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OF COUNTY COMMISSIONERS
MIAMI-DADE COUNTY, FLORIDA**

MEMORANDUM

Agenda Item No. 14(A)(1)

TO: Honorable Chairman Anthony Rodríguez
and Members, Board of County Commissioners

DATE: December 3, 2024

FROM: Geri Bonzon-Keenan
County Attorney

SUBJECT: Resolution approving the Parking Facilities Management Agreement (“Management Agreement”) with NCL (Bahamas) Ltd. d/b/a Norwegian Cruise Line (“NCLB”) with an estimated fiscal impact to the County of approximately \$39,675,000.00, in anticipated revenues to the County from NCLB’s operation of the Cruise Terminal B Garage and the Multipurpose Parking Facility, savings to the County from the transfer of maintenance and operating responsibilities to NCLB, and the value of the County-owned Multipurpose Parking Facility to be constructed under the Management Agreement; approving the Second Amendment to the Third Amended and Restated Cruise Terminal Agreement and the First Amendment to the Terminal Transfer Rider (“Amendments”) with an estimated positive fiscal impact to the County of \$1,707,825,312.00; authorizing NCLB and its parent, subsidiary, and sister entities to design, construct, and operate port facilities as provided under section 2-11.6 of the Code by the affirmative vote of a majority of the entire membership of the Board; finding that the projects contemplated herein are qualifying projects under sections 125.012(2) and 125.012(24), Florida Statutes; authorizing the County Mayor to: (1) execute the Management Agreement and amendments and to exercise all rights contained therein, including approvals, denials, and termination and extension rights; (2) exercise all delegated authorities described in the accompanying memorandum subject to certain considerations regarding the approval of the form and amount of any alternative form of security; (3) take any other acts necessary to give effect to the Management Agreement and amendments, including approving any other instruments and amendments to the aforementioned agreements that have no adverse fiscal impact to the county; directing the County Mayor, pursuant to Resolution No. R-791-14 to provide a copy of the Management Agreement to the Property Appraiser; directing the County Mayor to appoint staff to monitor compliance with the agreements

Resolution No. R-1040-24

The accompanying resolution was prepared by the Port of Miami and placed on the agenda at the request of Prime Sponsor Commissioner Danielle Cohen Higgins.



Geri Bonzon-Keenan
County Attorney

GBK/uw


MDC001

Memorandum



Date: December 3, 2024

To: Honorable Chairman Anthony Rodríguez
and Members, Board of County Commissioners

From: Daniella Levine Cava 
Mayor

Subject: Resolution Approving the Second Amendment to the Third Amended and Restated Cruise Terminal Agreement, First Amendment to the Terminal Transfer Rider and the Parking Facilities Management Agreement between Miami-Dade County and NCL Ltd., d/b/a Norwegian Cruise Line Holdings

Executive Summary

This item seeks approval by the Board of County Commissioners (Board) to approve, execute, and exercise all rights in the Second Amendment to the Third Amended and Restated Cruise Terminal Agreement (Terminal Agreement), the First Amendment to the Terminal Transfer Rider (Transfer Rider) (collectively, the “Terminal Agreement” and “Transfer Rider” are the “Amendments”) and the Parking Facilities Management Agreement (“Management Agreement”) between Miami-Dade County (County) and NCL (Bahamas) Ltd., d/b/a Norwegian Cruise Line Holdings (NCLB). The Amendments extend the expiration of the initial term of the Terminal Agreement from September 30, 2053, through the later of September 30, 2058, or 30 years from the substantial completion of the Multipurpose Parking Facility. NCLB may extend the term of the Terminal Agreement by 2 additional 5-year renewal periods.

The proposed Amendments and Management Agreement reflect a mutually beneficial relationship between the County and NCLB to address existing and future parking needs associated with the Cruise Terminals at the Seaport Department (Seaport or PortMiami) through which NCLB will take responsibility for the operation and maintenance of the existing Cruise Terminal B Garage and will set their own rates allowing NCLB to conduct parking operations in a manner that is most efficient for their cruise operations. NCLB will also be responsible for the design, build, financing, operation, and maintenance of a new Multipurpose Parking Facility, at PortMiami near Cruise Terminals B & C where NCLB operates. The new Multipurpose Parking Facility will accommodate a minimum of 2,000 parking spaces with a construction cost of no less than \$60 million. The new facility will help to address parking demand and facilitate NCLB’s expansion of its business at PortMiami through the increase of guaranteed passenger movements.

The Multipurpose Parking Facility will incorporate the current port-wide capacity for taxis and transportation network entities (TNE) operating on the existing site. NCLB will also pay the County a fee for parking at the garages, including a parking revenue guarantee, which is a provision that PortMiami currently does not have with any other cruise line. These parking enhancements will support NCLB’s growing cruise business at PortMiami, enabling NCLB to expand its operations. Through the proposed agreements, NCLB will increase its minimum annual guaranteed (“MAG”)

passenger movements, extend the term of its Terminal Agreement by 5 years, and commit certain newbuild vessels to homeport at PortMiami.

The Management Agreement will further allow the County, at its own cost and with separate Board approval, to add additional parking and office shell space on top of the Multipurpose Parking Facility as an additional future option.

Recommendation

It is recommended that the Board approve the accompanying resolution, approving and authorizing the County Mayor or the County Mayor's designee to execute and exercise all rights contained in the Amendments and Management Agreement.

Scope

PortMiami is located within District 5, represented by Commissioner Eileen Higgins. The impact of this item is countywide as PortMiami is a regional asset and generates employment for residents throughout Miami-Dade County.

Fiscal Impact/Funding Source

Approval of this item will have a substantial positive fiscal impact to the County, with an estimated \$1,125,846,204 in additional guaranteed revenues and a potential \$1,747,500,312 in additional revenues if NCLB exercises the extension options in the Terminal Agreement. For comparison, under the existing Terminal Agreement, guaranteed revenues with exercised options total \$2,944,399,882. With approval of this item, those revenues would increase to \$4,691,900,194. The County will have a \$3.5 million project contribution, which will be funded out of the Seaport's unrestricted cash, commercial paper program, or future financing funds.

Amendments and Management Agreement

Second Amendment to Third Amended and Restated Cruise Terminal Agreement

The proposed Amendment provides positive fiscal benefits to the County by (1) increasing cruise passenger guarantees and associated revenue each year of the term, (2) extending the term of the agreement by five years to ensure sustained growth, and (3) providing NCLB rights to extend the term by two additional five-year options. This combination is expected to create a more advantageous and profitable partnership as NCLB fully utilizes the capacity of the terminals for which it has preferential berthing rights while strengthening the Port's financial position.

The Amendment will generate in excess of \$3.1 billion in County revenue inclusive of wharfage, dockage, and capital reimbursement surcharge revenue over the term including approximately \$360 million in marketing incentives that will be paid to NCLB. This represents a positive fiscal impact of approximately \$1.125 billion above the current agreement and amendments, or \$1.75 billion if the options to renew are exercised. Additionally, the increase in passenger MAG figures will result in a total of 74.2 million cruise passenger movements during the initial term, compared to the 48.7 million in the existing agreement.

If the options to renew are exercised, the total County revenue will increase to \$4.7 billion, representing an additional \$1.75 billion in revenue, and an increase of 32.5 million MAG passenger movements.

The County will be responsible for future improvements at Cruise Terminal C to accommodate future passenger growth and demand. The Parties shall agree on the scope, design, and specifications of the future improvements and, if necessary, will seek future Board approval. The improvements, needed to handle the increased passenger guarantees, which increase from the existing 1.8 million annual passenger movements to as high as 2.5 million annual passenger movements, shall be limited to renovations and shall not include expansion of the physical structure of the terminal

Amendment to the Terminal Transfer Rider

The proposed Amendment to the Terminal Transfer Rider, in recognition of the increased guaranteed passenger movements and additional revenues to the County, will terminate NCLB of its obligation to pay any uncollected remaining portions of the \$4.00 passenger surcharge. This surcharge, which was introduced with the Terminal Transfer Rider, was originally set to expire after Fiscal Year 2027. While this change will result in a reduction of County revenues by \$11.2 million, this loss is more than offset by the increase in MAG passenger movements as outlined above.

Additional Amendment Details

The Amendments accomplish each of the following objectives:

- Extension of Agreement Term
The Amendments extend the expiration of the initial term of the Terminal Agreement from September 30, 2053, through the later of September 30, 2058, or 30 years from the substantial completion of the Multipurpose Parking Facility. NCLB may extend the term of the Terminal Agreement by 2 additional 5-year renewal periods.
- Increase in MAGs
The Amendments raised the passenger MAGs by approximately 25.5 million passenger movements over the initial term. Increased MAGs range from 1.2 million passenger movements in Fiscal Year 2025 (currently 900,000 passenger movements) to 2.5 million passenger movements from Fiscal Year 2042 through the conclusion of agreement (currently 1.8 million passenger movements). In total, assuming both extension options are exercised, an additional 32.5 million passenger movements are guaranteed through the Amendments.
- Parking Incentives
Under the Amendments, NCLB relinquishes its rights to the parking incentives established in the Third Amendment for any calls at CTB and, upon substantial completion of the Multipurpose Parking Facility (or expiration of the deadline for completing that facility), also at CTC. This amendment to parking incentives will result in no fiscal impact as the County rebates all port-owned and operated garage multi-day parking revenues to the cruise lines with preferential berthing agreements.

