clean appropriate apparel to include uniforms/name tags, such that Center patrons can easily identify CONTRACTOR and its Personnel. All Personnel furnished to the City of Miami Beach must be uniformed. Each uniform shall display CONTRACTOR's name and logo, which logo shall be subject to approval by the City. Uniforms must be provided at the CONTRACTOR's expense and may not be charged to an employee or deducted from an employees' paycheck, therefore reducing the hourly pay rate to less than the living wage rate required under the City's Living Wage Ordinance, as same may be amended from time to time.
- 8.4 Independent/Sub-contractors/Third Party Professionals shall not be permitted at the Center. Independent/Sub-contractors/Third Party Professionals include, but are not limited to, a resident/nonresident:

- (A) Who teaches or gives tennis lessons for a fee independent of CONTRACTOR;
- (B) Who teaches on a court with a ball basket and with more than three balls with one or more players independent of CONTRACTOR; and
- (C) Who collects money for instruction and/or lesson independent of the City.

- 5 8.5 All Personnel shall observe all the graces of personal grooming. The CONTRACTOR shall hire Personnel to work in its operation who are neat, clean, qualified and efficient and shall comport themselves in a professional and courteous manner and be in conformity with the City's Customer Service standards, as set forth in the attached Exhibit "I". If the City deems it appropriate, the CONTRACTOR and its Personnel may be required to attend Customer Service training as conducted by the City. The CONTRACTOR and any Personnel hired by same shall comply with the pre-employment requirements and standards as established by the City of Miami Beach's Human Resources Department. If CONTRACTOR materially fails to comply with these provisions, the City may send notice of default. The CONTRACTOR shall have an experienced manager or managers overseeing the Centers and related operations at all times the Center are open to the general public.

SECTION 9. HOURS OF OPERATION & COURTS USAGE.

- 9.1 The CONTRACTOR shall open and operate the Center for play from 8:00 A.M. to 10:00 P.M. Monday through Friday and 8:000 A.M. to 9:00 P.M. Saturday and Sunday, with the exception of closures due to weather conditions or events of force majeure permitting, and certain holiday agreed upon by the CONTRACTOR and the City of which proper signage and notification to patrons must be adhered to.
- 9.2 Any change in the hours of operation shall be at the City's sole option and discretion, and any request by CONTRACTOR for an increase or decrease in same shall be subject to the prior written approval of the City Manager.
- 9.3 Court's Usage.
- 9.3.1 The CONTRACTOR acknowledges and agrees to prioritize utilization of courts for public usage by restricting lesson/clinic/programming courts not to exceed six (6) courts at the Flamingo Tennis Center, during peak hours of play (7:30 AM to 11:00 AM and 4:00 PM to 7:00 PM). Courts are not to be booked or reserved by the professional tennis instructors for lessons more than one (1) day in advance. The term lesson shall mean a unit of instruction on an individual or group basis for which payment is received by the CONTRACTOR in addition to the agreed upon court fees referenced in Exhibit XXXX.
- 9.3.2 Additional court usage for lessons, programs and clinics during non-peak hours shall be subject to the prior written approval of the City. At no time shall more than 50% of all courts be utilized for lessons, programs and clinics until 10 minutes after any non-peak hour and there are no tennis patrons waiting for a court, without the prior written approval of the City. CONTRACTOR must use due diligence when assigning courts for open play and lessons to include: (a) alternating courts where lessons are taught to avoid overplaying a court or battery of courts and (b) separating open play courts from lesson courts to avoid injury. CONTRACTOR can allow for court reservations to be made on hour or half hour intervals as appropriate. Reservations for doubles play shall be for up to two (2) hours
- 9.4 Public Benefits.
- 9.4.1 The CONTRACTOR agrees that the City's Parks and Recreation Department programs or co-sponsored programs will have use of at least 2 courts at the Center, at no charge to

the City, twice per week, for a minimum of two hours for each court, between the hours of 11:00 a.m. and 5:00 p.m., and any time after 7:00 p.m., to provide free instructional lessons to after-school participants. Use of courts pursuant to the immediately preceding sentence shall be deemed to be the utilization of courts for public usage.

- 9.4.2 The CONTRACTOR also agrees to provide fee waivers and/or fee reductions in pricing for programs (i.e. clinics, academies, lessons, camps, etc.) for those City of Miami Beach residents from low socio-economic backgrounds who qualify. The CONTRACTOR agrees to utilize the same criteria for determining eligibility for fee waivers or reductions as being used by the City of Miami Beach Parks and Recreation Department at the time of the request. Fee waivers do not apply to private lessons unless agreed upon by CONTRACTOR.
- 9.4.3 The CONTRACTOR shall also offer free and/or affordable programming for Miami Beach residents with disabilities (i.e. Wheelchair Tennis) and for Miami Beach Senior residents. The CONTRACTOR will make provisions for summer and specialty camps, which camp programs will include, without limitation, camp programs for people with disabilities and for Seniors based on the established Parks and Recreation Department format.
- 9.4.4 The CONTRACTOR shall also offer academies, tournaments, special events and community activations that attract and engage the diverse Miami Beach community.
- 9.4.5 Additionally, in connection with the Parks and Recreation Department summer camp program ("Parks Summer Program"), Contractor agrees to provide two instructors, who will provide tennis classes for the participants enrolled in the Parks Summer Program, for one week during the scheduled Parks Summer Program, for a total of ten (10) hours, typically between the hours of 9:30 am and 12:00 pm, for the total fee of \$850.00 ("Parks Tennis Camp"). CONTRACTOR and City shall reach an agreement with respect to the dates, times and location for the Parks Tennis Camp. The location for the Parks Tennis Camp may be at one of the Center or at Nautilus Middle School, with the Parks and Recreation Department being responsible for the transportation of the participants to the Parks Tennis Camp site and CONTRACTOR ensuring that two qualified instructors provide the requisite instruction at the Parks Tennis Camp site.

SECTION 10. TENNIS FEES, CHARGES AND PROGRAMS & RELATED SERVICES TO BE PROVIDED.

- 10.1 Prices charged shall comply with the City's established fees for hourly tennis court play, annual permits, other specialized play and the youth tennis policy, and shall be in accordance with the information included in Exhibit XXXX attached hereto.
If the play time of a tennis court user (for a lesson, clinic, etc.) is interrupted due to weather, resulting in less than 30 minutes of play, the tennis court user will be entitled to a reimbursement/pay-out/raincheck. If there is a weather interruption, but the play time exceeded 30 minutes, it will be at the discretion of the CONTRACTOR to offer a reimbursement/pay-out/raincheck. Furthermore, light fees will only be charged to non-members. Those purchasing memberships will not be required to pay light fees.
- 10.2 The Contractor must comply with the fee schedule for the professional tennis instruction that offers the tennis patron a choice in instructor level and hourly fee commensurate with the instructor's level, as agreed upon and listed in Exhibit XXXX, (to be provided by the CONTRACTOR) attached hereto. Any change of this said fee and instructor levels shall be approved by the City prior to implementation of fees.

- 10.3 Fees for hourly court rentals, lessons, clinics, merchandise, equipment rental, racket stringing or gripping, and food and beverage sales and any other related items or services to be sold must be prominently posted at the Center at those location(s) where such fees are normally paid. All fees and charges shall be competitive with those charged by comparable public tennis center in Miami-Dade and Broward Counties. Initial fees for programs, clinics and lessons are set forth in Exhibit XXXX (to be provided by CONTRACTOR) attached hereto.
- 10.4 The City shall approve in writing, in advance, any increase in fees from those currently set forth in Exhibit XXXX provided the CONTRACTOR shall have the right to increase fees in an amount equal to the amount of any sales and use tax increase enacted after the effective date of such exhibit or schedule without City's consent.
- 10.5 The CONTRACTOR agrees to provide the programs set forth in Exhibit XXXX. An implementation schedule of said services shall be provided by the CONTRACTOR within sixty (60) days of the Commencement Date. Said schedule and any modifications, additions or deletions to the list are subject to the prior approval of the City.
- 10.6 The CONTRACTOR shall be authorized to provide courts, free of charge, during professional tennis demonstrations, promotional events, clinics and lessons being offered to the public at no charge, subject to the prior written approval of the City.
- 10.7 The CONTRACTOR shall utilize the City's current recreation software system for the purposes of tracking reservations, financials, memberships, concessions, merchandise, etc. The CONTRACTOR shall have Tennis Module rights to the Flamingo Park Tennis Center computer software system. Additionally, phone and in-person reservations must be provided for by the CONTRACTOR all of which must be cross referenced to avoid overbookings, no-shows, and adherence to prioritization and utilization of courts for public usage by restricting lesson/clinic/programming courts during peak hours. All revenue collected at the Center must go through the City's secured recreation software systems. The City retains exclusive rights to all of the data.
- 10.8 Any print materials prepared by the CONTRACTOR for use of the Center shall have the approval of the City prior to printing. Materials must include the City designation/ logo and appropriate ADA (Americans with Disabilities Act) disclaimer.

SECTION 11. ALTERATIONS, MAINTENANCE, AND REPAIRS & SECURITY.

11.1 Building and Facilities Alterations.

Without the City's prior written approval, CONTRACTOR may not make alterations or additions to the Center. In the event of an emergency to prevent injury to persons or property, CONTRACTOR shall use reasonable efforts to secure the affected area and will immediately notify the City's Parks and Recreation Department to advise of said emergency. At that time the City will assess the situation, further secure the area in question, and determine means and method of repairs.

Any other alterations or additions shall be made at the CONTRACTOR'S sole cost and expense and shall become the property of the City upon termination of this Agreement unless otherwise agreed to by the City Manager in writing. CONTRACTOR shall not have the right to create or permit the creation of any lien attaching to City's interest in the Center as a result of any such alterations or additions.

