

RESOLUTION NO. _____

A RESOLUTION OF THE MAYOR AND CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA, APPROVING AND AUTHORIZING THE CITY MANAGER TO EXECUTE AMENDMENT NO. 3 TO THE CONCESSION AGREEMENT BETWEEN THE CITY AND FIRST CLASS PARKING SYSTEMS, LLC, TO PROVIDE VALET PARKING SERVICES AT THE FILLMORE AT THE JACKIE GLEASON THEATER OF THE PERFORMING ARTS, MIAMI BEACH CONVENTION CENTER, AND OTHER CITY PROPERTIES, AS MAY BE REQUIRED, PURSUANT TO REQUEST FOR PROPOSALS (RFP) NO. 2018-11-WG; SAID AMENDMENT ABATING CONCESSIONAIRE'S CURRENT PAYMENT OBLIGATIONS, AS SET FORTH IN SECTION 3.2 OF THE AGREEMENT, WHICH OBLIGATIONS INCLUDE A MINIMUM GUARANTEE PAYMENT, IN THE AMOUNT OF \$17,900 PER MONTH, AND REPLACING SAID PAYMENT OBLIGATIONS WITH A MONTHLY PAYMENT EQUAL TO TWELVE PERCENT (12%) OF THE TOTAL AMOUNT OF MONTHLY GROSS RECEIPTS COLLECTED BY CONCESSIONAIRE, WITH AN EFFECTIVE DATE OF FEBRUARY 1, 2021 AND EXPIRATION DATE OF SEPTEMBER 30, 2021 OR UNTIL SUCH TIME AS THE CONVENTION CENTER BOOKINGS RESUME OPERATIONS AT THE PRE-PANDEMIC BOOKING LEVELS, WHICHEVER OCCURS FIRST.

WHEREAS, on July 25, 2018, the Mayor and City Commission adopted Resolution Number 2018-30399, approving the award of Request for Proposals ("RFP") No. 2018- 166-WG for Valet Parking Services on City-owned property (the "RFP") to First Class Parking System, LLC ("Concessionaire"); and

WHEREAS, on November 26, 2018, the City and Concessionaire executed the Agreement with respect to the Valet Parking Services at the Fillmore, at the Jackie Gleason Theater of the Performing Arts, the Miami Beach Convention Center (the "Convention Center"), and other City properties, as may be required for an initial term of one (1) year, commencing on November 1, 2018 and ending on October 31, 2019, with four (4) additional one-year renewal terms, subject to approval of the City Manager; and

WHEREAS, on November 1, 2019, the City and Concessionaire executed Amendment No. 1 to the Agreement, approving the first one-year renewal term, beginning on November 1, 2019 and ending on October 31, 2020, and modifying the financial terms as contemplated under the Agreement during each annual renewal term; and

WHEREAS, due to the impacts of the COVID-19/novel Coronavirus pandemic, the parties availed themselves of the force majeure provision of the Agreement, and agreed to suspend Services under the Agreement, effective April 1, 2020 ("Suspension Date"), until the effective date in which the Parking Department Director advises, in writing, that Services may resume ("Suspension Period"), which agreement is memorialized in a letter agreement dated March 27, 2020 ("Suspension Letter"); and

WHEREAS, on September 25, 2020, the City and Concessionaire executed Amendment No. 2 to the Agreement, to correct the commencement date of the Agreement to reflect October 1, 2018, and, accordingly, correct the contract year to start October 1st and end September 30th; and to clarify Section 3.2.3 of the Agreement; and

WHEREAS, Amendment No. 2 also reflects that during the Suspension Period, the Venues may require valet services, on a demand basis ("Temporary Services"), and that Concessionaire would exclusively provide such valet services from the Effective Date of Amendment No. 2 (September 25, 2020) and continuing through and including the expiration date of the Suspension Period or January 31, 2021, whichever occurs first (Temporary Services Period); and