- Marketing Incentives
Together with the increased passenger MAGs, the Amendments restart NCLB's right to the annual marketing incentives as previously approved by the Board in the Third Amendment.
- Homeporting Obligations and Most Favored Port
Under the Amendments, NCLB commits to homeport several newbuild vessels for at least one season each, including the Norwegian Luna in the Summer 2026 season, either the Prima 5 or 6 for its first Caribbean season, and a Project 2030 vessel.
- Additionally, NCLB agrees that PortMiami will remain its highest-utilized U.S. home port for Caribbean sailings across all NCLB and affiliate vessels, as measured by passenger movements.
- Passenger Wharfage Surcharge
The Terminal Transfer Rider required NCLB to pay a \$4.00 wharfage surcharge per passenger movement to offset the MAG reduction. Because the Amendments provide for an increase in the MAGs (to levels exceeding those existing before the Terminal Transfer Rider), the Amendments will terminate the wharfage surcharge as of April 1, 2025.

Parking Facilities Management Agreement

The proposed agreement is expected to have several positive fiscal impacts, including increased revenue generation to the County through an annual parking revenue guarantee, enhanced operational efficiencies, and increased parking availability to capture increased passenger capacity at the Port.

Through this Agreement, NCLB will guarantee the County a minimum share of parking revenue. Starting on the effective date, the share which is currently \$4.00 per vehicle, will increase to \$10.00 per vehicle in FY 2032 and throughout the term. This revenue share applies to vehicles parked at both Garage B with 748 spaces, and the new parking facility with a minimum guarantee of \$29.6 million over the 30-year term. Additionally, if renewal terms are exercised, there is potential for \$10 million in additional revenue. The minimum guarantee is structured as follows:

- \$100,000 annually from 2025 to 2027
- \$150,000 in 2028 as the new multipurpose facility is built.
- \$675,000 in 2029
- \$750,000 in 2030
- \$825,000 in 2031
- and \$1,000,000 annually from 2032 through the end of the term

This guaranteed amount serves as a baseline commitment, with opportunities for higher revenues based on actual parking demand.

NCLB will be the funding source for the majority of the project. The County will contribute \$3.5 million to the project and NCLB has committed that the new Multi-Purpose Garage will incorporate an intermodal area to accommodate the existing port-wide taxi and TNE functions currently on the site.

The County has a right in this Agreement to increase the scope of this project to add additional parking decks and up to two floors of office shell space for other Port uses. Should the County desire to exercise this right, future Board approval will be required after the design and construction costs are determined.

Additional Management Agreement Details

The Management Agreement runs concurrently with the extended term of the Terminal Agreement and establishes the NCLB's obligations regarding its operation and management of the existing CTB Garage. The Management Agreement also establishes the terms for the design, construction, financing, operation, and management of the new Multipurpose Parking Facility. Additional details are listed below:

- Management and Operations of Parking Garages—Existing CTB Garage and Future Multipurpose Parking Facility
Under the Management Agreement, NCLB will assume responsibility for the day-to-day operations and maintenance of the existing CTB Garage in its current, as-is condition for the management and operation. NCLB will take on the same operating and maintenance obligations once the Multipurpose Parking Facility is completed. Under the Management Agreement, the County will retain responsibility over specific structural matters, generally detailed in Exhibit B of the Management Agreement. Otherwise, NCLB will enter all necessary goods and services contracts to operate the CTB Garage and Multipurpose Parking Facility.
- Design and Construction of the Multipurpose Parking Facility
A Development Rider accompanying the Management Agreement requires NCLB to construct the Multipurpose Parking Facility at its own cost, which shall not be less than \$60 million, and is expected to be completed by November 1, 2028. The County is responsible for a contribution of \$3.5 million and, if elected by the County (subject to Board approval), the cost of the design and construction of office and/or dedicated parking within the Multipurpose Parking Facility for the County's use. The Multipurpose Parking Facility will be owned by the County and will consist of not less than 2,000 parking spaces.
- Included within NCLB's financial commitment, the Multipurpose Parking Facility will incorporate a ground transportation area for port-wide taxi and TNEs currently operating on the footprint of the future Multipurpose Parking Facility.
- NCLB will be required to comply with all applicable County programs, including, but not limited to Art in Public Places and the County's Sustainable Buildings Ordinance.

- County Parking Revenue Share
NCLB shall pay the County a per vehicle fee from overnight vehicles parking at the CTB Garage and the Multipurpose Parking Facility. The fiscal impact of such revenue sharing arrangements is set forth in the Fiscal Impact section of this Memorandum, which minimum guarantees total \$29.7 million and range from \$100,000 per year at the commencement of the term of the Management Agreement to \$1,000,000 per year beginning Fiscal Year 2032 through the term.
- Under the Management Agreement, NCLB has the right to set and collect parking fees at CTB Garage and Multipurpose Parking Facility, but the County retains the right to utilize the garages for County-sponsored and special events at fees determined by the County (including for at no charge for up to 10 events per County Fiscal Year). To prevent competition with County-operated garages, NCLB may not set rates below the parking rates established in PortMiami Tariff 010.

Track Record/Monitor

The Seaport Department staff members responsible for monitoring the implementation of the Amendments and Management Agreement are Andy Hecker, Deputy Port Director, and Fred Wong, Deputy Port Director.

Background

PortMiami and NCLB share a long-standing partnership spanning several decades. NCLB's operations at PortMiami began in 1966 when the M/S Sunward became the industry's first vessel to offer weekly departures from Miami to the Caribbean. Today, the NCLB family is a leading global cruise operator, managing Norwegian Cruise Line, Oceania Cruises, and Regent Seven Seas Cruises brands. With a combined fleet of 32 ships and approximately 66,500 berths, the NCLB family offers itineraries to around 700 destinations worldwide.

NCLB has consistently reinforced its position as a leader in the cruise industry, demonstrated by its strong financial performance, yield growth, high occupancy levels, robust market demand, and ambitious new-build capacity expansion program. The NCLB family plans to add 13 new ships across its three brands by 2036, which will introduce roughly 41,000 additional berths to its fleet. Under the proposed Amendments, some these new cruise vessels will be deployed to the Caribbean region, making PortMiami their home port.

NCLB first entered into a terminal agreement with the County on December 16, 2008 (Resolution No. R-1442-08), authorizing a 10-year cruise terminal agreement with NCL with a minimum guaranteed revenue stream of more than \$98 million throughout the initial term. Several agreements later, on April 10, 2018, the Board approved the Amended and Restated Cruise Terminal Agreement, which provided for the design and construction of the iconic Cruise Terminal B ("CTB"). That agreement was modified through Board action, and the current agreement between the County NCLB is the Third Amended and Restated Cruise Terminal Agreement (Resolution No. R-988-19), as amended by the First Amendment to the Third Amended and Restated Cruise Terminal Agreement

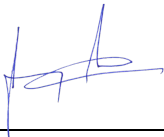
(Resolution No. R-726-21) and the Terminal Transfer Rider, approved on November 15, 2022 (Resolution No. 1101-22).

The Terminal Transfer Rider, which this item modifies, allows NCLB to relinquish its berthing rights at Cruise Terminal C (“CTC”) in exchange for a reduction in passenger guarantees and marketing incentives, effective through September 30, 2027. Having CTC available provided berthing flexibility for the Port. Given the reduction in passenger guarantees and to make the County whole, the Terminal Transfer Rider provided for a \$4.00 wharfage surcharge per passenger.

Through this item, NCLB and the County agree on mutually beneficial terms to substantially increase passenger throughput at PortMiami, increasing cruise-derived revenues for the next 30 years plus 2 additional 5-year extension rights conferred to NCLB. This item also provides for the design and construction of a new parking facility, funded by NCLB, that will expand parking capacity and further enhance our cruise operations.

Delegated Authority


In addition to the delegations of authority contained in the accompanying resolution, the resolution incorporates by reference the delegations set forth in this paragraph. The County Mayor or County Mayor’s designee is delegated the authority to: (a) execute the Management Agreement and Amendments and exercise all rights granted to the County and contained in the Management Agreement and Amendments, other than those expressly reserved to the Board; (b) approve of the form and amount of any alternate form of security proposed in satisfaction of any of the requirements of Florida Statute Section 255.05; (c) negotiate, approve, and periodically revise the Operating Protocol contemplated in the Management Agreement; (d) define and, if necessary, amend the boundaries of the Multipurpose Parking Facility Parcel materially consistent with the boundaries set forth in Exhibit D to the Management Agreement; (e) approve or revise timelines and extensions of completion dates or other periods of time set forth in the Management Agreement and Amendments to account for delays and other extenuating circumstances during the course of performance; and (f) make technical corrections to the agreements that do not have fiscal impacts to the County.