11.2 Building(s) and Facilities Maintenance.

The City further acknowledges that the CONTRACTOR shall not be required to improve, repair, restore, refurbish, or otherwise incur any expense in improving or changing the condition of the Center, except for all costs in connection with the fulfillment of this Agreement including, without limitation, costs in connection with operating and furnishing the Center; costs in connection with the maintenance of the equipment; costs in connection with the upkeep of the tennis courts, to include surface clay purchase; and costs in connection with the daily maintenance and janitorial services of the Center including, without limitation, the following:

- (A) Windscreens
- (B) Nets (includes hardware)
- (C) Lines (includes hardware)
- (D) Algae and Weeds on courts
- (E) Restrooms (clean and stocked)
- (F) Pro Shop and facility cleanliness
- (G) Litter Control
- (H) Water coolers, ice, water and cups on the courts for patron use.
- (I) Interior Landscaping

Notwithstanding the forgoing, the City shall continue to maintain all electrical, HVAC, plumbing and foundation and structural systems, roofs, exterior walls, and sports lighting at the Center at its sole cost.

The City will maintain the grass areas in those portions surrounding the Center but not within the Center. The CONTRACTOR is responsible for servicing the landscaped area within the Center. The City shall conduct monthly inspections to ensure landscaped areas such as grass, shrubbery and trees in accordance with City standards to include but not limited to healthy, green and vigorous plant material.

CONTRACTOR shall submit to the City (for review and approval prior to the initiation of contract activities), a communication plan addressing routine, scheduled, and emergency maintenance and repair activities that may impact the operation of the Center. All communications shall be directed to the appropriate City staff.

11.3 Courts and Related Facilities Maintenance Standards.

The parties herein acknowledge, and CONTRACTOR agrees to be bound by the Minimum Maintenance Standards as delineated in Exhibit C, attached hereto, which include Tennis Court Maintenance Standards, as well as the Extremely Clean standards set forth in the City's cleanliness index, attached hereto as Exhibit A (collectively, the "Maintenance Standards"). The CONTRACTOR also agrees to comply with minimum standards set forth for the underground watering systems, as set forth by the builder of the Center (Fast-Dry at Flamingo) and shall attend all training necessary as required to accomplish this. The City shall conduct monthly maintenance inspections to ensure courts are up to industry standards. The CONTRACTOR will be responsible for corrective actions when identified within a reasonable amount of time based on industry standards for such repairs, or immediate corrective action shall be taken when it addresses life safety issues. If court maintenance deficiencies are found by City staff, the City may require court inspections from an outside vendor at the expense of the CONTRACTOR. The City will advise the CONTRACTOR of the findings and the CONTRACTOR must promptly respond to the findings in writing, addressing all findings including an action plan and time line for correcting any discrepancies identified in said findings. It is further understood that upon the request of the City, CONTRACTOR shall periodically, or upon the City's written request, provide the City Manager or his designee, with a maintenance report in a format approved by the City.

11.4 Recycling, Litter, Garbage and Debris Removal.

With respect to recycling, litter, garbage and debris removal, the CONTRACTOR shall provide, at

its sole cost and expense, receptacles within the confines of the Centers and shall provide a sufficient number of these receptacles for its own use and for the use of the public. Disposal of the contents of said receptacles and removal of litter, garbage and debris within the Center as well as recycling (collectively referred to herein as "Waste Removal Procedures"), shall be done on a daily basis, and shall be the sole cost and responsibility of the CONTRACTOR. Notwithstanding the foregoing, the CONTRACTOR shall be permitted to utilize the City's Waste Removal Procedures, which the City is currently receiving at the Center, as an in-kind service ("In-Kind Service"), at no additional cost to CONTRACTOR. Should the current In-Kind Service terminate at any time during the Term of this Agreement or should CONTRACTOR's use exceed the current In-Kind Service being provided at the Center, CONTRACTOR shall be responsible for securing and paying for separate and/or additional Waste Removal Procedures, which may include, without limitation, routine bulk trash pick-ups and labor costs associated therewith. The dumping or disposal of any refuse, discards, trash or garbage, generated by, or as a result of the operations on the Center, into any of the Miami Beach trash receptacles located within Flamingo Park, by the CONTRACTOR (including its staff and employees), shall be strictly prohibited unless previously agreed to by the City Manager or his designee.

11.5 Equipment.

The CONTRACTOR must provide and maintain, at its own cost and expense, all materials, labor, and any and all equipment required to operate the Center. Such equipment to be included as part of the CONTRACTOR's expense are:

- (A) Blowers
- (B) Trimmers
- (C) Hot/Water/Pressure Washing
- (D) Trash cans with Rollers
- (E) Brooms and Pans
- (F) Rakes
- (G) Ice Machine
- (H) Gilliberti
- (I) Court grooming materials (i.e. Aussie Sweeps, rollers, etc.)

The City has supplied the Center with equipment such as a Gilliberti, drag rakes and tines, line brushes, Aussie sweep mats, etc. that will be left for the CONTRACTOR at the center in "as is" condition. Any maintenance to such equipment or the replacement of the equipment shall be at the sole expense of the CONTRACTOR. An inventoried list of all equipment and quantities, identifying the equipment provided by the City upon Commencement Date of this Agreement and equipment to be purchased by CONTRACTOR is attached hereto as Exhibit XXXX, subject to periodic updates as the inventoried list changes. All equipment purchased for this Agreement shall be used by CONTRACTOR for performance of this Agreement and shall have a prominently displayed standardized logo to be approved the City. In the event any of the CONTRACTOR'S equipment or materials are lost, stolen, or damaged, they shall be replaced or repaired at the sole cost and expense of the CONTRACTOR in no more than five (5) days from date of loss, or if not possible, within such time frame, as promptly as reasonably possible, but in no event to exceed fifteen (15) days. The CONTRACTOR shall maintain, in accordance with the manufacturer's specifications and maintenance requirements, all equipment, whether City owned or owned by the CONTRACTOR, herein specified and purchased. All equipment shall be kept clean, fully functional and free of damage.

11.6 Orderly Operation.

The CONTRACTOR shall have a neat and orderly operation at all times and shall be solely responsible for the necessary housekeeping services for the Center to include bathroom supplies

at interior bathrooms. Exterior bathroom will be maintained by the City. The CONTRACTOR shall provide the City a list of all cleaning solvents, solutions, agents, chemicals, detergents, and any other fluids or materials used in the provision of the maintenance services, and their corresponding OSHA Material Safety Data Sheets, where applicable. There shall be no living quarters, nor shall anyone be permitted to live within the Center. CONTRACTOR shall make available all facilities within the Center under its control for examination during hours of operation by the City Manager or his designee.

11.7 No Dangerous Materials.

The CONTRACTOR agrees not to use or permit at the Center the storage and/or use of gasoline, fuel oils, diesel, illuminating oils, oil lamps, combustible powered electricity producing generators, turpentine, benzene, naphtha, propane, natural gas, or other similar substances, combustible materials, or explosives of any kind, or any substance or thing prohibited in the standard policies of fire insurance companies in the State of Florida. Any such substances or materials found within the Center shall be immediately removed.

Notwithstanding any contrary provisions of this Agreement, CONTRACTOR, after the Commencement Date, shall indemnify and hold City harmless from any loss, damage, cost, or expense of the City, including, without limitation, reasonable attorney's fees, incurred as a result of, arising from, or connected with the placement by CONTRACTOR, after the Commencement Date, but during the term of this Agreement, of any hazardous substance, or petroleum products on, under, in or upon the Center as those terms are defined by applicable Federal and State Statute, or any environmental rules and environmental regulations promulgated thereunder; provided, however, CONTRACTOR shall have no liability for any violation arising or damage incurred as a result of the willful misconduct or gross negligence of the City, its agents, servants or employees. The provisions of this Subsection shall survive the termination or earlier expiration of this Agreement.

11.8 Security.

The CONTRACTOR shall be responsible for and provide reasonable security measures that may be required to protect the Center and any of the equipment, materials and facilities thereon. Under no circumstances shall the City be responsible for any stolen or damaged equipment, materials and supplies, nor shall the City be responsible for any stolen or damaged personal property of CONTRACTOR'S patrons, guests, invitees, and/or other third parties.

11.9 Inspection.

The CONTRACTOR agrees that the Center and all facilities, equipment, and operations thereon may be inspected at any time during hours of operation by the City Manager or his designee, or by any other Municipal, County, State officer, or agency having responsibilities for inspections of such operations. The CONTRACTOR hereby waives all claims against the City for compensation for loss or damage sustained by reason of any interference (which interference, if by the City, must be reasonable) with the operations by any public agency or official in enforcing its or his duties or any laws or ordinances. Any such interference (which interference, if by the City, must be reasonable) shall not relieve the CONTRACTOR from any obligation hereunder.

SECTION 12. INSURANCE.

CONTRACTOR shall maintain, at its sole cost and expense, the following types of insurance coverage at all times throughout the term of this Agreement.

- a. Comprehensive General Liability in the minimum amount of One Million Dollars (\$1,000,000) per occurrence for bodily injury and property damage. This policy must also

contain coverage for Center operations, products and contractual liability.

- b. Workers Compensation Insurance as required under the Laws of the State of Florida.
- c. Automobile Insurance shall be provided covering all owned, leased, and hired vehicles and non-ownership liability for not less than the following limits:

Bodily Injury	\$1,000,000 per person
Bodily Injury	\$1,000,000 per accident
Property Damage	\$1,000,000 per accident

The policies of insurance referred to above shall not be subject to cancellation or change except upon at least thirty (30) days prior written notice to the City, and then only subject to the prior written approval of the City Manager or his designee. Prior to the Commencement Date, CONTRACTOR shall provide City with a Certificate of Insurance for each such policy. ALL POLICIES SHALL NAME THE CITY OF MIAMI BEACH FLORIDA AS AN ADDITIONAL NAMED INSURED. All such policies shall be obtained from companies authorized to do business in the State of Florida with an A.M. Best Insurance Guide (latest edition) rating acceptable to the City's Risk Manager, and any replacement or substitute company shall also be subject to the prior written approval of the City's Risk Manager. Should CONTRACTOR fail to obtain, maintain or renew the policies of insurance referred to above, in the required amounts, the City may, at its sole discretion, obtain such insurance, and any sums expended by City in obtaining said insurance, shall be repaid by CONTRACTOR to City, plus ten percent (10%) of the amount of premiums paid to compensate City for its administrative costs. If CONTRACTOR fails to repay City's expenditures within fifteen (15) days of demand, the total sum owed shall accrue interest at the rate of twelve percent (12%) until paid, and such failure shall be deemed an event of default hereunder.

