

RESOLUTION NO. _____

A RESOLUTION OF THE MAYOR AND CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA, APPROVING, IN SUBSTANTIAL FORM, AMENDMENT NO. 12 TO THE AGREEMENT, DATED MAY 8, 2014, BETWEEN THE CITY AND LIMOUSINES OF SOUTH FLORIDA, INC. (LSF), FOR TURN-KEY OPERATIONS AND MAINTENANCE SERVICES OF A MUNICIPAL TROLLEY SYSTEM FOR THE CITY OF MIAMI BEACH; SAID AMENDMENT: (1) REIMBURSING LSF FOR PERFORMANCE PENALTIES ASSESSED FROM MAY THROUGH SEPTEMBER OF 2021, DUE TO INCONSISTENCIES IN THE DATA USED TO CALCULATE THE PENALTIES; (2) REDUCING ON-TIME PERFORMANCE/HEADWAY REGULARITY GOAL FOR THE REDUCED LEVELS OF TROLLEY SERVICE FROM 85% TO 80% RETROACTIVE TO OCTOBER 1, 2021; (3) ADDING A SCHEDULE-BASED SERVICE OPTION, WHICH MAY BE IMPLEMENTED AT THE DISCRETION OF THE CITY MANAGER OR CITY MANAGER'S DESIGNEE; (4) APPROVING USE OF SWIFTLY, INC. SERVICES BY LSF THROUGH THE END OF THE CONTRACT TERM, AT NO COST TO THE CITY, AS AN ADDITIONAL VENDOR FOR MONITORING, ANALYZING AND MANAGING SYSTEM PERFORMANCE; AND (5) MODIFYING OTHER MISCELLANEOUS PROVISIONS OF THE AGREEMENT; AND FURTHER AUTHORIZING THE CITY MANAGER AND CITY CLERK TO EXECUTE THE FINAL NEGOTIATED AMENDMENT.

WHEREAS, on April 30, 2014, the City Commission approved the award of Invitation to Bid (ITB) No. 2014-154-SR for Turn-Key Trolley Operations and Maintenance Services to Limousines of South Florida, Inc. (LSF); and

WHEREAS, on May 8, 2014, the City and LSF executed the Agreement; and

WHEREAS, on July 30, 2014, the Mayor and City Commission adopted Resolution No. 2014-28708, authorizing the City to execute Amendment No. 1 to the Agreement, which increased the scope of the Agreement to include optional equipment, as well as additional automated stop announcement equipment, with the capability of displaying public advertisements; and

WHEREAS, on March 18, 2015, the Mayor and City Commission adopted Resolution No. 2015-28967, approving and authorizing Amendment No. 2 to the Agreement, incorporating an enhanced Scope of Services to the Agreement in order to accommodate additional transportation expenses needed for the City's Centennial celebration, increasing the cost of the Agreement for said enhanced Scope of Services during the 2014-2015 fiscal year, solely; and

WHEREAS, on October 21, 2015, the Mayor and City Commission adopted Resolution No. 2015-29194, waiving, by 5/7th vote, the competitive bidding requirement and approving Amendment No. 3 to the Agreement; said amendment providing for (1) the addition of two new routes in Middle Beach (the Middle Beach Loop and the Collins Link); (2) the addition of fourteen (14) new modified/kneeling high-floor/rear end wheel chair lift trolley vehicles (New Modified trolley vehicles) for the operation of the North Beach and Middle Beach routes, in an amount not to exceed \$6,700,000 annually; (3) a negotiated new hourly rate commensurate with the cost of said trolley vehicles and the additional services for the new Middle Beach routes; (4)

the early exercise of the two (2) renewal options, extending the Agreement to May 7, 2021; (5) in addition to the term provided in the previous subsection (4), further extending the term, as to each route, to include a full sixty (60) month term, commencing as of the roll-out date of all the modified high-floor trolley vehicles for each respective route; and (6) and authorizing the City Manager to approve the purchase of additional optional equipment for the New Modified trolley vehicles; and

WHEREAS, on July 20, 2016, the Mayor and City Commission adopted Resolution No. 2016-29519, waiving, by 5/7th vote, the competitive bidding requirement, and approving, in substantial form, Amendment No. 4 to the Agreement, increasing the scope of the Agreement to include the following: (1) the addition of one (1) bi-directional route in South Beach for a term of sixty (60) months, commencing as of the roll-out date for the Low-Floor trolley vehicles; (2) the addition of twelve (12) new Low-Floor trolley vehicles for use in all City trolley routes; (3) a negotiated new hourly rate for the Low-Floor trolley vehicles and additional associated services; and (4) increasing the annual cost of the Agreement, from a not to exceed cost of \$6,700,000 to a not to exceed cost of \$12,000,000; authorizing the City Manager to approve the purchase of additional optional equipment for the Low-Floor trolley vehicles, as may be needed in the Administration's discretion, subject to funding availability; and authorizing the City Manager to terminate the existing interlocal agreement, in connection with the negotiation of a new interlocal agreement with Miami-Dade County related to the South Beach route; and