Jimmy Morales
Chief Operating Officer

Memorandum

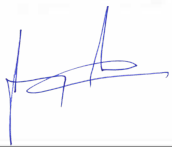


Date: November 25, 2024
To: Eugene Love, Agenda Coordinator
From: Hydi Webb, Seaport Director and CEO 
Subject: Resolution Approving the Second Amendment to the Third Amended and Restated Cruise Terminal Agreement and First Amendment to the Terminal Transfer Rider and the Parking Facilities Management Agreement Between Miami-Dade County and NCL Ltd., d/b/a Norwegian Cruise Line Holdings

I am respectfully requesting that the item and resolution approving the Second Amendment to the Third Amended and Restated Cruise Terminal Agreement (“Terminal Agreement”) and First Amendment to the Terminal Transfer Rider (“Transfer Rider”) (collectively, the “Terminal Agreement” and “Transfer Rider” are the Amendments”) and the Parking Facilities Management Agreement (“Management Agreement”) Between Miami-Dade County (“County”) and NCL (Bahamas) Ltd., d/b/a Norwegian Cruise Line Holdings (“NCLB”) be placed on the December 3, 2024, Board of County Commissioners Meeting Agenda.

Although this item has not met the noticed deadline and has been provided to the Agenda Coordination Office late, this memorandum requesting expeditious processing of the item has been prepared to allow the parties to meet contractual obligations for project delivery schedules that generate economic benefits for the County.

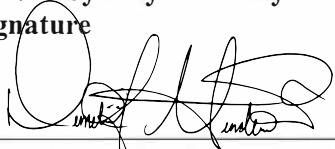
Therefore, process the item notwithstanding that the four-day rule may be applicable to it.



Approved by Mayor or Mayor’s Designee
Signature

Jimmy Morales

Print Name



Approved by Policy Director or Designee
Signature

Demetria Henderson

Print Name

11.26.2024

Date

cc: Geri Bonzon-Keenan, County Attorney
CAOagenda@miamidade.gov



MEMORANDUM
(Revised)

TO: Honorable Chairman Anthony Rodríguez
and Members, Board of County Commissioners

DATE: December 3, 2024

FROM: 
Gen Bonzon-Keenan
County Attorney

SUBJECT: Agenda Item No. 14(A)(1)

Please note any items checked.

- "3-Day Rule" for committees applicable if raised
- 6 weeks required between first reading and public hearing
- 4 weeks notification to municipal officials required prior to public
- Decreases revenues or increases expenditures without balancing budget
- Budget required
- Statement of fiscal impact required
- Statement of social equity required
- Ordinance creating a new board requires detailed County Mayor's report for public hearing
- No committee review
- Applicable legislation requires more than a majority vote (i.e., 2/3's present ____, 2/3 membership ____, 3/5's ____, unanimous ____, majority plus one ____, CDMP 7 vote requirement per 2-116.1(3)(h) or (4)(c) ____, CDMP 2/3 vote requirement per 2-116.1(3)(h) or (4)(c) ____, or CDMP 9 vote requirement per 2-116.1(4)(c)(2) ____) to approve *7 vote minimum requirement
- Current information regarding funding source, index code and available balance, and available capacity (if debt is contemplated) required

Approved *Danielle Levine-Cava* Mayor
Veto _____
Override _____

Agenda Item No. 14(A)(1)
12-3-24

RESOLUTION NO. R-1040-24

RESOLUTION APPROVING THE PARKING FACILITIES MANAGEMENT AGREEMENT (“MANAGEMENT AGREEMENT”) WITH NCL (BAHAMAS) LTD. D/B/A NORWEGIAN CRUISE LINE (“NCLB”) WITH AN ESTIMATED FISCAL IMPACT TO THE COUNTY OF APPROXIMATELY \$39,675,000.00, IN ANTICIPATED REVENUES TO THE COUNTY FROM NCLB’S OPERATION OF THE CRUISE TERMINAL B GARAGE AND THE MULTIPURPOSE PARKING FACILITY, SAVINGS TO THE COUNTY FROM THE TRANSFER OF MAINTENANCE AND OPERATING RESPONSIBILITIES TO NCLB, AND THE VALUE OF THE COUNTY-OWNED MULTIPURPOSE PARKING FACILITY TO BE CONSTRUCTED UNDER THE MANAGEMENT AGREEMENT; APPROVING THE SECOND AMENDMENT TO THE THIRD AMENDED AND RESTATED CRUISE TERMINAL AGREEMENT AND THE FIRST AMENDMENT TO THE TERMINAL TRANSFER RIDER (“AMENDMENTS”) WITH AN ESTIMATED POSITIVE FISCAL IMPACT TO THE COUNTY OF \$1,707,825,312.00; AUTHORIZING NCLB AND ITS PARENT, SUBSIDIARY, AND SISTER ENTITIES TO DESIGN, CONSTRUCT, AND OPERATE PORT FACILITIES AS PROVIDED UNDER SECTION 2-11.6 OF THE CODE BY THE AFFIRMATIVE VOTE OF A MAJORITY OF THE ENTIRE MEMBERSHIP OF THE BOARD; FINDING THAT THE PROJECTS CONTEMPLATED HEREIN ARE QUALIFYING PROJECTS UNDER SECTIONS 125.012(2) AND 125.012(24), FLORIDA STATUTES; AUTHORIZING THE COUNTY MAYOR OR COUNTY MAYOR’S DESIGNEE TO: (1) EXECUTE THE MANAGEMENT AGREEMENT AND AMENDMENTS AND TO EXERCISE ALL RIGHTS CONTAINED THEREIN, INCLUDING APPROVALS, DENIALS, AND TERMINATION AND EXTENSION RIGHTS; (2) EXERCISE ALL DELEGATED AUTHORITIES DESCRIBED IN THE ACCOMPANYING MEMORANDUM SUBJECT TO CERTAIN CONSIDERATIONS REGARDING THE APPROVAL OF THE FORM AND AMOUNT OF ANY ALTERNATIVE FORM OF SECURITY; (3) TAKE ANY OTHER ACTS NECESSARY TO GIVE EFFECT TO THE MANAGEMENT AGREEMENT AND AMENDMENTS, INCLUDING APPROVING ANY OTHER INSTRUMENTS AND AMENDMENTS TO THE AFOREMENTIONED AGREEMENTS THAT HAVE NO ADVERSE FISCAL IMPACT TO THE COUNTY; DIRECTING THE COUNTY MAYOR OR COUNTY MAYOR’S DESIGNEE, PURSUANT TO RESOLUTION NO. R-791-14 TO PROVIDE A COPY OF THE MANAGEMENT AGREEMENT TO THE PROPERTY APPRAISER; DIRECTING THE COUNTY MAYOR OR COUNTY MAYOR’S DESIGNEE TO APPOINT STAFF TO MONITOR COMPLIANCE WITH THE AGREEMENTS

WHEREAS, this Board desires to accomplish the purposes outlined in the accompanying memorandum, a copy of which is incorporated herein by reference,

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS OF MIAMI-DADE COUNTY, FLORIDA, that this Board:

Section 1. Approves the Parking Facilities Management Agreement with NCL (Bahamas) Ltd. d/b/a Norwegian Cruise Line (“NCLB”), in substantially the form attached hereto as Exhibit A (the “Parking Facilities Management Agreement”), with an estimated fiscal impact to the County of approximately \$39,675,000.00 in anticipated revenues to the County from NCLB’s operation of the Cruise Terminal B Garage and the Multipurpose Parking Facility, savings to the County from the transfer of maintenance and operating responsibilities to NCLB, and the value of the County-owned Multipurpose Parking Facility to be constructed by NCLB under the Parking Facilities Management Agreement.

Section 2. Approves the Second Amendment to the Third Amended and Restated Cruise Terminal Agreement and the First Amendment to the Terminal Transfer Rider (collectively, the “Amendments”) in substantially the form attached as Exhibits B and C hereto with an estimated positive fiscal impact to the County of \$1,707,825,312.00.

Section 3. Authorizes, by the affirmative vote of a majority of the entire membership of the Board and as provided in section 2-11.6 of the Code of Miami-Dade County (the “Code”), NCLB and its parent, subsidiary, and sister entities to design, construct, and operate the Cruise Terminal B Garage and Multipurpose Parking Facility as port facilities.

Section 4. Finds that the projects described in sections 1 and 2 are qualifying projects under section 125.012(2) and 125.012(24), Florida Statutes, and that the contractual obligations contemplated herein are undertaken by tenants or other users of the project or providers of service in, on, or in connection with such qualifying project and as such, the County is authorized to enter into these contracts without competitive bidding.

Section 5. Authorizes the County Mayor or County Mayor’s designee to: (1) execute the Management Agreement and Amendments and exercise all rights contained therein, including approvals, denials, and termination and extension rights; (2) exercise all delegated authorities described in the accompanying memorandum, provided that in connection with the County Mayor or County Mayor’s designee’s approval of the form and amount of any alternative form of security proposed in satisfaction of any requirements in the Management Agreement or section 255.05, Florida Statutes, the County Mayor or County Mayor’s designee shall consider the nature, history, and financial capabilities of the contracting parties, the contractual obligations secured by the alternative security, and the contractual safeguards in place to protect payments to persons performing the work; and (3) take any other acts necessary to give effect to the Management Agreement and Amendments, including approving any other instruments and amendments to the aforementioned agreements that have no adverse fiscal impact to the County and have been reviewed and approved by the County Attorney’s Office as to form and legal sufficiency.