SECTION 13. FINES AND PENALTIES .

The City reserves the right to levy fines against the CONTRACTOR when the City determines that CONTRACTOR is not meeting the necessary work requirements. The following table below depicts areas where fines will be levied:

Work Activity	Grace Period
Quality of Operations	24 hours
Personnel Shortages	4 hours
Personnel Payroll	24 hours
Payroll External Instruction	24 hours
Personnel Dress Code	8 hours
Equipment Deficiencies	72 hours
Supplies	8 hours
Program Management	24 hours
Communications	48 hours
Life Safety Maintenance	2 hours

Fines for failures to complete corrective action for any of the work activities listed above are as follows:

- \$100 after failing to complete corrective action after two (2) notifications
- \$200 after three (3) notifications
- \$500 after four (4) notifications

If additional time is required to complete corrective action, a written request must be submitted for approval to the City prior to the end of the grace period. The basis for the implementation of fines and penalties includes but is not limited to the following:

- Quality of Operations – Inability to provide service in a workmanlike and professional manner; failure to conform to professional and industry standards; unable to provide maintenance services in a manner in clean orderly and safe condition; and inability to meet the City's established tennis court maintenance standards in accordance with the Tennis Court Manufacturer's standards and guidelines for hydro-courts or other similar tennis court system.
- Personnel Shortages – Failure to provide a staffing plan that meets the maintenance coverage requirements of the service area, and/or failure to provide the necessary on-site personnel in accordance to the staffing plan approved by the City
- Personnel Payroll – Failure to pay personnel in a timely manner and based on the terms specified in the Personnel Contract.
- Personnel External Instruction – CONTRACTOR is responsible for ensuring that any external instruction engaged in by personnel must be such as to not directly or indirectly compete with the Tennis Center's business which includes private coaching and/or instruction at other City-owned neighborhood tennis courts.
- Personnel Dress Code – Failure of employees to meet uniform requirements, including wearing clean uniforms.
- Equipment Deficiencies – Inability to fully operate; in non-functional condition; in state of disrepair and or visibly damaged; lacking maintenance; and not generally maintained and in clean condition.
- Supplies – Failure to provide the supplies necessary for the proper execution of the program or maintenance service specified.
- Program Management - Failure to implement a comprehensive management program to respond to City and/ or stakeholder requests for services and maintenance issues covered by the Contract.
- Communications – Failure to submit an approved communications plan addressing routine, scheduled, and emergency maintenance and repair activities, and failure to provide timely notifications as previous prescribed.
- Safety Regulations – Failure to adhere to OSHA's most recently published Safety and Health Regulations and general Occupational Safety and Health Standards.

SECTION 14. INDEMNITY.

- 6 14.1 In consideration of a separate and specific consideration of \$10.00 and other good and valuable consideration the receipt and sufficiency of which are hereby acknowledged, CONTRACTOR shall indemnify, hold harmless and defend the City, its agents, servants and employees from and against any claim, demand or cause of action of whatsoever kind or nature arising out of error, omission, or negligent act of CONTRACTOR, its subcontractor(s), agents, servants or employees in the performance of services under this Agreement unless such claim, demand or cause of action arises as a result of the City's gross negligence or willful misconduct.

- 14.2 In addition, in consideration of a separate and specific consideration of \$10.00 and other good and valuable consideration the receipt and sufficiency of which are hereby acknowledged, CONTRACTOR shall indemnify, hold harmless and defend the City, its agents, servants and employees from and against any claim, demand or cause of action of whatever kind or nature arising out of any misconduct of CONTRACTOR not included in the paragraph in the subsection above and for which the City, its agents, servants or employees are alleged to be liable.
- 14.3 Subsections 14.1 and 14.2 shall survive the termination or expiration of this Agreement. Subsections 14.1 and 14.2 shall not apply, however, to any such liability, that arises as a result of the willful misconduct or gross negligence of the City, its agents, servants or employees.
- 14.4 Subrogation.
The terms of insurance policies referred to in Section 12 shall preclude subrogation claims against CONTRACTOR, the City and their respective officers, employees and agents.
- 14.5 Force Majeure.
Neither party shall be obligated to perform hereunder and neither party shall be deemed to be in default if performance is prevented by:
- a. fire which renders at least thirty percent (30%) of the cumulative facilities unusable and which is not caused by negligence of CONTRACTOR;
 - b. Earthquake; hurricane; flood; act of God; civil commotion occurring at the Center during or in connection with any event; or other matter or condition of like nature; or
 - c. Any law, ordinance, rule, regulation or order of any public or military authority stemming from the existence of economic or energy controls, hostilities, or war.

The parties hereto acknowledge that CONTRACTOR'S obligations and benefits hereunder may be negatively affected by an event of Force Majeure. If an event of Force Majeure occurs during the term of this Agreement, and provided further that CONTRACTOR'S payment(s) to the City for that contract year is greater than the applicable percentage payment, then the City Manager, in his sole discretion, may extend the term of this Agreement for a reasonable period of time; provided, however, such extension shall take effect only if CONTRACTOR agrees to such extension.

- 14.6 Labor Dispute.
In the event of a labor dispute which results in a strike, picket or boycott affecting the Center or operation described in this Agreement, CONTRACTOR shall not thereby be deemed to be in default or to have breached any part of this Agreement, unless such dispute shall have been caused by illegal labor practices or violations by CONTRACTOR of applicable collective bargaining agreements and there has been a final determination of such fact which is not cured by CONTRACTOR within thirty (30) days.
- 14.7 Waiver of Loss from Hazards.
The CONTRACTOR hereby expressly waives all claims against the City for loss or damage sustained by the CONTRACTOR resulting from fire, water, natural disasters/acts of God (e.g. hurricane, tornado, etc.), civil commotion, riot, or any other Force Majeure contemplated in Subsection 14.5 and Labor Dispute in Subsection 14.6 above, and the CONTRACTOR hereby expressly waives all rights, claims, and demands against the City and forever releases and discharges the City from all demands, claims, actions and causes of action arising from any of the

aforesaid causes.

SECTION 15. DEFAULT AND TERMINATION.

Subsections 15.1 through 15.3 shall constitute events of default under this Agreement. An event of default by CONTRACTOR shall entitle City to exercise any and all remedies described as City's remedies under this Agreement, including but not limited to those set forth in Subsection 15.4. An event of default by City shall entitle CONTRACTOR to exercise any and all remedies described as CONTRACTOR'S remedies under this Agreement, including but not limited to those set forth in Subsection 15.5.

15.1 Bankruptcy.

If either the City or CONTRACTOR shall be adjudged bankrupt or insolvent, or if any receiver or trustee of all or any part of the business property of either party shall be appointed, or if any receiver of all or any part of the business property shall be appointed and shall not be discharged within sixty (60) days after appointment, or if either party shall make an assignment of its property for the benefit of creditors, or shall file a voluntary petition in bankruptcy, or insolvency, or shall apply for reorganization or arrangement with its creditors under the bankruptcy or insolvency laws now in force or hereinafter enacted, Federal, State, or otherwise, or if such petitions shall be filed against either party and shall not be dismissed within sixty (60) days after such filing, then the other party may immediately, or at any time thereafter, and without further demand or notice, terminate this Agreement without being prejudiced as to any remedies which may be available to it for breach of contract.

15.2 Default in Payment.

In the event CONTRACTOR fails to submit any payment within five (5) days of its due date, there shall be a late charge of \$50.00 per day for such late payment, in addition to interest at the highest rate allowable by law (currently 18% per annum). If any payment and accumulated penalties are not received within fifteen (15) days after the payment due date, and such failure continues three (3) days after receipt of written notice thereof, then the City may, without further demand or notice, terminate this Agreement without being prejudiced as to any remedies which may be available to it for breach of contract; and may begin procedures to collect the Performance Bond or Alternative Security required in Section 4.1 herein.

15.3 Non-Monetary Default.

In the event that CONTRACTOR or the City fails to perform or observe any of the covenants, terms or provisions under this Agreement, and such failure continues thirty (30) days after written notice thereof from the other party hereto, such non-defaulting party may immediately or at any time thereafter, and without further demand or notice, terminate this Agreement without being prejudiced as to any remedies which may be available to it for breach of contract. In the event that a default is not reasonably susceptible to being cured within such period, the defaulting party shall not be considered in default if it shall, within such period, commence with due diligence and dispatch to cure such default and thereafter completes with dispatch and due diligence the curing of such default, but in no event shall such extended cure period exceed ninety (90) days from the date of written notice thereof. In the event a defaulting party cures any default pursuant to this subsection, it shall promptly provide the other party with written notice of same.

15.4 City's Remedies for CONTRACTOR'S Default.

If any of the events of default, as set forth in this Section, by CONTRACTOR shall occur, the City may, after notice (if required) and the expiration of cure periods, as provided above, at its sole option and discretion, institute such proceedings as in its opinion are necessary to cure such defaults and to compensate City for damages resulting from such defaults, including but not

limited to the right to give to CONTRACTOR a notice of termination of this Agreement. If such notice is given, the term of this Agreement shall terminate upon the date specified in such notice from City to CONTRACTOR. On the date so specified, CONTRACTOR shall then quit and surrender the Center to City pursuant to the provisions of Subsection 15.6. Upon the termination of this Agreement, all rights and interest of CONTRACTOR in and to the Center and to this Agreement, and every part thereof, shall cease and terminate and City may, in addition to any other rights and remedies it may have, retain all sums paid to it by CONTRACTOR under this Agreement, including but not limited to, beginning procedures to collect the Performance Bond or Alternate Security required in Section 4.1 herein. In addition to the rights set forth above, City shall have the rights to pursue any and all of the following:

- a. The right to injunction or other similar relief available to it under Florida law against CONTRACTOR; and or
- b. The right to maintain any and all actions at law or suits in equity or other proper proceedings to obtain damages resulting from CONTRACTOR'S default.