WHEREAS, Amendment No. 2, further, modified the amount of Concession Fees to be paid by Concessionaire to the City, to reflect a monthly Concession Fee equal to twelve percent (12%) of the total monthly Gross Receipts for all transactions ("Temporary Services Period Concession Fee"); and

WHEREAS, during the Temporary Services Period, the Concession Fees set forth in Section 3.2 of the Agreement, including the Minimum Guarantee of \$17,900 a month, the Excess Transaction Fee and Percentage of Gross Receipts, would be abated and replaced with the Temporary Services Period Concession Fee; and

WHEREAS, the Convention Center and the Fillmore were Concessionaire's primary source of revenue under the Agreement and remain closed, with any future re-opening requiring a ramp up period; and

WHEREAS, based upon the material reduction in revenues, directly related to the COVID-19 pandemic, the City Manager recommends approving Amendment No. 3 to the Agreement, incorporated herein by reference and attached hereto as Exhibit "E"; said amendment extending the modified financial terms, approved under Amendment No. 2 for the Temporary Services Period, until September 30, 2021 or until such time as the Convention Center bookings resume operations at the Pre-Pandemic booking levels, whichever occurs first.

NOW, THEREFORE, BE IT DULY RESOLVED BY THE MAYOR AND CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA, that the Mayor and City Commission hereby approve and authorize the City Manager to execute Amendment No. 3 to the Concession Agreement between the City and First Class Parking Systems, LLC, to provide valet parking services at the Fillmore at the Jackie Gleason Theater of the Performing Arts, Miami Beach Convention Center, and other City properties, as may be required, pursuant to Request for Proposals (RFP) No. 2018-11-WG; said Amendment abating Concessionaire's current payment obligations, as set forth in Section 3.2 of the Agreement, which obligations include a Minimum Guarantee payment, in the amount of \$17,900 per month, and replacing said payment obligations with a monthly payment equal to twelve percent (12%) of the total amount of monthly gross receipts collected by Concessionaire, with an effective date of February 1, 2021 and expiration date of September 30, 2021 or until such time as the convention center bookings resume operations at the pre-pandemic booking levels, whichever occurs first.

PASSED AND ADOPTED this ____ day of January, 2021.

ATTEST:

Dan Gelber, Mayor

Rafael E. Granado, City Clerk

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APPROVED AS TO
FORM & LANGUAGE
& FOR EXECUTION



City Attorney

12/31/2020

Date

**AMENDMENT NO. 3 TO CONCESSION AGREEMENT
BETWEEN
THE CITY OF MIAMI BEACH, FLORIDA
AND
FIRST CLASS PARKING SYSTEMS, LLC.
TO PROVIDE VALET PARKING SERVICES AT THE FILLMORE AT THE JACKIE GLEASON
THEATER OF THE PERFORMING ARTS, MIAMI BEACH CONVENTION CENTER, AND
OTHER CITY PROPERTIES, AS MAY BE REQUIRED, PURSUANT TO REQUEST FOR
PROPOSALS (RFP) NO. 2018-11-WG**

This Amendment No. 3 ("Amendment") to the Concession Agreement, dated November 27, 2018 ("Agreement"), by and between the **City of Miami Beach, Florida**, a municipal corporation organized and existing under the laws of the State of Florida, having its principal place of business at 1700 Convention Center Drive, Miami Beach, Florida 33139 (the "City"), and **First Class Parking Systems, LLC**, a Florida limited liability company, with offices at 12550 Biscayne Boulevard, Suite 207, Miami, Florida, 33181 ("Concessionaire"); is entered into this _____ day of _____, 2021 ("Effective Date"):

RECITALS

WHEREAS, on July 25, 2018, the Mayor and City Commission adopted Resolution Number 2018-30399, approving the award of Request for Proposals ("RFP") No. 2018- 166-WG for Valet Parking Services on City-owned property (the "RFP") to First Class Parking System, LLC ("Concessionaire"); and