Section 6. Directs the County Mayor or County Mayor’s designee, pursuant to Resolution No. R-791-14, to provide a copy of the Management Agreement to the Property Appraiser.

Section 7. Directs the County Mayor or County Mayor’s designee to appoint staff to monitor compliance with the agreements and transactions approved and authorized herein.

The foregoing resolution was offered by Commissioner **Danielle Cohen Higgins** , who moved its adoption. The motion was seconded by Commissioner **Oliver G. Gilbert, III** and upon being put to a vote, the vote was as follows:

	Anthony Rodríguez, Chairman	aye	
	Kionne L. McGhee, Vice Chairman	aye	
Marleine Bastien	aye	Juan Carlos Bermudez	aye
Kevin Marino Cabrera	aye	Sen. René García	absent
Oliver G. Gilbert, III	aye	Roberto J. Gonzalez	aye
Keon Hardemon	absent	Danielle Cohen Higgins	aye
Eileen Higgins	aye	Raquel A. Regalado	aye
Micky Steinberg	aye		

The Chairperson thereupon declared this resolution duly passed and adopted this 3rd day of December, 2024. This resolution shall become effective upon the earlier of (1) 10 days after the date of its adoption unless vetoed by the County Mayor, and if vetoed, shall become effective only upon an override by this Board, or (2) approval by the County Mayor of this resolution and the filing of this approval with the Clerk of the Board.



MIAMI-DADE COUNTY, FLORIDA
BY ITS BOARD OF
COUNTY COMMISSIONERS

JUAN FERNANDEZ-BARQUIN, CLERK

By: Basia Pruna
Deputy Clerk

Approved by County Attorney as
to form and legal sufficiency.

A handwritten signature in cursive script, appearing to read "MAG", is written over a horizontal line.

Miguel A. Gonzalez
Christian J. Fernandez-Andes

**SECOND AMENDMENT TO THE THIRD AMENDED AND RESTATED
CRUISE TERMINAL AGREEMENT AND
FIRST AMENDMENT TO THE TERMINAL TRANSFER RIDER**

This Second Amendment to the Third Amended and Restated Cruise Terminal Agreement and First Amendment to the Terminal Transfer Rider (“Amendment”) by and between Miami-Dade County (the “County”), a political subdivision of the State of Florida, and NCL (Bahamas) Ltd., d/b/a Norwegian Cruise Line (“NCLB”), a Bermuda company, is effective as of December ___, 2024 (the “Effective Date”). (The County and NCLB are each, a “Party” and, collectively, “NCLB” and the “County” are the “Parties.”)

RECITALS

WHEREAS, the County owns certain lands located in Miami-Dade County, Florida on which the Dante B. Fascell Port of Miami-Dade (the “Port”) is located; and

WHEREAS, the County operates the Port through the Miami-Dade County Seaport Department, which is a department of the County; and

WHEREAS, Norwegian Cruise Line Holdings, Ltd. (“NCLH”) is a leading international cruise company with a number of cruise lines including Norwegian Cruise Line, Regent Seven Seas Cruises, and Oceania Cruises that presently use the Port as a homeport; and

WHEREAS, NCLB is a subsidiary of NCLH and the operating entity for NCLH; and

WHEREAS, NCLB’s commitments to use the Port as a homeport have a significant economic impact on the County’s economy; and

WHEREAS, in connection with such commitments, NCLB has entered into that certain Third Amendment and Restated Cruise Terminal Agreement Between Miami-Dade County and NCL (Bahamas) Ltd., which was approved by the Board of County Commissioners through Resolution No. R-988-19 (the “Third Amended and Restated Agreement”); and

WHEREAS, in addition to the Third Amended and Restated Agreement, the County and NCLB have entered into that certain Cruise Terminal J Agreement Between Miami-Dade County and NCL (Bahamas) Ltd. (the “Cruise Terminal J Agreement”), which was approved by the Board of County Commissioners through Resolution No. R-532-17; and

WHEREAS, additionally, the Parties entered into that certain Terminal Transfer Rider, which was approved by the Board of County Commissioners through Resolution No. R-1101-22 (the “Terminal Transfer Rider”); and

WHEREAS, the Parties, desire to modify the existing provisions for certain aspects of the Third Amended and Restated Agreement and the Terminal Transfer Rider to, among other things, extend the Term, increase the Minimum Annual Guarantee of Passenger Movements, modify the application of the Parking Revenue Incentive, modify homeporting

obligations, terminate the Wharfage Surcharge required to be paid under the Terminal Transfer Rider, and require the County to perform certain improvements at Cruise Terminal C (“CT-C”); and

NOW, THEREFORE, in exchange for adequate and valuable consideration, the receipt of which the Parties acknowledge, the Parties enter into this Amendment on the following terms and conditions:

TERMS AND CONDITIONS

ARTICLE I

GENERAL CONDITIONS

1.01 **Incorporation of Recitals.** The Parties agree each of the foregoing recitals are true and correct and are incorporated herein.

1.02 **Definitions.** Capitalized terms used in this Amendment shall have the meaning set forth herein. Any capitalized terms not defined herein but utilized in this Amendment shall have the meaning set forth in the Third Amended and Restated Agreement and Terminal Transfer Rider.

ARTICLE II

AMENDMENTS

2.01 **Term.** The Term of the Third Amended and Restated Agreement shall expire on the later of (i) September 30, 2058 or (ii) thirty (30) years from the earlier of (a) the expiration of the Development Period, as such Development Period is extended for Delays or by mutual agreement or (b) Substantial Completion of the Multipurpose Parking Facility. At its sole discretion and provided that NCLB is not in default of its obligations under any Agreement between NCLB and the County, NCLB may extend the term of the Third Amended and Restated Agreement by two (2) additional, five-year (5) renewal periods.

2.02 **Minimum Annual Guarantee of Passenger Movements.** Notwithstanding anything to the contrary in § 3(c)(i) of the Third Amended and Restated Agreement and § 2.04 of the Terminal Transfer Rider, NCLB’s Minimum Annual Guarantee of Passenger Movements is amended in accordance with Exhibit A of this Amendment.

2.03 **Parking Revenue Incentive.** Upon the Effective Date, NCLB shall relinquish its rights to the Parking Revenues Incentive established in § 3(e)(ii) of the Third Amended and Restated Agreement for any calls at Cruise Terminals B and C. The foregoing notwithstanding, until the earlier of (i) Substantial Completion of the Multipurpose Parking Facility or (ii) the expiration of the Development Period, as extended for Delays, NCLB shall be entitled to the Parking Revenue Incentive based on the proportion of NCLB passenger movements at CT-C as a percentage of the total passenger movements at PortMiami eligible for receipt of the Parking Revenue Incentive.

2.04 **Marketing Incentive.** Upon the Effective Date, NCLB shall revert to those Annual Marketing Incentive rights established in § 3(e)(iv) and Exhibit B of the Third

Amended and Restated Agreement. For the purposes of clarity, the Parties agree that passenger volumes commencing on October 1, 2024, will be included for the purposes of calculating the Annual Marketing Incentive rights.

2.05 **Homeporting Commitment.** NCLB commits that it shall homeport the Norwegian Luna for at least one (1) season commencing in the Summer 2026 season. Additionally, NCLB agrees to homeport, for its first Caribbean season, either the Prima 5 or 6 for at least one (1) season. Further, NCLB agrees to homeport at least one (1) new-build NCLB Project 2030 vessel, anticipated for 2030, for at least one (1) season.

2.06 **Most Favored Port.** During the Term, NCLB agrees that PortMiami shall be the highest utilized port in the United States for sailings to the Caribbean for all NCLB and NCLB affiliate vessels, as measured by passenger movements. To the extent NCLB breaches the foregoing obligation, NCLB shall be liable to pay the County the passenger fees that PortMiami would have collected (e.g., wharfage, Capital Recovery Surcharge, etc.) from the passengers comprising the differential between those passenger movements at PortMiami and those passenger movements at the port which at which NCLB had the largest volume of passenger movements.

2.07 **Improvements at CT-C.** The Parties shall agree on the scope, design, and specifications of the future improvements, which may be subject to approval by the Board of County Commissioners. Such improvements shall be limited to renovations and shall not include expansion of the physical structure of the terminal.

2.08 **Wharfage Surcharge.** The Wharfage Surcharge collected by the County in accordance with § 2.03 of the Terminal Transfer Rider is rescinded as of April 1, 2025.

2.09 **Capital Recovery Surcharge.** Exhibit 1 to the Terminal Transfer Rider shall be replaced with **Exhibit C** to this Amendment. Upon the Effective Date, Exhibit 1 to the Terminal Transfer Rider shall be of no further force and effect.

2.10 **Memorandum of Understanding Regarding Adjacent Property.** NCLB shall have the first right of negotiation with the County to a development on the Adjacent Property depicted in **Exhibit B** for a period of two (2) years from the Effective Date (the “Negotiation Period”).

(a) **Limitations During the Negotiation Period.** During the Negotiation Period, NCLB shall be entitled to negotiate an agreement with the County regarding the use of the Adjacent Property. The County agrees that during the Negotiation Period it shall not enter into a binding agreement for the long-term use of or construction of a permanent structure on the Adjacent Property that would hinder NCLB’s ability to develop the Adjacent Property.