15.5 If any of the events of default, as set forth in this Section, by the City shall occur, the CONTRACTOR may, after notice (if required) and the expiration of the cure periods, as provided above, at its sole option and discretion, terminate this Agreement upon written notice to the City and/or sue for damages. Said termination shall become effective upon receipt of a written notice of termination by the City, but in no event shall CONTRACTOR specify a termination date that is less than sixty (60) days from the date of the written termination notice. On the date specified in the notice, CONTRACTOR shall quit and surrender the Center, to City pursuant to the provisions of Subsection 15.6.

15.6 Surrender of Center.

At the expiration of this Agreement, or earlier termination in accordance with the terms of this Agreement, CONTRACTOR shall surrender the Center in the same condition as the Center was prior to the commencement of this Agreement, reasonable wear and tear, and City maintenance and repair obligations, excepted. CONTRACTOR shall remove all its equipment, fixtures, personal property, etc. upon five (5)-business days written notice from the City Manager unless a longer time period is agreed to by the City. The CONTRACTOR'S obligation to observe or perform this covenant shall survive the expiration or other termination of this Agreement. Continued occupancy of the Center after termination of the Agreement without the City's approval shall constitute trespass by the CONTRACTOR and may be prosecuted as such. In addition, the CONTRACTOR shall pay to the City two hundred dollars (\$200) per day as liquidated damages for such breach of this Agreement.

15.7 Termination for Convenience.

Except for the first contract year during the Term of this Agreement, during which the City may only terminate this Agreement for cause, the City may terminate this Agreement at any time, at its convenience and without cause, upon providing the Contractor with sixty (60) days written notice. In the event of termination for convenience pursuant to this subsection, CONTRACTOR shall quit and surrender the Center to City pursuant to the provisions of Subsection 15.6 hereof.

SECTION 16. ASSIGNMENT.

Except as otherwise provided in this subsection, CONTRACTOR shall not assign; sublease; grant any concession or license; permit the use of by any other person other than CONTRACTOR; or otherwise transfer all or any portion of this Agreement and/or of the Center (all of the forgoing are herein after referred to collectively as "transfers"), without the prior written consent of the City, which consent shall not be unreasonably withheld.

If there is a change in control of CONTRACTOR, then any such change in control shall constitute a "transfer" for purposes of this Agreement and shall be approved by the City Commission prior to consummation of such change in control. "Change in control", for purposes hereof, shall mean a change of the ownership, directly or indirectly, of greater than 10% of the voting or ownership interest or right to profits in such CONTRACTOR, by means of one or more transfers, sales, mergers, consolidations, dissolutions or otherwise; provided that the foregoing shall not be deemed to include (i) a pledge or collateral assignment of the profits of CONTRACTOR in connection with any financing, provided such pledge or collateral assignment is subordinate to the rights of the City to the fees payable to the City pursuant to subsection 4.2.1 hereof; (ii) any transfer to other owners of CONTRACTOR or to trusts the beneficiaries of which are any owner(s) of CONTRACTOR or member(s) of their immediate family; or (iii) a change in the ownership of CONTRACTOR through a registered public offering of shares in CONTRACTOR ((i), (ii) and (iii) above collectively are referred to herein as the "Transfer Exclusions"). Except for the Transfer Exclusions, any change of the ownership, directly or indirectly, of 10% or less of the voting or ownership interest or right to profits in such CONTRACTOR (a "Minor Change"), by means of one or more transfers, sales, mergers, consolidations, dissolutions or otherwise, shall be subject to the approval of the City Manager.

CONTRACTOR shall notify the City of any proposed transfer, and shall notify the City Manager of any proposed Minor Change, prior to consummation of same and the City or the City Manager, as applicable, shall respond within thirty (30) days. In the event that any such transfer or Minor Change is approved, the transferee shall agree to be bound by all the covenants of this Agreement required of the transferor hereunder. Any transfer or Minor Change made without complying with this Section shall be null, void, and of no effect and shall constitute an act of default under this Agreement. Notwithstanding any such consent, or any permitted transfer or Minor Change under any provision of this Section, unless expressly released by the City, CONTRACTOR shall remain jointly and severally liable (along with each approved transferee, who shall automatically become liable for all obligations of the transferor hereunder with respect to that portion of the Agreement so transferred), and the City shall be permitted to enforce the provisions of this Agreement directly against CONTRACTOR or any transferee of the CONTRACTOR without proceeding in any way against any other person.

SECTION 17. SPECIAL EVENTS.

17.1 CONTRACTOR'S proposed uses, as defined in Section 3 herein, contemplates the production, promotion or sponsorship by the CONTRACTOR of tennis related special events at the Center. For purpose of this subsection 17.1 only, CONTRACTOR'S "Special Event" shall mean any event in which CONTRACTOR shall dedicate, and close to the general public, 50% or more of the Center's tennis courts. In the event CONTRACTOR does produce, promote or sponsor a Special Event at the Center, other than those provided for in this Agreement; it shall abide by the City's Special Events Permit Requirements and Guidelines. For any use, other than those provided for in this Agreement, a Special Events Permit may be required, and if required, shall be obtained through the City's Office of Arts, Culture and Entertainment. The City Manager's authorization must be obtained for any such Special Event. The City Administration shall evaluate requests for Special Events Permits on a case by case basis, in accordance with the City's Special Event Permit Requirements and Guidelines.

17.2 City Special Events.

Notwithstanding Subsection 17.1 above, and in the event that the City, at its sole discretion, deems that it would be in the best interest of the City, the City reserves the right to utilize the Center for City produced tennis related special events and/or other City sponsored special events

productions such as local and international tennis tournaments. In such cases, the City will coordinate with the CONTRACTOR to cooperatively produce such events. CONTRACTOR agrees that the number of courts utilized shall be determined by the City and that events will be held during the Center's operating hours. CONTRACTOR will provide, at no charge, a minimum of 224 court days for City sanctioned events. If additional courts are required that exceed the minimum of 224 court days, a usage fee of \$138.50 per court, per day shall be applied. This usage fee shall be subject to CPI increase. The City at any time may require the use of all courts at no cost to the City with the approval of the City Commission. Paid members of the Flamingo Park Tennis Center will have access to play at the Miami Beach Tennis Center throughout the duration in which courts are impacted from the City sanctioned special event. The City grants the CONTRACTOR a first right of refusal to retain any income related to the special event and/or production as it pertains to food and beverage concessions, stringing and merchandise sales. CONTRACTOR agrees that facility usage for events may include use of: locker rooms, activity rooms and office space, umpire chairs, umbrellas, coolers, scoreboards, net-sticks and the like. If negotiations between the City and the CONTRACTOR prove to be unsuccessful, the CONTRACTOR shall cease and desist operations during the term of, and in the area of the special event and/or production.

The City shall make its best effort to negotiate with CONTRACTOR but if unsuccessful the CONTRACTOR shall cease and desist operations during the term of, and in the area of the special event and/or production. If the CONTRACTOR is not required to close or chooses to remain open without interference to the special event and/or production, CONTRACTOR agrees to cooperate with the City. If the CONTRACTOR is allowed to remain open during special events and/or productions, the CONTRACTOR may be allowed to have in operation its normal daily complement of equipment and staff. "Normal" shall be defined as equipment and staff, approved by the City, that the CONTRACTOR has available for the public on a normal day, 365 days per year. Such equipment or staff shall not be increased or altered during special events and/or productions without the prior written permission of the City Manager. To the extent that the normal daily complement of equipment and staff is displaced by the special event and/or production, the CONTRACTOR may reallocate such displaced equipment and staff on a pro-rata basis within the Center not being utilized by the special event.

SECTION 18. NO IMPROPER USE.

The CONTRACTOR will not use, nor suffer or permit any person to use in any manner whatsoever, the Center or any facilities herein for any improper, immoral or offensive purpose, or for any purpose in violation of any Federal, State, County, or Municipal ordinance, rule, order or regulation, or of any governmental rule or regulation now in effect or hereafter enacted or adopted. The CONTRACTOR will protect, indemnify, and forever save and keep harmless the City, its agents, employees and contractors from and against damage, penalty, fine, judgment, expense or charge suffered, imposed, assessed or incurred for any violation, or breach of any law, ordinance, rule, order or regulation occasioned by any act, neglect or omission of the CONTRACTOR, or any of its subcontractors, employees or agents. In the event of any violation by the CONTRACTOR or if the City or its authorized representative shall deem any conduct on the part of the CONTRACTOR to be objectionable or improper, CONTRACTOR shall be deemed to be in default of this Agreement should CONTRACTOR fail to correct any such violation, conduct, or practice to the satisfaction of the City within twenty-four (24) hours after receiving written notice of the nature and extent of such violation, conduct, or practice.

SECTION 19. NOTICES.

All notices, consents, waivers, directions, requests or other instruments of communications provided for

under this Agreement, shall be deemed properly given if, and only if, delivered personally or sent by registered or certified U.S. mail, postage pre-paid, as follows:

IF TO THE CITY:

Jimmy L. Morales
City Manager
City of Miami Beach
1700 Convention Center Drive
Miami Beach, Florida 33139

With copies to:

John Rebar, Director
Parks and Recreation
2100 Washington Avenue
Miami Beach, Florida 33139

IF TO CONTRACTOR:

XXXXXXXXXX
XXXXXXXXXX
XXXXXXXXXX
XXXXXXXXXX

The CONTRACTOR and the City may change the above mailing address at any time upon giving the other party written notification. All notices under this Agreement must be in writing.

SECTION 20. LAWS.