WHEREAS, on May 17, 2017, the Mayor and City Commission adopted Resolution No. 2017-29873, approving and authorizing the City Manager and City Clerk to execute Amendment No. 5 to the Agreement; approving the replacement of the Collins Link route alignment with the Collins Express route, at no additional cost to the City, to provide more direct intracity connectivity between Washington Avenue/Lincoln road and 88 Street; and

WHEREAS, the routes rolled-out their services as follows:

- (1) Middle Beach Loop rolled-out its services on November 22, 2016 with six (6) New Modified trolley vehicles.
- (2) the Collins link rolled-out its services on December 22, 2016 with five (5) New Modified trolley vehicles and ended its services on October 31, 2017, with the Collins Express replacing the Collins Link on November 1, 2017.
- (3) the North Beach Loop rolled-out its services on January 9, 2017 with three (3) New Modified trolley vehicles and one (1) high-floor trolley vehicle; and
- (4) the South Beach route rolled out its services on November 20, 2017 with ten (10) Low-Floor trolley vehicles.

WHEREAS, on December 4, 2018, the City and Contractor executed Amendment No. 6 to the Agreement, memorializing the increase to the living wage rate under the City's Living Wage Ordinance, as codified in Sections 2-407 through 2-410 of the City Code, approved pursuant to Resolution No. 2017-4143; and

WHEREAS, on January 16, 2019, the Mayor and the City Commission adopted Resolution No. 2019-30687, approving, in substantial form, Amendment No. 7 to the Agreement; said amendment including the following modifications: (1) adding one (1) used high-floor trolley vehicle to the City's trolley fleet to be used as a spare only; (2) permitting the operation of all trolley vehicle types (high-floor, modified high-floor/kneeling or low-floor) along any of the City's trolley routes, as needed, to ensure proper service coverage; and (3) modifying other miscellaneous provisions of the Agreement to address the current operating conditions

of the trolley services, which include updating the trolley routes, establishing a new On-Time Performance goal of 85% for all trolley routes, and clarifying the language for determining fuel charge adjustments and performance penalties; and

WHEREAS, on September 25, 2019, the Mayor and the City Commission adopted Resolution No. 2019-31000 approving Amendment No. 8 to the Agreement; said amendment, adding, at no additional cost to the City, one (1) used 2006 high-floor trolley vehicle in the City's trolley fleet, to be used solely as a spare; and

WHEREAS, on March 26, 2020, in response to the Coronavirus Disease 2019 (COVID-19) pandemic, the City suspended all trolley service (commencement of "Suspension Period"); and

WHEREAS, on July 29, 2020, the Mayor and City Commission adopted Resolution No. 2020-31373, authorizing the Administration to negotiate Amendment No. 9 to the Agreement, said amendment: (1) approving the temporary use of the City trolley fleet by Miami-Dade County, Florida during any periods of suspension of trolley services; and (2) approving new rates for operation during reduced levels of service; and

WHEREAS, on October 14, 2020, the Mayor and the City Commission adopted Resolution No. 2020-31459, accepting the recommendation of the Neighborhood and Quality of Life Committee, at its February 3, 2020 meeting, to modify the South Beach Trolley route, and waiving, by 5/7th vote, the formal competitive bidding requirement, and approving, in substantial form, Amendment No. 10 to the Agreement; said amendment (1) approving a Term Extension Formula, in lieu of paying LSF for any unrecovered fixed costs, incurred during the Suspension Period; (2) approving the new service plan for South Beach; (3) authorizing the City Manager to make operational changes to the Agreement, including approving the purchase and use of replacement trolley vehicles (even if older than the year 2016); provided such administrative changes do not increase the annual operating cost of the City's trolley service; and (4) modifying other miscellaneous provisions of the Agreement; and

WHEREAS, on July 8, 2021, the City and Contractor executed Amendment No. 11 to the Agreement, memorializing the one percent increase to the living wage rate, as approved pursuant to Resolution No. 2020-31399, and further clarifying certain references in the Agreement to "scheduled service hours" and "service hours", in connection with the calculation of the applicable fixed hourly rate for trolley services provided to the City, as well as the calculation of the Term Extension Formula; and

WHEREAS, on October 28, 2021, the City sent a letter to LSF, confirming the extension of the Term of the Agreement through August 19, 2023 for all routes, pursuant to the Term Extension Formula memorialized in Amendment No. 10 to the Agreement; and

WHEREAS, the Miami Beach trolley service resumed on February 15, 2021, after almost a year of service suspension since March 26, 2020 due to the COVID-19 pandemic; and