WHEREAS, on November 26, 2018, the City and Concessionaire executed the Agreement with respect to the Valet Parking Services at the Fillmore, at the Jackie Gleason Theater of the Performing Arts, Miami Beach Convention Center, and other City properties, as may be required, for an initial term of one (1) year, commencing on November 1, 2018 and ending on October 31, 2019, with four (4) additional one-year renewal terms, subject to approval of the City Manager; and

WHEREAS, on November 1, 2019, the City and Concessionaire executed Amendment No. 1 to the Agreement, approving the first one-year renewal term, beginning on November 1, 2019 and ending on October 31, 2020, and modifying the financial terms, as contemplated under the Agreement during each annual renewal term; and

WHEREAS, due to the impacts of the COVID-19/novel Coronavirus pandemic, the parties availed themselves of the force majeure provision of the Agreement, and agreed to suspend Services under the Agreement, effective April 1, 2020 ("Suspension Date"), until the effective date in which the Parking Department Director advises, in writing, that Services may resume ("Suspension Period"), which agreement is memorialized in a letter agreement dated March 27, 2020 ("Suspension Letter"); and

WHEREAS, on September 25, 2020, the City and Concessionaire executed Amendment No. 2 to the Agreement, to correct the commencement date of the Agreement to reflect October 1, 2018; to correct the contract year to start October 1st and end September 30th; and to clarify Section 3.2.3 of the Agreement (the Agreement, Amendment No. 1, the Suspension Letter and Amendment No. 2 shall be collectively referred to herein as the "Agreement"); and



WHEREAS, Amendment No. 2 also reflects that during the Suspension Period, the Venues may require valet services, on a demand basis ("Temporary Services"), and that Concessionaire would exclusively provide such valet services from the Effective Date of Amendment No. 2 (September 25, 2020) and continuing through and including the expiration date of the Suspension Period or January 31, 2021, whichever occurs first (Temporary Services Period); and

WHEREAS, Amendment No. 2, further, modified the amount of the Concession Fees paid by Concessionaire to the City, to reflect a new Concession Fee equal to twelve percent (12%) of the total monthly Gross Receipts (as defined in subsection 4.4) for all transactions ("Temporary Services Period Concession Fee"), payable every month by no later than the fifteenth (15th) day of the corresponding month; and that during the Temporary Services Period, the Concession Fees set forth in Section 3.2 (including the Minimum Guarantee of \$17,900 a month, the Excess Transaction Fee and Percentage of Gross Receipts) would be abated and replaced with the Temporary Services Period Concession Fee; and

WHEREAS, on January 13, 2021, the Mayor and City Commission adopted Resolution No. _____, approving the extension of the modified financial terms approved under Amendment No. 2 for the Temporary Services Period, through and including September 30, 2021 or until such time as the Convention Center bookings resume operations at the Pre-Pandemic booking levels, whichever occurs first.

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

1. ABOVE RECITALS.

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

- 2. MODIFICATIONS.** The Agreement is hereby amended to extend the modified financial terms approved under Amendment No. 2 for the Temporary Services Period, through and including September 30, 2021 or until such time as the Convention Center bookings resume operations at the pre-pandemic booking levels, whichever occurs first (the "Extended Temporary Services Period"). During the Extended Temporary Services Period, Concessionaire would be permitted to exclusively provide valet services at the Venues, on a demand basis, by paying the City a monthly Concession Fee equal to twelve percent (12%) of the total monthly Gross Receipts (as defined in subsection 4.4) for all transactions ("Temporary Services Period Concession Fee"), payable every month by no later than the fifteenth (15th) day of the corresponding month. During the Extended Temporary Services Period, the Concession Fees set forth in Section 3.2, including the Minimum Guarantee of \$17,900 a month, the Excess Transaction Fee and Percentage of Gross Receipts, would be abated and replaced with the Temporary Services Period Concession Fee.