20.1 Compliance.

CONTRACTOR shall comply with all applicable City, County, State, and Federal ordinances, statutes, rules and regulations, including but not limited to all applicable environmental City, County, State, and Federal ordinances, statutes, rules and regulations.

20.2 Governing Law.

This Agreement shall be deemed to have been made and shall be construed and interpreted in accordance with the laws of the State of Florida. In case of any inconsistency between the terms of this Agreement, and any applicable general or special law, said general, special law shall prevail.

20.3 Equal Employment Opportunity.

Neither CONTRACTOR nor any affiliate of CONTRACTOR performing services hereunder, or pursuant hereto, will discriminate against any employee or applicant for employment because of race, creed, sex, color, national origin, sexual orientation, and disability, as defined in Title I of ADA.

20.4 No Discrimination.

The CONTRACTOR agrees that there shall be no discrimination as to race, color, national origin, sex, age, disability, religion, income or family status, in its employment practices or in the operations referred to by this Agreement; and further, there shall be no discrimination regarding any use, service, maintenance, or operation within the Center. All services offered at the Center shall be made available to the public, subject to the right of the CONTRACTOR and the City to establish and enforce rules and regulations to provide for the safety, orderly operation and security of the Center.

Additionally, CONTRACTOR shall comply fully with the City of Miami Beach Human Rights

Ordinance, codified in Chapter 62 of the City Code, as may be amended from time to time, prohibiting discrimination in employment, housing, public accommodations, and public services on account of actual or perceived race, color, national origin, religion, sex, intersexuality, gender identity, sexual orientation, marital and familial status, age, disability, ancestry, height, weight, domestic partner status, labor organization membership, familial situation, or political affiliation.

SECTION 21. MISCELLANEOUS.

21.1 No Partnership.

Nothing contained in this Agreement shall constitute or be construed to be or create a partnership or joint venture between the City and CONTRACTOR.

21.2 Modifications.

This Agreement cannot be changed or modified except by agreement in writing executed by all parties hereto. CONTRACTOR acknowledges that no modification to this Agreement shall be binding on the City unless approved by the Mayor and City Commission except where such authority has been expressly provided herein to the City Manager or his designee.

21.3 Complete Agreement.

This Agreement, together with all exhibits attached hereto, constitutes all the understandings and agreements of whatsoever nature or kind existing between the parties with respect to the matters as contemplated herein.

21.4 Headings.

The section, subsection and paragraph headings contained herein are for convenience of reference only and are not intended to define, limit, or describe the scope or intent of any provision of this Agreement.

21.5 Binding Effect.

This Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective successors and permitted assigns.

21.6 Clauses.

The illegality or invalidity of any term or any clause of this Agreement shall not affect the validity of the remainder of the Agreement, and the Agreement shall remain in full force and effect as if such illegal or invalid term or clause were not contained herein unless the elimination of such provision detrimentally reduces the consideration or benefits that either party is to receive under this Agreement or materially affects the continuing operation of this Agreement.

21.7 Severability.

If any provision of this Agreement or any portion of such provision or the application thereof to any person or circumstance shall be held to be invalid or unenforceable, or shall become a violation of any local, State, or Federal laws, then the same as so applied shall no longer be a part of this Agreement but the remainder of the Agreement shall not be affected thereby and this Agreement as so modified shall remain in full force and effect.

21.8 Right of Entry.

The City, at the direction of the City Manager, shall at all times during hours of operation, have the right to enter into and upon any and all parts of the Center for the purposes of examining the same for any reason relating to the obligations of parties to this Agreement.

21.9 Not a Lease.

It is expressly understood and agreed that no part, parcel, building, facility, equipment or space is leased to the CONTRACTOR, that CONTRACTOR is a contractor providing management services for the City and not a lessee; and that the CONTRACTOR'S right to manage and operate the Center for the City shall continue only so long as this Agreement remains in effect.

21.10 Signage.

CONTRACTOR shall provide, at its sole cost and expense, any required signs on the Center. All advertising, signage and postings shall be approved by the City, and shall be in accordance with all applicable Municipal, County, State and Federal laws and regulations. Any signage posted by CONTRACTOR at the Center shall be subject to the prior written approval of the City as to size, shape and placement of same.

21.11 Conflict of Interest.

CONTRACTOR shall perform its services under this Agreement and conduct the professional tennis management and operations contemplated herein, in a manner so as to show no preference for other tennis operations/facilities owned, operated, managed, or otherwise controlled by CONTRACTOR with regard to its responsibilities pursuant to this Agreement.

21.12 Reasonableness.

Notwithstanding anything to the contrary in this Agreement, including but not limited to references to "sole option" or "sole discretion" or words of similar meaning, in each instance in which the approval or consent or other action of the City Commission or the City Manager or his designee is allowed or required in this Agreement, such approval, consent or other action shall not be unreasonably withheld, conditioned or delayed.

21.13 Procedure for Approvals and/or Consents.

In each instance in which the approval or consent of the City Manager or his designee is allowed or required in this Agreement, it is acknowledged that such authority has been expressly provided herein to the City Manager or his designee by the Mayor and City Commission of the City. In each instance in which the approval or consent of the City Manager or his designee is allowed or required in this Agreement, CONTRACTOR shall send to the City Manager a written request for approval or consent (the "Approval Request"). The City Manager or his designee shall have up to sixty (60) days from the date of Approval Request to provide written notice to CONTRACTOR approving of, consenting to or disapproving of the request. However, the City Manager or his designee's failure to consider such request within this time provided shall not be deemed a waiver, nor shall CONTRACTOR assume that the request is automatically approved and consented to. The Subsection shall not apply to approvals required herein by the Mayor and City Commission.

21.14 No Waiver.

No waiver of any covenant or condition of this Agreement by either party shall be deemed to imply or constitute a waiver in the future of the same covenant or condition or of any other covenant or condition of this Agreement.

21.15 No Third Party Beneficiary.

Nothing in this Agreement shall confer upon any person or entity, including, but not limited to subcontractors, other than the parties hereto and their respective successors and permitted assigns, any rights or remedies by reason of this Agreement.

SECTION 22. LIMITATION OF LIABILITY.

The City desires to enter into this Agreement placing the operation and management of the Center in the hands of a private management entity only if so doing the City can place a limit on its liability for any

cause of action for breach of this Agreement, so that its liability for any such breach never exceeds the sum of \$100,000.00. CONTRACTOR hereby expresses its willingness to enter into this Agreement with a \$100,000.00 limitation on recovery for any action for breach of contract. Accordingly, and in consideration of the separate consideration of \$100,000.00, the receipt of which is hereby acknowledged, the City shall not be liable to CONTRACTOR for damages to CONTRACTOR in an amount in excess of \$100,000.00, for any action for breach of contract arising out of the performance or non-performance of any obligations imposed upon the City by this Agreement. Nothing contained in this paragraph or elsewhere in this Agreement is in any way intended to be a waiver of limitation placed upon the City's liability as set forth in Florida Statutes, Section 768.28.

SECTION 23. VENUE.

This Agreement shall be enforceable in Miami-Dade County, Florida, and if legal action is necessary by either party with respect to the enforcement of any and all the terms or conditions herein, exclusive venue for the enforcement of same shall lie in Miami-Dade County, Florida. **CITY AND CONTRACTOR HEREBY KNOWINGLY AND INTENTIONALLY WAIVE THE RIGHT TO TRIAL BY JURY IN ANY ACTION OR PROCEEDING THAT CITY AND CONTRACTOR MAY HEREIN AFTER INSTITUTE AGAINST EACH OTHER WITH RESPECT TO ANY MATTER ARISING OUT OF OR RELATED TO THIS AGREEMENT OR THE CENTER.**

SECTION 24. FLORIDA PUBLIC RECORDS LAW.

Pursuant to Section 119.0701 of the Florida Statutes, if the CONTRACTOR meets the definition of "Contractor" as defined in Section 119.0701(1)(a), the CONTRACTOR shall:

- a) Keep and maintain public records that ordinarily and necessarily would be required by the public agency in order to perform the service;
- b) Provide the public with access to public records on the same terms and conditions that the public agency would provide the records and at a cost that does not exceed the cost provided in this chapter or as otherwise provided by law;
- c) Ensure that public records that are exempt or confidential and exempt from public records disclosure requirements are not disclosed except as authorized by law; and
- d) Meet all requirements for retaining public records and transfer to the City, at no City cost, all public records created, received, maintained and/or directly related to the performance of this Agreement that are in possession of the CONTRACTOR upon termination of this Agreement. Upon termination of this Agreement, the CONTRACTOR shall destroy any duplicate public records that are exempt or confidential and exempt from public records disclosure requirements. All records stored electronically must be provided to the City in a format that is compatible with the information technology systems of the City.

For purposes of this Article, the term "public records" shall mean all documents, papers, letters, maps, books, tapes, photographs, films, sound recordings, data processing software, or other material, regardless of the physical form, characteristics, or means of transmission, made or received pursuant to law or ordinance or in connection with the transaction of official business of the City.

CONTRACTOR'S failure to comply with the public records disclosure requirement set forth in Section

119.0701 of the Florida Statutes shall be a breach of this Agreement.

In the event the CONTRACTOR does not comply with the public records disclosure requirement set forth in Section 119.0701 of the Florida Statutes, the City may, at the City's sole discretion, avail itself of the remedies set forth under this Agreement and available at law.

SECTION 25. PROHIBITIONS REGARDING SALE OR USE OF EXPANDED POLYSTYRENE FOOD SERVICE ARTICLES.

Expanded polystyrene, a petroleum byproduct commonly known as Styrofoam, is neither readily recyclable nor biodegradable and takes hundreds to thousands of years to degrade. Expanded polystyrene is a common pollutant, which fragments into smaller, non-biodegradable pieces that are harmful to marine life, other wildlife, and the environment. The City's goals are to reduce the use of expanded polystyrene and encourage the use of reusable, recyclable, or compostable alternatives.

