

RESOLUTION NO. _____

A RESOLUTION OF THE MAYOR AND CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA, APPROVING, IN SUBSTANTIAL FORM, AMENDMENT NO. 4 TO THE CONCESSION AGREEMENT BETWEEN THE CITY AND FIRST CLASS PARKING SYSTEMS, LLC, TO PROVIDE VALET PARKING SERVICES AT THE FILLMORE, MIAMI BEACH, AT THE JACKIE GLEASON THEATER, THE MIAMI BEACH CONVENTION CENTER, AND OTHER CITY PROPERTIES, AS MAY BE REQUIRED, PURSUANT TO REQUEST FOR PROPOSALS (RFP) NO. 2018-11-WG; SAID AMENDMENT NO 4 MODIFYING THE CONCESSION FEE PAYMENTS TO REFLECT THE RAMPING UP OF THE CONVENTION CENTER OPERATIONS AND RESUMING ALL PRE-PANDEMIC CONCESSION FEES DUE UNDER THE ORIGINAL AGREEMENT, EFFECTIVE APRIL 1, 2022 THROUGH THE REMAINDER OF THE CONTRACT YEAR, SEPTEMBER 30, 2022; AND FURTHER AUTHORIZING THE CITY MANAGER TO EXECUTE THE FINAL NEGOTIATED AMENDMENT.

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; 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 occurred first ("Temporary Services Period"); 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 (collectively, the "Concession Fees"), would be abated and replaced with 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, the Convention Center and the Fillmore were Concessionaire's primary source of revenue under the Agreement, and in December, 2020, remained closed, with any future re-opening requiring a ramp up period; and

WHEREAS, on January 13, 2021, the Mayor and City Commission adopted Resolution No. 2021-31543, approving Amendment No. 3 to the Agreement; said Amendment extending the Temporary Services Period, during which the Temporary Services Period Concession Fees would apply, to include the period from February 1, 2021 through September 30, 2021, or until such time as the Convention Center bookings resume operations at the pre-pandemic booking levels, whichever occurred first; and

WHEREAS, on March of 2022, the Convention Center reported that their staffing levels were at approximately 80% and their bookings at approximately 90%, as compared to pre-pandemic levels; and

WHEREAS, due to the delay in the ramp up period for the Convention Center, staffing shortages, and increased operational expenses, Concessionaire has requested that the City extend the reduced Concession Fee payments, as established in Amendment No. 3, through March 31, 2022; and

WHEREAS, although the Convention Center has not quite reached pre-pandemic booking levels, the Concessionaire has agreed to resume payment of the Concession Fees, which were required under the Agreement prior to the commencement of the COVID-19 pandemic, for the remainder of the contract year, from April 1, 2022 through September 30, 2022; and

WHEREAS, instead of approving the remaining one (1) year renewal term under the Agreement, the Administration has decided to move forward with the issuance of a new RFP, with a new contract to be effective October 1, 2022; and

WHEREAS, based upon the foregoing, the City Manager recommends approving, in substantial form, Amendment No. 4 to the Agreement, incorporated herein by reference and attached to the City Commission Memorandum accompanying this Resolution; said draft Amendment No. 4 containing the essential terms of the amendment, subject to final negotiation by the City Manager and approval as to form by the City Attorney.

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, in substantial form, Amendment No. 4 to the Concession Agreement between the City and First Class Parking Systems, LLC, to provide valet parking services at the Fillmore, Miami Beach, at the Jackie Gleason Theater, the Miami Beach Convention Center, and other City properties, as may be required, pursuant to Request for Proposals (RFP) No. 2018-11-WG; said Amendment No. 4 modifying the Concession Fee payments to reflect the ramping up of the Conventions Center operations and resuming all pre-pandemic Concession Fees due under the original Agreement, effective April 1, 2022 through the remainder of the contract year, September 30, 2022; and further authorize the City Manager to execute the final negotiated amendment.

PASSED and **ADOPTED** this ____ day of April, 2022.

ATTEST:

Dan Gelber, Mayor

Rafael E. Granado, City Clerk

APPROVED AS TO
FORM & LANGUAGE
& FOR EXECUTION

City Attorney

3-29-22

Date