(b) **Extension of Negotiation Period.** The Negotiation Period shall terminate upon the earlier of (i) the mutual agreement of the Parties and (ii) two (2) years from the Effective Date unless there are ongoing good-faith negotiations regarding the Adjacent Property and NCLB requests an extension of the Negotiation Period at least six (6)

months before its expiration, in which case the Parties may mutually agree to an extension of the Negotiation Period for a period not to exceed twelve (12) additional months.

(c) **Separate Approval Required.** Nothing herein shall be construed to authorize the County Mayor or County Mayor's designee to enter into any binding agreements regarding NCLB's use of the Adjacent Property.

2.11 **Satisfaction of Conditions Regarding Future Agreements.** The Parties acknowledge and agree that upon the Effective Date of the Parking Facilities Management Agreement, § 3.01 of the Terminal Transfer Rider regarding the development of a Multipurpose Parking Facility shall be rescinded.

ARTICLE III **MISCELLANEOUS**

3.01 **Counterparts; Signatures.** This Amendment may be executed in multiple counterparts, each of which shall constitute an original, but all of which taken together shall constitute one and the same agreement. Signatures to this Amendment may be delivered by facsimile or electronic transmission (i.e., pdf format), and for purposes of this Amendment, signatures transmitted by facsimile or electronic transmission will be deemed to be original signatures.

3.02 **No Assignment.** Neither Party shall assign any of their rights under this Amendment or delegate the performance of any of the obligations or duties hereunder, without the prior written consent of the other Party hereto and any attempt by any Party to so assign, transfer, or subcontract any rights, duties, or obligations arising hereunder shall be void and of no effect.

3.03 **Authority.** Each person signing this Amendment on behalf of a Party represents and warrants that he or she has full power and authority to enter into this Amendment and to bind the Party on whose behalf they are signing respectively.

3.04 **Governing Law and Venue.** This Amendment and the interpretation of its terms shall be governed by and construed in accordance with the laws of the State of Florida, without application of conflicts of law principles that would result in the application of non-Florida law. Venue for any judicial, administrative, or other action to enforce or construe any term of this Amendment or arising from or relating to this Amendment shall lie exclusively in Miami-Dade County, Florida.

3.05 **Severability.** If any clause or provision of this Amendment is determined to be illegal, invalid or unenforceable under present or future laws effective during the term of this Amendment, then and in that event, it is the intention of the Parties hereto that the remainder of this Amendment shall not be affected thereby, and that in lieu of such illegal, invalid or unenforceable clause or provision there shall be substituted a clause or provision as similar in terms to such illegal, invalid or unenforceable clause or provision as may be possible and be legal valid and enforceable.

3.06 **Successors and Assigns**. The provisions of this Amendment shall bind, and the benefits and advantages shall inure to, the respective permitted successors and assigns of the Parties hereto.

3.07 **Entire Agreement**. This Amendment, together with the Third Amended and Restated Agreement and Terminal Transfer Rider, contains the entire agreement of the Parties hereto as to the subject matter of this Amendment, and no prior representations, inducements, letters of intent, promises or agreements, oral or otherwise, between the Parties not embodied or referred to herein shall be of any force and effect. Any amendment to this Amendment must be in writing and signed by the Parties hereto.

3.08 **Paragraph Headings**. The headings of the paragraphs of this Amendment are inserted only for the purpose of convenience of reference and shall not be deemed to govern, limit, modify, or in any manner affect the scope, meaning, or intent of the provisions of this Amendment or any part or portion thereof, nor shall they otherwise be given any legal effect.

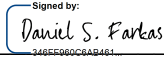
3.09 **Notices**. All notices, requests, consents, and other communications required or permitted under this Amendment shall be in writing and shall be in accordance with the terms of the Third Amended and Restated Agreement.

3.10 **Third-Party Beneficiaries**. The intended beneficiaries of this Amendment shall be the same as those beneficiaries of the Third Amended and Restated Agreement; no additional persons shall be entitled to claim any rights or benefits under this Amendment.

IN ACCEPTANCE WHEREOF, Miami-Dade County and NCL (Bahamas) Ltd. have set their respective hands as of the date and year appearing by their respective signatures.

NCL (Bahamas) Ltd.

Miami-Dade County, Florida

By:  _____
Signed by: Daniel S. Farkas 3485E060CC6AB461

By: _____

Print: Daniel S. Farkas

Print: _____

Title: EVP & General Counsel CDO & AS

Title: _____

Dated: 11/25/2024, 2024.

Dated: _____, 2024.

Attest:
Print:
Seal:

By: _____
Assistant County Attorney
As to Form and Legal Sufficiency

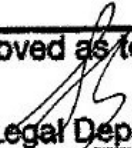


Approved as to Form	
	
NCL Legal Department	
Approved as to Content	
By:	 <small>DocuSigned by: 428A92543E68462</small>
Approved by Finance	
By:	 <small>DocuSigned by: Gaston Macau 5001842109200448</small>

Exhibit A
(Minimum Annual Guarantee of Passenger Movements)

Fiscal Year	Minimum Annual Guarantee (Passenger Movements)
2025	1,200,000
2026	1,200,000
2027	1,500,000
2028	1,500,000
2029	1,500,000
2030	1,500,000
2031	1,800,000
2032	2,000,000
2033	2,000,000
2034	2,000,000
2035	2,000,000
2036	2,250,000
2037	2,250,000
2038	2,250,000
2039	2,250,000
2040	2,250,000
2041	2,250,000
2042	2,500,000
2043	2,500,000
2044	2,500,000
2045	2,500,000
2046	2,500,000
2047	2,500,000
2048	2,500,000
2049	2,500,000
2050	2,500,000
2051	2,500,000
2052	2,500,000
2053	2,500,000
2054	2,500,000
2055	2,500,000
2056	2,500,000
2057	2,500,000
2058	2,500,000

Fiscal Year	Minimum Annual Guarantee (Passenger Movements)
First Renewal Period	
2059	2,500,000
2060	2,500,000
2061	2,500,000
2062	2,500,000
2063	2,500,000
Second Renewal Period	
2064	2,500,000
2065	2,500,000
2066	2,500,000
2067	2,500,000
2068	2,500,000

Exhibit B
(Adjacent Property Depiction)

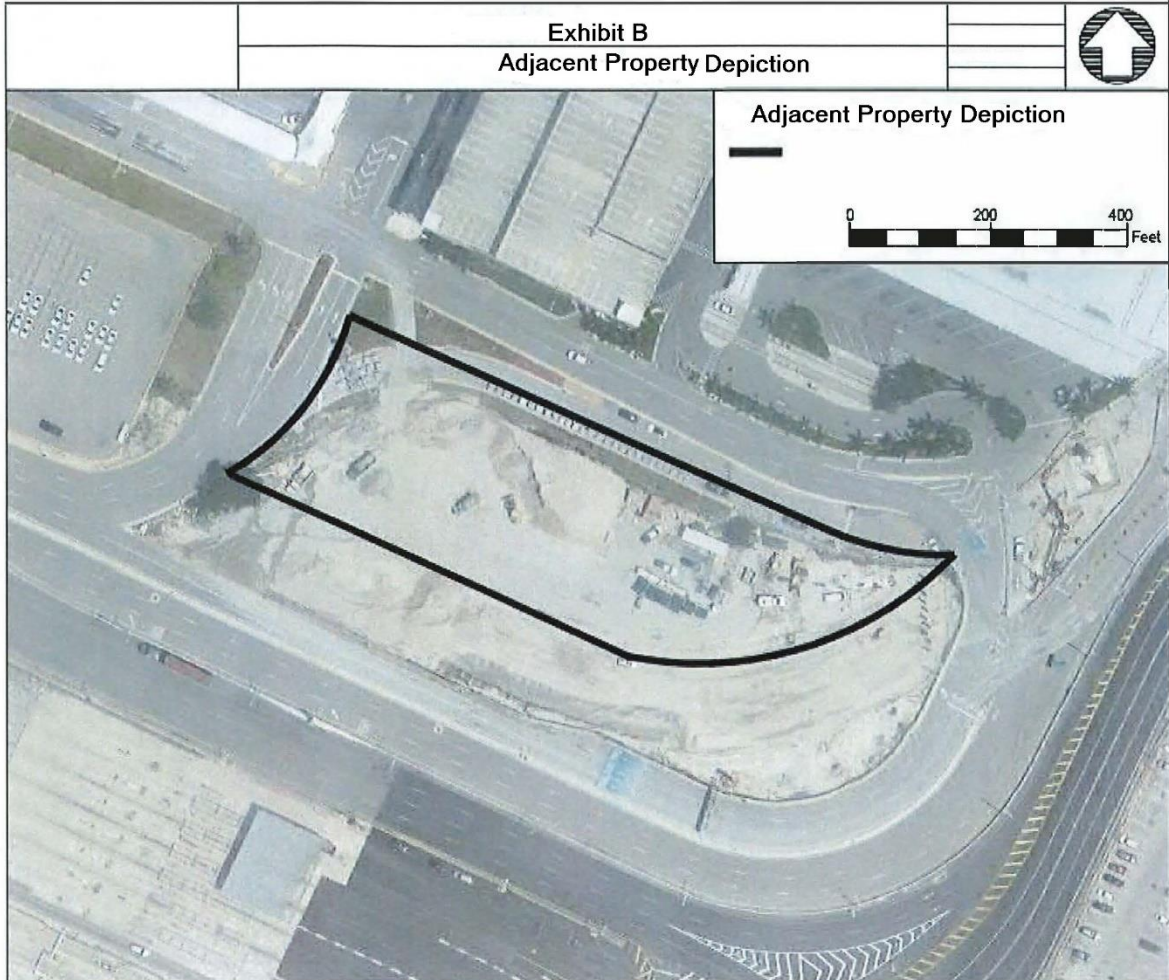


Exhibit C
(Capital Recovery Surcharge)