Expanded polystyrene means blown polystyrene and expanded and extruded foams that are thermoplastic petrochemical materials utilizing a styrene monomer and processed by any number of techniques including, but not limited to, fusion of polymer spheres (expandable bead foam), injection molding, foam molding, and extrusion-blown molding (extruded foam polystyrene).

Expanded polystyrene food service articles means plates, bowls, cups, containers, lids, trays, coolers, ice chests, and all similar articles that consist of expanded polystyrene.

CONTRACTOR agrees not to sell, use, provide food in, or offer the use of expanded polystyrene food service articles at any of the Center. A violation of this section shall be deemed a default under the terms of this Agreement. This subsection shall not apply to expanded polystyrene food service articles used for prepackaged food that have been filled and sealed prior to receipt by the CONTRACTOR.

IN WITNESS WHEREOF, the parties hereto have caused their names to be signed and their seals to be affixed, all as of the day and year first above written, indicating their agreement.

Attest:

For City:

RAFAEL E. GRANADO, CITY CLERK

DAN GELBER, MAYOR

For Contractor:

Print Name: _____

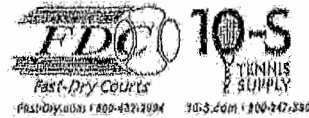
EXHIBIT C

FAST-DRY COURTS HYDROCOURT MAINTENANCE GUIDE

DRAFT

FDC HydroCourt Maintenance Guide

THANK YOU for choosing Fast-Dry Courts' HydroCourt - the finest tennis court available in the world. By treating your court with the same care and maintenance that you would provide any valuable piece of property, you'll be rewarded with a lifetime of outstanding tennis.



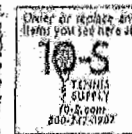
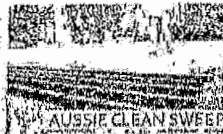
DAILY MAINTENANCE

SURFACE AGITATING:

Use a Steel Drag Broom by hand or the Court Rake or Gator Rake (Hydro) by tractor in the morning and at the end of the day to agitate the top layer of tennis court surfacing. This will help break up algae and hard spots. Use the Steel Hand Broom for those hard to reach spots. Note: Drag over lines at an angle.

If a smoother playing surface is desired, groom the surface with either the Aussie Clean Sweep or a Drag Brush. The Aussie Clean Sweep serves a dual purpose - as a surface leveling device (with the teeth in the up position), or as a debris remover (with the teeth in the down position). Note: Only use Aussie or Drag Brush on new courts until surface is firm.

Sweep the line tapes with a 10-S Linesman. If any surface material adheres to the line tape, use the Proline Scrubber.



MONTHLY MAINTENANCE

SCARIFY:

Scarify algae and hard areas with the Court Devil. A Scarifier Lute can be used for small areas and around the perimeter of the court. This is extremely important. Stay on top of this to avoid need of major scarifying. The Court Devil can be used over lines only if proper care is taken. Note: Drag over lines at an angle.

FAST-DRY:

Add 4-6 two 80-pound bags of HydroBlend tennis court surfacing per side per month (2 tons per year). This will help keep a uniform 1 inch of tennis court surfacing and will prolong major resurfacing. One of two bags of coarse blend may be added if a more coarse surface is desired.

INSPECT SURFACE:

Inspect and repair any surface damage. If baseline areas require divot repair, lute and redress as necessary. Remove excess dead material. Remove any algae, grass, lichens, moss or weed problems. Inspect tapes and nails.



To order material and supplies, call us at 800-247-3907 ✓

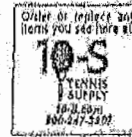
MONTHLY MAINTENANCE continued

CUTRINE (ALGAEICIDE)

Turn off HydroCourt water supply for 24 hours. Pour seven ounces of Catrina into each control box every three months. Don't pour the liquid onto the valves. Use Shockwave by spraying on mildew and algae areas.

ROLLING:

Roll new courts daily for +/- 10 days to obtain desired compaction with a Roller. (Newly built or resurfaced courts may only be partially compacted). After initial compaction is obtained, roll courts as needed (perhaps once a month) to keep Tape and Nails level.



ANNUAL & BI-ANNUAL MAINTENANCE

MINOR RESURFACING:

Every two years, the court should be completely resurfaced by a competent, licensed and insured HydroCourt contractor. The contractor should:

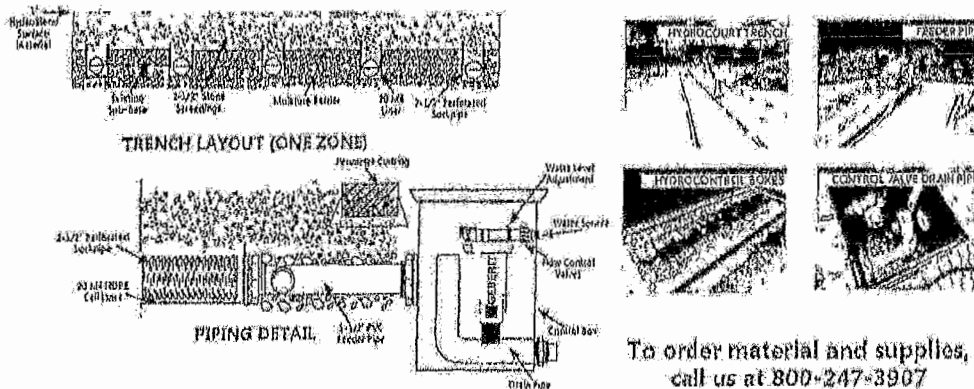
- Remove Tape & Nails
- Remove all loose materials and debris
- Scarify as needed
- Patch and level surface as required
- Add +/- 80 lb. (80 pound) bags of HydroBlend
- Install new Tape & Nails
- Roll until desired compaction is reached

MAJOR RESURFACING:

Laser taper resurface every five to eight years by competent, licensed and insured HydroCourt contractor.



EDCO HydroCourt

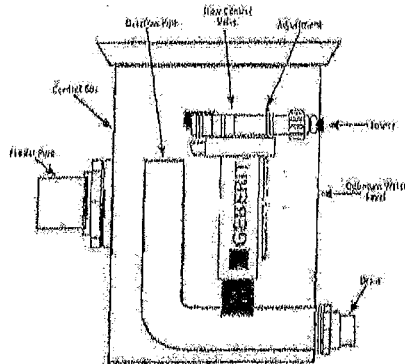


Water Level Guide

The water level in each zone is controlled by the control box for that zone. The control boxes are located adjacent to the court. The elevation of the water in each control box will reflect the elevation of the water in each corresponding zone under the court surface.



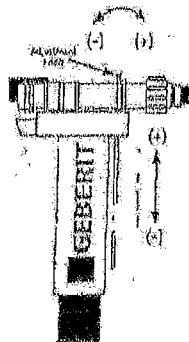
WATER LEVEL CONTROL BOX



Usually, a water level that is approximately even with the top of the feeder pipe in the control box is considered optimum. However, this may vary depending on seasonal, geographical and climatic conditions.

Each control box also has an overflow pipe. This is free to rotate in varying positions. The pipe should be tilted downward with the opening 1/2" above optimum water level. This allows any excess water to overflow and exit the court area, preventing a buildup of unwanted water in the court zones after heavy rains. This pipe may also be removed for seasonal coil drainage or to quickly dry the court surface so that play can start soon after a down-pour (e.g. during tournament).

WATER LEVEL CONTROL FLOAT VALVE

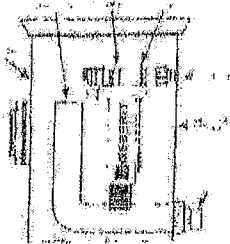
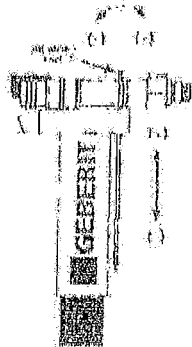


The water level control float valve is simple to operate and adjust. The valve currently being used by FDC has a 3" adjustment range. This range is more than adequate. Once the optimum water level is established, there is no need to further adjust the water level except for seasonal changes. The valve will shut off automatically when the proper water level is reached.

To raise the water level, turn the white adjustment knob, located on the top of the float valve in a clockwise or (+) direction. To lower the water level, turn the knob counter-clockwise or in the (-) direction.

To adjust the water level, screw the threaded plug into the feeder pipe going to the zone to close it off. This isolates the adjustment water to the control box only. Rotate or remove the overflow pipe draining the box until the valve starts hissing which indicates water is flowing. Then, return the pipe to its upright position. Once the valve stops hissing and water is no longer flowing, record the depth as indicated on the ruler in the box. Periodically, a float valve may need to be replaced.

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If the temperature of the water changes, the rate of evaporation will change. The rate of evaporation will be higher if the water is warmer and lower if the water is cooler. The rate of evaporation will also be higher if the air is drier and lower if the air is more humid. The rate of evaporation will also be higher if the wind is stronger and lower if the wind is weaker. The rate of evaporation will also be higher if the sun is shining and lower if it is cloudy. The rate of evaporation will also be higher if the ground is dry and lower if it is wet. The rate of evaporation will also be higher if the ground is sandy and lower if it is clayey. The rate of evaporation will also be higher if the ground is loose and lower if it is compacted. The rate of evaporation will also be higher if the ground is dark and lower if it is light. The rate of evaporation will also be higher if the ground is smooth and lower if it is rough. The rate of evaporation will also be higher if the ground is flat and lower if it is hilly. The rate of evaporation will also be higher if the ground is open and lower if it is shaded. The rate of evaporation will also be higher if the ground is exposed and lower if it is covered. The rate of evaporation will also be higher if the ground is dry and lower if it is wet. The rate of evaporation will also be higher if the ground is sandy and lower if it is clayey. The rate of evaporation will also be higher if the ground is loose and lower if it is compacted. The rate of evaporation will also be higher if the ground is dark and lower if it is light. The rate of evaporation will also be higher if the ground is smooth and lower if it is rough. The rate of evaporation will also be higher if the ground is flat and lower if it is hilly. The rate of evaporation will also be higher if the ground is open and lower if it is shaded. The rate of evaporation will also be higher if the ground is exposed and lower if it is covered.