WHEREAS, from the time of resumption, the Miami Beach trolley operated at a reduced service level, with only 15 vehicles in service, as compared to 25 vehicles during the pre-pandemic period, and operating 15 hours daily, as compared to 18 hours during the pre-pandemic period; and

WHEREAS, while the service operated at the reduced service level, with longer passenger wait times of approximately 30 minutes, as compared to 15 to 20 minutes during the pre-pandemic period, the City kept the contractually established OTP/headway regularity goal of 85% for all loops; and

WHEREAS, the Agreement provides for performance penalties, under the heading of "Reliability", which apply in case LSF fails to meet on-time performance/headway regularity standard of 85%, and are deducted on a monthly basis from the LSF invoices; and

WHEREAS, due to a long period of inactivity, the hardware components used for analyzing reliability performance yielded inconsistent data for February-April of 2021, thus performance penalties could not be accurately evaluated and fairly applied, and the City did not apply performance penalties for this period; and

WHEREAS, given the inconsistencies in data, the City worked closely with the company that provides both hardware and software solution for the City's trolley service (TSO Mobile) who, in turn, performed quality checks and manually adjusted data for the months of May through September of 2021; and

WHEREAS, after manual adjustment, TSO Mobile felt that the data used for evaluation of system performance was accurate and, as such, the City applied performance penalties for the months of May through September of 2021, in the amount of \$80,060; and

WHEREAS, due to concerns with performance penalties, inconsistency of the data used for evaluation of system performance, and adverse effects of the ongoing pandemic on the workforce, LSF reached out to the City Administration in September of 2021 and requested that the City waive any performance penalties deducted from invoices from May 2021 on; and

WHEREAS, LSF also requested that the City "stay" assessment of performance penalties on future invoices until such time as the City and LSF are able to collectively validate the accuracy of the data used for future performance evaluations and create an agreeable framework that ensures maximum reliability of the trolley service, while reducing the operational standards due to the reduced number of trolley vehicles in operation, given that the 85% goal of on-time performance is hard to achieve at the reduced service levels; and

WHEREAS, to ensure the highest level of data accuracy, the City worked with TSO Mobile to upgrade all GPS devices to 5G technology; and

WHEREAS, the upgraded hardware showed significant improvement in data reliability, without the need for manual adjustment of service performance data and, as such, the City continued assessing performance penalties as of October 1, 2021; and

WHEREAS, while the current service operates as a headway-based service, LSF requested that the City allow for a schedule-based operation as an alternative; and

WHEREAS, the City staff met multiple times with LSF staff in response to their concerns and, as a result, the following terms were negotiated and made part of this amendment:

1. The City will reimburse LSF for performance penalties assessed and paid from May through September of 2021, in the amount of \$80,060, due to inconsistencies in the data used to calculate the penalties;
2. On-time performance/headway regularity goal for the reduced levels of trolley service will be reduced from 85% to 80% retroactive to October 1, 2021, resulting in a reimbursement to LSF of \$42,040 for penalties paid by LSF from October 1, 2021 through January 2022. Once service levels return to pre-pandemic levels, 85% on-time performance/headway regularity goal will be used (route specific);
3. As an alternative to headway-based service, the City Manager or City Manager's designee may approve the use of schedule-based service; and
4. LSF will procure, at no cost to the City, the services of Swiftly, Inc. through the end of the contract term as an additional vendor for monitoring, analyzing and managing system performance; and

WHEREAS, based upon the foregoing, the City Manager recommends approving, in substantial form, Amendment No. 12 to the Agreement, incorporated herein by reference and attached to the City Commission Memorandum accompanying this Resolution as Attachment B; said amendment containing the essential terms set forth herein.

NOW, THEREFORE, BE IT RESOLVED BY THE MAYOR AND CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA, that the Mayor and City Commission approve, in substantial form, Amendment No. 12 to the Agreement, dated May 8, 2014, between the City and LSF, for turn-key operations and maintenance services of a municipal trolley system for the City of Miami Beach; said amendment: (1) reimbursing LSF for performance penalties assessed from May through September of 2021, due to inconsistencies in the data used to calculate the penalties; (2) reducing on-time performance/headway regularity goal for the reduced levels of trolley service from 85% to 80% retroactive to October 1, 2021; (3) adding a schedule-based service option, which may be implemented at the discretion of the City Manager or City Manager's designee; (4) approving use of Swiftly, Inc. services by LSF through the end of the contract term, at no cost to the City, as an additional vendor for monitoring, analyzing and managing system performance; and (5) modifying other miscellaneous provisions of the Agreement; and further authorize the City Manager and City Clerk to execute the final negotiated amendment.

PASSED and ADOPTED this 6th day of April 2022.

Dan Gelber, Mayor

ATTEST:

Rafael E. Granado, City Clerk

APPROVED AS TO
FORM & LANGUAGE
& FOR EXECUTION

City Attorney

3-29-22

Date