Fiscal Year	MAG Passengers	Reimbursement Rate	Minimum Annual Payment*
2025	1,200,000	\$8.44	\$10,131,907.00
2026	1,200,000	\$8.71	\$10,456,907.00
2027	1,500,000	\$7.84	\$11,756,907.00
2028	1,500,000	\$7.84	\$11,756,907.00
2029	1,500,000	\$7.84	\$11,756,907.00
2030	1,500,000	\$7.84	\$11,756,907.00
2031	1,800,000	\$7.61	\$13,706,907.00
2032	2,000,000	\$6.85	\$13,706,907.00
2033	2,000,000	\$6.85	\$13,706,907.00
2034	2,000,000	\$6.85	\$13,706,907.00
2035	2,000,000	\$6.85	\$13,706,907.00
2036	2,250,000	\$6.09	\$13,706,907.00
2037	2,250,000	\$6.09	\$13,706,907.00
2038	2,250,000	\$6.09	\$13,706,907.00
2039	2,250,000	\$6.09	\$13,706,907.00
2040	2,250,000	\$6.09	\$13,706,907.00
2041	2,250,000	\$6.09	\$13,706,907.00
2042	2,500,000	\$5.48	\$13,706,907.00
2043	2,500,000	\$5.48	\$13,706,907.00
2044	2,500,000	\$5.48	\$13,706,907.00
2045	2,500,000	\$5.48	\$13,706,907.00
2046	2,500,000	\$5.48	\$13,706,907.00
2047	2,500,000	\$2.96	\$7,406,907.00

*NCLB Reimbursement payments due County will be calculated on an annual basis (per Fiscal Year) by multiplying the then-applicable Reimbursement Rate set forth above (for the given Fiscal Year or portion thereof) by the greater of (i) the actual number of NCLB Vessel Passenger Movements occurring in such Fiscal Year or (ii) the minimum number of Passenger Movements required during such Fiscal Year per NCLB's Minimum Annual Guarantee. Notwithstanding the foregoing NCLB Reimbursement payment obligations, the County shall invoice NCLB for same on a monthly basis, and NCLB shall pay each invoice within 15 days of receipt thereof, based on NCLB's actual number of monthly Passenger Movements, subject to annual Port reconciliations and true ups as set forth in Section 4(k) and 4(l) of the Agreement in the event of any payment shortfalls in any Fiscal Year.

PARKING FACILITIES MANAGEMENT AGREEMENT

This Parking Facilities Management Agreement (the “Agreement”) is entered by and between Miami-Dade County (the “County”), a political subdivision of the State of Florida, and NCL (Bahamas) Ltd., d/b/a Norwegian Cruise Line (hereinafter, “NCLB”), a Bermuda company as of this ___ day of December, 2024 (the “Effective Date”). (each of the “County” and “NCLB” is a “Party” and, collectively, the “County” and “NCLB” are the “Parties”).

RECITALS

WHEREAS, the County owns certain lands located in Miami-Dade County, Florida on which the Dante B. Fascell Port of Miami-Dade (“PortMiami”) is located; and

WHEREAS, the County operates PortMiami through the Miami-Dade County Seaport Department, which is a department of the County; and

WHEREAS, Norwegian Cruise Line Holdings, Ltd. (“NCLH”) is a leading international cruise company with several cruise lines, including Norwegian Cruise Line, Regent Seven Seas Cruises, and Oceania Cruises that presently use PortMiami as a homeport; and

WHEREAS, NCLB is a subsidiary of NCLH and the operating entity for NCLH; and

WHEREAS, in connection with such commitments, NCLB has entered into that certain Third Amendment and Restated Cruise Terminal Agreement Between Miami-Dade County and NCL (Bahamas) Ltd., which was approved by the Board of County Commissioners through Resolution No. R-988-19 (the “Third Amended and Restated Agreement”); and

WHEREAS, on November 15, 2022, the Parties entered into that certain Terminal Transfer Rider, approved by the Board of County Commissioners through Resolution No. R-1101-22, modifying the requirements of the Third Amended and Restated Agreement (as amended) in several respects, including through the temporary reduction in passenger throughput minimum annual guarantees, the imposition of a wharfage surcharge, the elimination of an annual marketing incentive, and certain homeporting commitments; and

WHEREAS, in addition to the Third Amended and Restated Agreement, the County and NCLB have entered into that certain Cruise Terminal J Agreement Between Miami-Dade County and NCL (Bahamas) Ltd. (the “Cruise Terminal J Agreement”), which was approved by the Board of County Commissioners through Resolution No. R-532-17; and

WHEREAS, in connection with its operations at PortMiami, NCLB currently utilizes a parking facility, the Cruise Terminal B Garage, which is owned and operated by the County; and

WHEREAS, NCLB requested and the County has agreed to transfer day-to-day management, operation and maintenance responsibility over the Cruise Terminal B Garage from the County to NCLB, along with NCLB’s right to establish the parking rates applicable to the Cruise Terminal B Garage; and

WHEREAS, the Parties believe that the transfer of those rights from the County to NCLB will allow NCLB to utilize the Cruise Terminal B Garage in a manner that is most efficient and compatible with its operations at PortMiami, while allowing NCLB to maximize its revenues from the parking operation at PortMiami; and

WHEREAS, to further meet its own demand for parking at PortMiami, and the demand of other users of PortMiami, NCLB has also agreed, on the terms specified herein, to design, construct, finance, operate, and maintain a new parking facility—the Multipurpose Parking Facility on the Multipurpose Parking Facility Parcel—which at the County’s election may include office space for County-designated PortMiami users and parking for such users; and

WHEREAS, in exchange for the rights granted herein, NCLB has agreed to share parking revenues collected at the Cruise Terminal B Garage and Multipurpose Parking Facility and, through a separate agreement, among other things, to increase the minimum annual guarantee of NCLB passengers embarking and disembarking at PortMiami,

NOW, THEREFORE, in exchange for good and valuable consideration, the receipt and sufficiency of which the Parties acknowledge, the Parties agree as follows:

ARTICLE I
DEFINITIONS

1.01 “Agreement” shall mean this Parking Facility Management Agreement, as it may be amended from time to time.

1.02 “Applicable Law(s)” shall mean means all present and future applicable laws, ordinances, rules, regulations, authorizations, orders and requirements of all federal, state, county and municipal governments, the departments, bureaus or commissions thereof, authorities, boards or officers, or any other body or bodies exercising similar functions having or acquiring jurisdiction over all or any part of the Parking Facilities and Multipurpose Parking Facility Parcel, or the applicable Party with respect to said Party’s performance of its obligations under this Agreement.

1.03 “Approved County Office Element Plans and Specifications” shall mean the County Office Element Plans and Specifications, after approval by the County through the process set forth in Section 3.03(b)(ii) of the Development Rider.

1.04 “BCC” shall mean the Board of County Commissioners of Miami-Dade County, Florida.

1.05 “Casualty” shall mean the damage or destruction of all or any part of the Parking Facilities or Multipurpose Parking Facility Parcel by fire, disaster (whether natural or manmade), or other casualty loss.

1.06 “Conceptual Site Plan” shall be a plan developed by NCLB with the concurrence of the County, whose approval will not be unreasonably withheld, depicting the external appearance of the Multipurpose Parking Facility and its relation to other Port structures and facilities, the footprint of the proposed structures, the proposed vehicular and pedestrian traffic flow, the conceptual layout of the existing port-wide ground transportation for taxis and Transportation Network Entities, the location of the County Office Element within the Multipurpose Parking Facility, the location of the utilities and connection(s) thereof, the electrical and water supply needs of the Multipurpose Parking Facility and its contemplated use, and such other details as County may reasonably require to understand the integration of the Multipurpose Parking Facility to the appearance, use, operation, and efficiency of the Port. NCLB shall provide the Conceptual Site Plan to the County within sixty (60) days of the Effective Date, and the County shall submit its first round of comments to the Conceptual Site Plan within thirty (30) days of its receipt of the document from NCLB; NCLB shall address the County’s comments within fifteen (15) days of the County’s submission of its comments, and the County shall have fifteen (15) days to respond to NCLB’s revisions, with the exchange of comments continuing at fifteen (15) day intervals until the Conceptual Site Plan is agreed upon by the Parties. The Conceptual Site Plan shall form the basis of the development of the Preliminary Site Plan, as described in § 2.01 of the Development Rider.

1.07 “Cost Overruns” shall mean any costs exceeding the Project Budget, except if caused by County Requested Changes other than the County Office Element.

1.08 “County Facility Design Standards” shall have the meaning set forth in Section 1.02 of the Development Rider.