ADJUSTING THE WATER LEVEL

The objective in watering your EDC HydroCourt is to maintain the lowest possible water level, which will keep the entire court uniformly moist. The standard procedure for determining this level must be carried out over a period of time by the person who is to maintain the court. This water level may vary due to seasonal conditions, temperature and humidity.

First, raise the water level until all dry areas disappear within each zone. It is important to remember that as water flows from the control box to each zone, it must travel a long distance through a relatively small pipe. When the water reaches the zone, it must displace any air in the zone. This air may be slow to escape as initial watering occurs. If the court is well compacted, this process may be slowed considerably.

Adjustments in water level increases should be done in 1/4" increments, allowing 24 hours for the court to react to the new water level.

In general, the top of the feeder pipe is where most optimum water levels are.

Every court's optimum level will be slightly different and even the individual zones may vary from one to the other. However, once this optimum level is found and marked for reference, it will remain constant. The procedure to find this optimal level is as follows:

- 1) Raise the water to the charge level so the entire court is watered (1/2" above feeder pipe). This is done by adjusting the knob on the top of the float valve until the water level is at the desired height. See control box float valve section.
- 2) Reduce the water level in each box by removing or rotating the overflow pipe, allowing the water level to drop. Reinsert the pipe when the level is approximately 2" - 4" below the previous level. Then adjust the knob on the float valve to stabilize the water at a new lower level.
- 3) Continue step #2, dropping the water level by 1/4" increments until dry spots begin to appear on the court or you have reached the desired moisture content within your court. It is important that you allow 24 hours between each adjustment for the court to react to the new water level. (This may allow dry spots to appear.)
- 4) If dry spots begin to appear, adjust the water level up very slightly (1/8" to 1/4") at a time until dry spots disappear.
- 5) Mark your desired water level in each box. Fine tuning may still be required later, with the final water level remaining near the reference mark.

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TROUBLE-SHOOTING DRY AREAS

- 1) Charge the zone by increasing the water level until all areas are moist.
- 2) Readjust the water level in the control box to slightly above your established maintenance level.
- 3) Check all valves for their correct operation. (See below)
- 4) Allow the court to water. May take 12 to 24 hours to see results.
- 5) Hand watering dry spots helps to jump-start the wicking of moisture towards these dry areas.

ABOVE GROUND SPRINKLER SYSTEM

May be used to quickly water court after maintenance or during dry season to condition surface.
Also, use to moisten reoccurring dry spots.

OVERFLOW DRAIN

The overflow drain, which is located in each control box, must be rotated to 1/4" above the maximum water level needed to charge the court. As described earlier, the maintenance person must determine this level over a period of time.

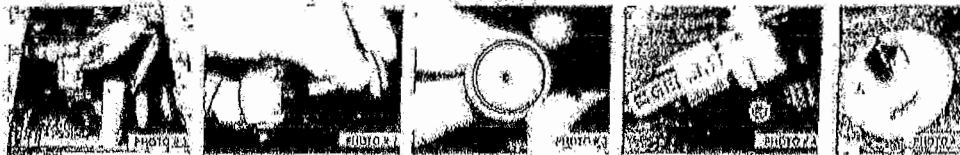
USE OF A TIMER

In certain situations, a timer may be used when watering your FDC HydroCourt system. It may be desirable to water only one or two courts at a time or to limit the amount of time a court is allowed to water during each watering period. Remember, courts water very slowly; therefore, you need to allow plenty of time on each station for a complete watering. A timer can be used (2-3 hours twice daily) to lessen water usage.

PROPER VALVE FUNCTION

To determine if a valve is working properly, follow these instructions:

- 1) Make sure the main water supply valve is open or on. Lift gently up on the white "GEBERT neck" of the float valve just below blue part of the valve, and hold for 3-4 seconds. The water should stop running to that control box. If it does not, you may have a defective valve.
- 2) Push the white "GEBERT neck" down gently to re-start the flow of water to that control box. If, when pushing down on the "neck", if the water does not start flowing, try the following:
Turn off the main water supply. Unscrew the valve and inspect the plastic nipple for debris that may obstruct water flow to the valve (see photo #2 & #3). Clean out if necessary by tapping on a flat surface to dislodge the obstruction. Reinstall nipple and screw valve back on. Turn on main water supply. If it is determined the valve is broken, replace it with a new one.
- 3) A common issue with the GEBERT float valve is a damaged rubber gasket. This gasket is found inside the blue upper portion of the valve - shown in photo #4 & #5. Call 800-247-3907 regarding replacement parts.



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Everything for the life of your courts!

This HydroCourt was built by Fast-Dry Courts, Inc. • Florida's leading tennis court builder. We build a variety of different tennis courts and athletic surfaces to fit the individual needs of our customers. Call us today to discover why we are the right choice for the life of your courts!



Ryoma Ball Mower
10-S Tennis Supply offers the Ryoma ball mower along with many ball hoppers and ball tube options.

Court Lighting
We can help you with your sports lighting project. Need New Lighting, Repairs or Refurbishment? We're here for you.

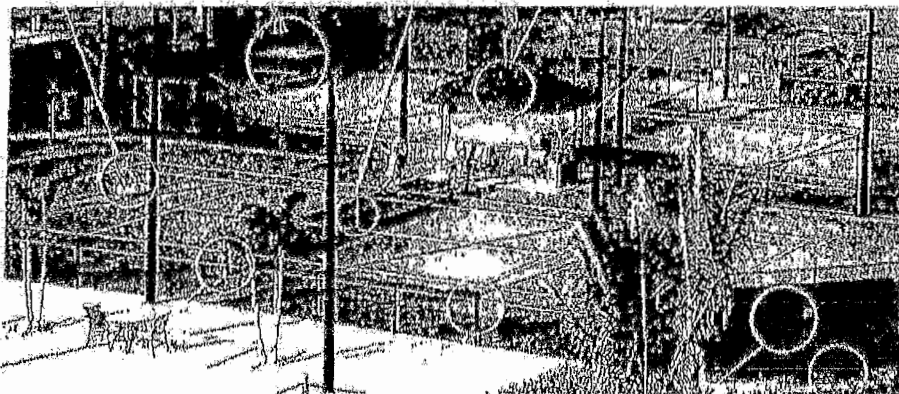
Classic II Net Straps
10-S Tennis Supply offers several types of Net Straps to fit your needs. Visit www.10-s.com to choose which strap would work best for your court.



Calianas
10-S Tennis Supply can help you determine what cabana size, bench style and colors will look best on your court.



10-S Caddy Court Organizer
Keeping your caddy life is important, and so is convenience for your players. 10-S Tennis Supply has several options to help keep things tidy on your court.



10-S Courtmaster Round Post
10-S Tennis Supply is the leader in round posts. Visit www.10-s.com for a full description, photos and comparison of each of our most popular post choices.

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If you find your fencing in need of repair, we offer all of the supplies you'll need for repair. We also install, repair and replace fencing. Call us for more information.



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We offer the best selection of windscreens and have all the hardware accessories you'll need!



HydroCourt Supplies
We provide everything you need to improve or maintain your HydroCourt. Not to mention the expertise to assist with any HydroCourt project!

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SUPPLY
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Addendum to Maintenance Documents for Flamingo Park:



Daily Maintenance:

1: AT SLOW SPEED, Rake all courts three (3) times in a 24 hour period. Alternate raking direction each time. Take extra care to rake close to edges and the net line. If courts are raked in the evening and there has been no rain or use the next morning, it is ok not to rake the next morning. However raking must be done after mid-morning play. *RAIN* Courts must be raked after every rain before they can be played on. No exceptions.

2: Clean lines with line sweep after each raking.

3: Tamp down any "raised" lines due to raking with a hammer or tamp. Replace nails if necessary.

Weekly Maintenance to include with the above daily maintenance:

1. Scratch/ agitate the clay with the "teeth" side of the lute at all edges where the cart cannot reach at least once a week to prevent algae growth. Areas that tend to be shaded should be agitated more frequently to prevent algae growth.

2. Lift up net and rake under the entire net area and around net posts with the teeth side of the lute to prevent algae growth.

3. Benches and umbrellas should be moved at least once a week to agitate the clay with the lute to prevent algae growth.

Monthly Maintenance:

1. Apply 1 to 2 bags of HydroBlend evenly to high traffic areas using the Gandy drop spreader or lute. Water and roll material in (Base lines and Service lines).

Bi Monthly Maintenance:

1. Apply two (2) bags of HydroBlend tennis court material the two (2) bags of Coarse blend tennis court material evenly to each side of the court using the Gandy drop spreader. After material is spread, rake court slowly to even out material. Clean lines after raking.

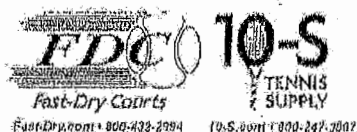
Additional tips/notes to create an optimal facility:

1. Suggest directing the regular users, such as the tennis pros, to rotate from court to court instead of constantly using the same court. This will ensure all courts will age/progress the same.
2. Lawn maintenance crew should be directed to make at least three passes with the lawn mower along the perimeters with sod in a fashion to where the cutting is shed away from the courts
3. Lawn maintenance should be directed to gently blow the courts after weed eating or edging along the perimeters with sod
4. Use a blower to gently blow the east side of all courts where ever the large trees drop leaves and other tree debris onto courts prior to grooming /raking
5. Reposition the rake mounted to cart so that it is the same height at both ends to be level
6. Check control valves in HydroCourt control boxes weekly to ensure they are properly functioning.
7. All catzapa covers should be lowered if rain is imminent. This will ensure rivets/divots in clay surface do not occur from rain.
8. Do not allow play until courts are completely dry and raked / lined after a rain.

2-3 Year Maintenance ~

Depending on the facility usage and proper maintenance procedures, it might be necessary to have the courts professionally resurfaced by a licensed tennis court contractor to ensure optimal playing conditions and surface material.

FDC HydroCourt Maintenance Guide



DAILY MAINTENANCE ROUTINE

MORNING

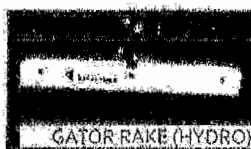
- Utilize Aussie Clean Sweep to groom court
- Alternate grooming directions with Aussie Clean Sweep.
Mon/Wed/Fri/Sun - Parallel to lines | Tue/Thu/Sat - Perpendicular to lines
- Drive at slow speed
- Utilize 10-S Linesman to sweep lines
- Utilize Pro-Line Line Scrubber to remove any clay material that is caked on to the lines
- Utilize smooth edge of 30" Lute/Scarifier to remove loose dead material at net line
- Utilize serrated edge of 30" Lute/Scarifier to remove any observed hard pan or court growth - primarily along net line and court edges - especially areas difficult to reach by Gator Rake

AFTERNOON

- Utilize Gator Rake (after first 30 days) to groom court, especially edges
- Alternate grooming directions with Gator Rake:
Mon/Wed/Fri/Sun - Perpendicular to lines | Tue/Thu/Sat - Parallel to lines
- Drive at SLOW SPEED
- Utilize 10-S Linesman to sweep lines
- Utilize Pro-Line Line Scrubber to remove any clay material that is caked on to the lines
- Utilize smooth edge of 30" Lute/Scarifier to remove loose dead material at net line
- Utilize serrated edge of 30" Lute/Scarifier to remove any observed hard pan or court growth - primarily along net line and court edges



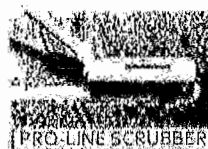
AUSSIE CLEAN SWEEP



GATOR RAKE (HYDRO)



10-S LINESMAN



PRO-LINE SCRUBBER



30" LUTE/SCARIFIER



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MONTHLY MAINTENANCE ROUTINE

- If court flowline is in good condition problem the apply extra dry powder to water control
- Inspect and repair dry powder discharge as needed
- If topcoat is worn or peeling, re-apply dry powder to the HydroCourt to those areas
- If there are any leaks or if the HydroCourt is not working properly, re-apply dry powder to the
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10-5
Vibro
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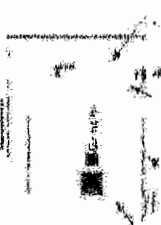
The HydroCourt



TRENCH LAYOUT (ONE ZONE)



PIPING DETAIL



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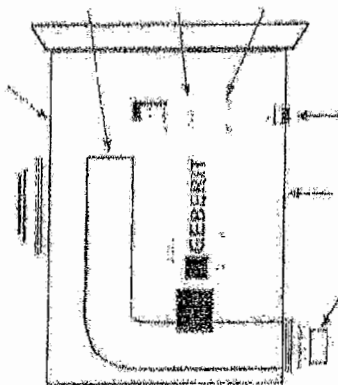
Water Level Guide

FDC 10-S

Rise Dry Ground

TENNIS
SUPPLY

WATER LEVEL CONTROL BOX



Usually, a water level that is approximately even with the top of the feeder pipe in the control box is considered optimum. However, this may vary depending on seasonal, geographical and climatic conditions.

Each control box also has an overflow pipe. This is free to rotate in varying positions. The pipe should be tilted downward with the opening 1/2" above optimum water level. This allows any excess water to overflow and exit the court area, preventing a buildup of unwanted water in the court zones after heavy rains. This pipe may also be removed for seasonal call drainage or to quickly dry the court surface so that play can start soon after a down pour (or during tournament).

WATER LEVEL CONTROL FLOAT VALVE



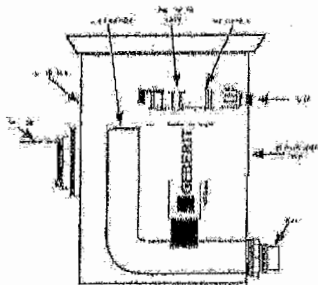
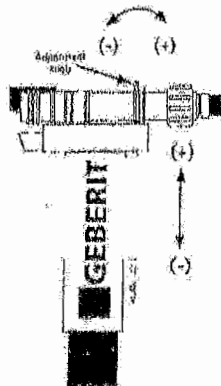
The water level control float valve is simple to operate and adjust. The valve currently being used by FDC has a 3" adjustment range. This range is more than adequate. Once the optimum water level is established, there is no need to further adjust the water level except for seasonal changes. The valve will shut off automatically when the proper water level is reached.

To raise the water level, turn the white adjustment knob, located on the top of the float valve in a clockwise (C) direction. To lower the water level, turn the knob counter-clockwise or in the (C) direction.

To adjust the water level, screw the threaded plug into the feeder pipe going to the zone to close it off. This isolates the adjustment water to the control box only. Rotate or remove the overflow pipe draining the box until the valve starts hissing which indicates water is flowing. Then, return the pipe to its upright position. Once the valve stops hissing and water is no longer flowing, record the depth as indicated on the ruler in the box. Periodically, a float valve may need to be replaced.

10-5 To order material and supplies, call us at 800-247-3907

ADJUSTING THE WATER LEVEL



NOTE: Remember that moisture changes occur very slowly depending on the evaporation rate. Each of the above steps may take hours or even days before the adjusted level is stabilized. Be patient knowing that, once established, your level and our court will remain stable at the marked spots.

The objective in watering your FDC HydroCourt is to maintain the lowest possible water level, which will keep the entire court uniformly moist. The standard procedure for determining this level must be carried out over a period of time by the person who is to maintain the court. This water level may vary due to seasonal conditions, temperature and humidity.

First, raise the water level until all dry areas disappear within each zone. It is important to remember that as water flows from the control box to each zone, it must travel a long distance through a relatively small pipe. When the water reaches the zone, it must displace any air in the zone. This air may be slow to escape as initial watering occurs. If the court is well compacted, this process may be slowed considerably.

Adjustments in water level increases should be done in 1/4" increments, allowing 24 hours for the court to react to the new water level.

In general, the top of the feeder pipe is where most optimum water levels are.

Every court's optimum level will be slightly different and even the individual zones may vary from one to the other. However, once this optimum level is found and marked for reference, it will remain constant. The procedure to find this optimal level is as follows:

- 1) Raise the water to the charge level so the entire court is watered. (1/2" above feeder pipe). This is done by adjusting the knob on the top of the float valve until the water level is at the desired height. See control box float valve section.
- 2) Reduce the water level in each box by removing or rotating the overflow pipe, allowing the water level to drop. Re-insert the pipe when the level is approximately 2" - 3" below the previous level. Then adjust the knob on the float valve to stabilize the water at a new lower level.
- 3) Continue step #2, dropping the water level by 1/4" increments until dry spots begin to appear on the court or you have reached the desired moisture content within your court. It is important that you allow 24 hours between each adjustment for the court to react to the new water level. (This may allow dry spots to appear.)
- 4) If dry spots begin to appear, adjust the water level up very slightly (1/8" to 1/4") at a time until dry spots disappear.
- 5) Mark your desired water level in each box. Fine-tuning may still be required later, with the final water level remaining near this reference mark.

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TROUBLE-SHOOTING DRY AREAS

- 1) Charge the zone by increasing the water level until all areas are moist.
- 2) Readjust the water level in the control box to slightly above your established maintenance level.
- 3) Check all valves for their correct operation. (See below)
- 4) Allow the court to water. May take 12 to 24 hours to see results.
- 5) Hand watering dry spots helps to jump-start the wicking of moisture towards these dry areas.

ABOVE GROUND SPRINKLER SYSTEM

May be used to quickly water court after maintenance or during dry season to condition surface. Also, use to moisten reoccurring dry spots.

OVERFLOW DRAIN

The overflow drain, which is located in each control box, must be rotated to 1/4" above the maximum water level needed to charge the court. As described earlier, the maintenance person must determine this level over a period of time.

USE OF A TIMER

In certain situations, a timer may be used when watering your FDC HydroCourt system. It may be desirable to water only one or two courts at a time or to limit the amount of time a court is allowed to water during each watering period. Remember, courts water very slowly; therefore, you need to allow plenty of time on each station for a complete watering. A timer can be used (2-3 hours twice daily) to lessen water usage.

PROPER VALVE FUNCTION

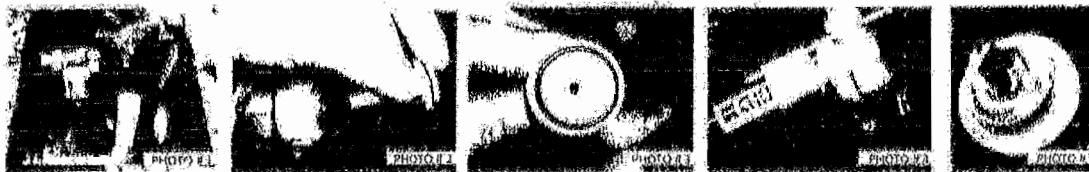
To determine if a valve is working properly, follow these instructions:

1) Make sure the main water supply valve is open or on. Lift gently up on the white "GEBERT" neck" of the float valve just below blue part of the valve, and hold for 3-4 seconds. The water should stop running to that control box. If it does not, you may have a defective valve.

2) Push the white "GEBERT neck" down gently to re-start the flow of water to that control box. If, when pushing down on the "neck", if the water does not start flowing, try the following:

Turn off the main water supply. Unscrew the valve, and inspect the plastic nipple for debris that may obstruct water flow to the valve (see photo #2 & #3). Clean out if necessary by tapping on a flat surface to dislodge the obstruction. Reinstall nipple and screw valve back on. Turn on main water supply. If it is determined the valve is broken, replace it with a new one.

3) A common issue with the GEBERT float valve is a damaged rubber gasket. This gasket is found inside the blue upper portion of the valve - shown in photo #4 & #5. Call 800-247-3907 regarding replacement parts.



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