1.09 “County Maintenance Obligations” shall refer to the County’s retained maintenance obligations regarding the Cruise Terminal B Parking Facility, as specified in Exhibit B.

1.10 “County Office Element” shall mean the office space constructed by NCLB within the Multipurpose Parking Facility and associated parking, as further described in Section 3.09(a).

1.11 “County Office Element Plans and Specifications” shall mean, with respect to the County Office Element, all architectural plans, engineering plans, renderings, sketches, surveys, or similar instruments necessary to obtain governmental permits and approvals, which shall require the County’s approval under the review and revision process set forth in Sections 3.03(b)(iii) and 3.04 of the Development Rider

1.12 “County’s Project Contribution Payment” shall have the meaning given to the term in Section 4.03.

1.13 [reserved]

1.14 “County’s Office Element Option” shall refer to the County’s option to require NCLB to design and construct office space and associated parking for the County’s or County’s designee’s use within the Multipurpose Parking Facility.

1.15 “County’s Parking Alternative Option” shall refer to the County’s option to require NCLB to design and construct up to five hundred (500) non-revenue spaces for the use of those designated by the County.

1.16 “County’s Parking Revenue Share” shall mean, with respect to multi-day parked vehicles at the Cruise Terminal B Garage and Multipurpose Parking Facility, the dollar amount paid by NCLB to the County as further described in Exhibit F.

1.17 “County Requested Change” shall mean a change to the Plans and Specifications, other than the County Office Element, requested by the County; provided, however, that “County Requested Change(s) shall not include any change that is requested by the County but is necessary to meet the requirements of Applicable Laws, the County Facility Design Standards, any requirement of the Agreement or Development Rider, or that is otherwise consistent with the Conceptual Site Plan.

1.18 “County” shall mean Miami-Dade County, a political subdivision of the State of Florida.

1.19 “Cruise Terminal Agreements” shall mean the Third Amended and Restated Cruise Terminal Agreement and the Cruise Terminal J Agreement.

1.20 “Cruise Terminal B Garage” shall mean the parking garage depicted on Exhibit C for which NCLB is assuming maintenance and operation obligations under this Agreement.

1.21 “Cruise Terminal J Agreement” shall have the meaning given to the term in the recitals.

1.22 “Delay” means any delay in the construction of the Multipurpose Parking Facility or the performance of NCLB’s other obligations hereunder resulting from: (a) any action taken, or inaction, by County or any Governmental Authority restricting access, use, operation or performance of any demolition, site work, or construction at or about the Parking Facilities or Multipurpose Parking Facility Parcel (other than delays associated with the failure of NCLB to make application for permits and approvals in accordance with Applicable Laws and to diligently prosecute such applications); (b) the failure by County to timely deliver any necessary approvals of documentation for each portion of the Multipurpose Parking Facility, provided such delay is not the result of NCLB’s failure to comply with any of the requirements set forth in Section 3.04 of the Development Rider; (c) Unforeseen Site Conditions; and (d) Force Majeure. Notwithstanding the foregoing, a delay shall not be considered a “Delay” if such delay was directly caused by the actions or inactions of NCLB or any its employees, agents, contractors or subcontractors of any tier. To qualify as a “Delay,” and as a precondition to any rights granted to NCLB under this Agreement for Delays, the matter purported to constitute a Delay shall be reported in writing to the County within seventy-two (72) hours of the circumstance(s) giving rise to the Delay.

1.23 “Design Standards” means the same as the County Facility Design Standards.

1.24 “Development Period” shall be the period between the Effective Date and November 1, 2028, in which NCLB shall be required to achieve Substantial Completion on the Multipurpose Parking Facility.

1.25 “Development Rider” shall mean Exhibit H.

1.26 “Effective Date” shall mean the date on which this Agreement takes effect, which shall be the earlier of (a) 10 days after the BCC’s approval of a resolution authorizing the County Mayor or County Mayor’s designee to execute the Agreement; (b) upon the County Mayor’s waiver of the applicable veto period; or (c) if the County Mayor exercises a veto, the date on which the BCC overrides the County Mayor’s veto.

1.27 “Emergency Event” shall mean the declaration of a state of emergency directly impacting the Cruise Terminal B Garage, Multipurpose Parking Facility Parcel, or Multipurpose Parking Facility by a Governmental Authority or the imminent possibility of injury to persons on or about the Cruise Terminal B Garage, Multipurpose Parking Facility Parcel, or Multipurpose Parking Facility.

1.28 “Environmental Law” shall mean means any Applicable Law relating to the environment, health, safety or Hazardous Materials.

1.29 “Final Approval” shall mean the last approval required under Section 3.06 of the Development Rider.

1.30 “Final Site Plan” means the site plan developed pursuant to the process set forth in Section 2.02 of the Development Rider.

1.31 “Final Site Plan Approval” means the approval of the Final Site Plan after the review and revision process set forth in Sections 2.01 and 2.02 of the Development Rider.

1.32 “Force Majeure” shall mean any delay due solely to strikes, lockout or other labor or industrial disturbance; civil disturbance; future order of any government, court or regulatory body claiming jurisdiction; act of the public enemy; war, riot, sabotage, blockade or embargo; pandemic; lightning, earthquake, fire, storm, hurricane, tornado, flood, or washout or explosion; provided that the party claiming the existence of a Force Majeure event delivers written notice to the other party of such event within fifteen (15) calendar days of the commencement of such event. It is agreed that any condition existing as of the Effective Date of this Agreement shall not be considered “Force Majeure.”

1.33 “Governmental Authority” shall mean any national, state or local government (whether domestic or foreign), any political subdivision thereof or any other governmental, quasi-governmental, judicial, administrative, public or statutory instrumentality, authority, body, agency, bureau, commission, board, department or other entity with authority to bind a party at law, in each case having jurisdiction over the Parking Facilities or Multipurpose Parking Facility Parcel, or the applicable Party with respect to said Party’s performance of its obligations under this Agreement.

1.34 “Hazardous Materials Release” shall mean any spill, leak, emission, release, discharge, injection, escape, leaching, dumping or disposal of Hazardous Materials into the soil, air, surface water, groundwater or indoor or outdoor environment, including any of the foregoing that exacerbates an existing release or condition of Hazardous Materials contamination.

1.35 “Hazardous Materials” shall mean any hazardous waste, hazardous product, contaminant, toxic substance, deleterious substance, dangerous goods, pollutant, waste, reportable substance, flammable materials, explosives, radioactive materials, infectious waste, environmental contaminants and any other substance, in respect of which the storage, manufacture, handling, disposal, treatment, generation, use, transport, remediation or release into or presence in the environment is prohibited, controlled or regulated under Applicable Law pertaining to the environment, including but not limited to: (a) “hazardous substances” as defined under CERCLA and “hazardous waste” as defined under the Resource Conservation and Recovery Act, 42 U.S.C.A. § 6901 et seq., applicable regulations promulgated thereunder; (b) the Hazardous Materials Transportation Act, as amended (49 U.S.C. §§ 1801 et seq.); (c) the Resource Conservation and Recovery Act of 1976, as amended (42 U.S.C. §§ 6901 et seq.); (d) the Water Pollution Control Act (33 U.S.C. § 1317); (e) the

Florida Resource Recovery and Management Act, Fla. § 403.702-403.7893; (f) the Pollutant Spill Prevention and Control Act, Fla. Stat. §§ 376.011-376.21; (g) any material defined as “petroleum” or “petroleum products” under Fla. Stat. § 376.301, (h) contaminant, or hazardous substance as defined in Fla. Stat. § 376.301 or Fla. Stat. § 403.031, wastes as defined in Fla. Stat § 403.031; and (i) ground or water pollution as defined by Section 24-5 of the Miami-Dade County Code, each as amended from time to time.

1.36 “Impositions” shall mean all ad valorem taxes, special assessments, sales taxes, tangible and intangible property taxes, and other governmental charges and assessments levied or assessed with respect to the Parking Facilities and Multipurpose Parking Facility Parcel and the activities conducted thereon or therein by any Governmental Authority with jurisdiction, including, by way of example only, charges associated with a special taxing district or charges by a special taxing entity, such as, for example, the Florida Inland Navigation District.

1.37 “Legal Proceeding” shall mean any proceeding authorized or sanctioned by Applicable Laws and brought or instituted in a court or legal tribunal, for the acquiring of a right or the enforcement of a remedy.

1.38 “Limiting Value” shall mean a peak particle velocity of 3.0 inches per second for continuous near steady state vibrations (e.g., pile driving).

1.39 “Multipurpose Parking Facility Construction Schedule” shall mean the construction schedule for the design and construction of the Multipurpose Parking Facility that is prepared based on the Preliminary Schedule and in accordance with the requirements of Section 3.05 of the Development Rider.

1.40 “Multipurpose Parking Facility Parcel” shall refer to the parcel of land on which the Multipurpose Parking Facility is to be constructed, as better depicted on Exhibit D. The precise boundaries of the Multipurpose Parking Facility Parcel shall be determined within thirty (30) days of the Effective Date. The County shall, in consultation with NCLB, undertake a survey of the Multipurpose Parking Facility Parcel in order to obtain a legal description, sketch, and square footage of the Multipurpose Parking Facility Parcel. The survey shall be consistent with the sketch and dimensions depicted in Exhibit D. Once the survey and legal description of the Multipurpose Parking Facility Parcel have been prepared and approved by NCLB (it being understood that NCLB shall only be entitled to disapprove of such survey and legal description to the extent that it is inconsistent with the sketch and dimensions depicted in Exhibit D in all material respects), Exhibit D-1 shall replace Exhibit D as the definitive depiction of the Multipurpose Parking Facility Parcel.

1.41 “Multipurpose Parking Facility” shall mean the parking facility to be designed and built by NCLB in accordance with the Development Rider attached hereto as Exhibit H

and operated, financed, and maintained by NCLB in accordance with this Agreement. A conceptual design of the New Parking Garage is attached hereto as Exhibit E, which New Parking Garage shall be constructed on the parcel of land depicted in Exhibit D or D-1.

1.42 “NCLB” shall mean NCL (Bahamas) Ltd., d/b/a Norwegian Cruise Line.

1.43 “Operating Protocol” shall mean the operating rules and guidelines for the Parking Facilities developed jointly by the Parties to ensure safety, efficiency, compatibility with PortMiami operations, and user satisfaction. The Operating Protocol shall provide, without limitation, that NCLB shall operate the Parking Facilities in a manner that does not hinder, impede, or cause unreasonable delay to traffic or operations at PortMiami. The Parties shall meet annually on or about the Effective Date to consider whether the Operating Protocol should be updated and revised; provided, however, that the implementation of any recommended updates and revisions to the Operating Protocol shall not require the expenditure of funds by the County.

1.44 “Parking Facilities” shall mean the existing Cruise Terminal B Garage depicted on Exhibit A hereto and, upon the attainment of substantial completion, the Multipurpose Parking Facility.

1.45 “Parties” shall mean NCLB and the County, together.

1.46 “Party” shall mean each of NCLB or the County, individually.

1.47 “Permitted Exceptions” shall mean (a) applicable zoning and building bylaws and ordinances, municipal bylaws and regulations; and (b) recorded covenants, conditions, restrictions, easements, and other matters expressly identified in this Agreement as Permitted Exceptions.

1.48 “Plans and Specifications” shall mean all architectural plans, engineering plans, renderings, sketches, surveys, or similar instruments necessary to obtain governmental permits and approvals, which shall require the County’s approval under the review and revision process set forth in Sections 2.01, 2.02, and 3.04 of the Development Rider.

1.49 “Port Tariff” or “Tariff” shall mean the Port of Miami Tariff No. 010, which may also be identified as Implementing Order 4-4, as such document may be renamed or amended from time to time by the Board of County Commissioners. When referenced in this Agreement, the applicable Tariff shall be the one in effect at the time an action is required or a fee is established, imposed, or assessed under this Agreement.

1.50 “PortMiami” or “Port” shall mean the Dante B. Fascell Port of Miami-Dade.

1.51 “Port of Miami Tunnel Envelope” shall mean that area depicted in Attachment 4 to the Development Rider.

1.52 “Preliminary Schedule” shall mean the construction schedule for the construction of the Multipurpose Parking Facility that is attached to the Development Rider as Attachment 3.

1.53 “Preliminary Site Plan” shall mean the site plan created pursuant to Section 2.01 of the Development Rider.

1.54 “Project Budget” shall mean the amount established under Section 4.01 of the Development Rider, reflecting NCLB’s maximum anticipated expense for the design and construction of the Multipurpose Parking Facility.

1.55 “Service Contracts” shall mean the contracts entered into by NCLB to discharge its obligations under this Agreement as further described in Section 3.08.

1.56 “Substantial Completion” or “Substantially Complete” shall mean the procurement of a temporary certificate of use (or its equivalent) with respect to the Multipurpose Parking Facility. Substantial Completion shall be deemed to have occurred if a temporary certificate of occupancy would have been issued, but for delays by NCLB in making the necessary applications to Governmental Authorities or scheduling inspections.

1.57 “Term” shall mean the period of time described in Section 3.01.

1.58 “Terminal Transfer Rider” shall mean the resolution between the County and NCLB approved by the BCC on November 15, 2022, through Resolution No. R-1101-22.

1.59 “Third Amended and Restated Agreement” shall have the meaning given to the term in the recitals.

1.60 “Unforeseen Site Conditions” shall mean (a) actual conditions which were not reasonably foreseeable based upon the information relating to the Parking Facilities or Multipurpose Parking Facility Parcel available to NCLB prior to its execution of this Agreement, including through the exercise of diligence, (b) unknown physical conditions of an unusual nature which differ materially from those expected to be encountered during the course of construction.

1.61 “Wharfage Surcharge” shall refer to the payment made by NCLB to the County under Section 2.03 of the Terminal Transfer Rider.

ARTICLE II
GENERAL TERMS

2.01 Incorporation of Recitals. The Parties agree that each of the foregoing recitals, which are incorporated by reference, are true and correct.

2.02 Exhibits, Schedules and Definitions. This Agreement is composed of this document and all its Exhibits, Schedules and attachments identified herein, all of which constitute an integral part of this Agreement. Unless otherwise specified herein to the contrary, all capitalized terms set forth in this Agreement shall have the meaning ascribed to them in Article I.

2.03 Representations by NCLB. NCLB represents to the County that:

(a) NCLB is a duly organized and validly existing registered company under the laws of Bermuda and has all requisite power and authority for the ownership and operations of its properties and for the carrying on of its business as now conducted and as now proposed to be conducted. NCLB is duly qualified, in good standing and is authorized to do business in Florida wherein the nature of the activities conducted by it makes such qualification or authorization necessary.

(b) NCLB has duly authorized the execution, delivery, and performance of this Agreement and has obtained all required internal corporate approvals in connection herewith, and, assuming due authorization, execution, and delivery of this Agreement by County, this Agreement will constitute a legal, valid and binding agreement of NCLB, enforceable against NCLB, except as the enforcement hereof may be limited by bankruptcy, insolvency, reorganization, moratorium or similar laws affecting enforcement of creditors' rights generally and except as enforcement hereof is subject to general principles of equity.

(c) The execution and delivery of this Agreement by NCLB does not, and the performance by NCLB of its obligations under this Agreement will not:

- (i) conflict with or result in a violation or breach of any of the terms, conditions or provisions of the organizational documents of NCLB;
- (ii) conflict with or result in a violation or breach of any term or provision of any law, order, permit, statute, rule, or regulation applicable to NCLB; or
- (iii) result in a material breach of, or material default under (or give rise to a right of termination, cancellation or acceleration) under any of the terms, conditions or provisions of any material note, bond, mortgage, indenture, license, agreement, Agreement, or other similar instrument or obligation to which NCLB may be bound.

(d) To the best of NCLB's knowledge, NCLB is in compliance in all material respects with Applicable Laws pertaining to NCLB's business.

(e) NCLB does not unlawfully discriminate against any employee or applicant for employment because of age, ancestry, color, creed, disability, domestic partner or marital status, medical condition, national origin, race, religion, sex, sexual orientation, or any other basis prohibited by Applicable Laws.

(f) NCLB is aware of the Applicable Laws and Permitted Exceptions governing the Parking Facilities and Multipurpose Parking Facility Parcel, and NCLB shall take no action under this Agreement, or otherwise, that would cause a violation of the Applicable Laws or Permitted Exceptions.

2.01 Representations by County. County represents to NCLB that:

(a) County is a duly organized and validly existing political subdivision of the state of Florida and has all requisite power and authority for the ownership and operation of its properties and for the carrying on of its business as now conducted and as now proposed to be conducted.

(b) Under the laws of Florida, County is duly authorized to enter, execute, and deliver this Agreement, to undertake the obligations contemplated by this Agreement and to carry out its obligations hereunder.

(c) By duly adopted resolution, County has duly authorized the execution and delivery of this Agreement and this Agreement constitutes a legal, valid and binding obligation of County, enforceable against County in accordance with its terms and in accordance with Applicable Laws, except as the enforcement hereof may be limited by bankruptcy, insolvency, reorganization, moratorium or similar laws affecting enforcement of creditors' rights generally and except as enforcement hereof is subject to general principles of equity.

(d) The execution and delivery of this Agreement by County does not, and the performance by County of its obligations under this Agreement will not:

- (i) Conflict with or result in a violation or breach of any of the terms, conditions or provisions of the organizational documents of County;
- (ii) Conflict with or result in a violation or breach of any term or provision of any law, order, permit, statute, rule, or regulation applicable to County; or
- (iii) Result in a material breach of, or material default under (or give rise to a right of termination, cancellation or acceleration of) any of the terms, conditions or provisions of any material note, bond, mortgage, indenture, license, agreement, Agreement, or

other similar instrument or obligation to which County may be bound.

(e) There is no Legal Proceeding before any court or by any Governmental Authority pending or, to the best of County's knowledge, overtly threatened or publicly announced against County, in which an unfavorable decision, ruling, or finding could reasonably be expected to have a material and adverse effect against County, or any other agreement or instrument entered into by County in connection with the transactions contemplated hereby, or on the ability of NCLB to perform its obligations hereunder.

(f) To the best of County's knowledge, the Parking Facilities and Multipurpose Parking Facility Parcel have at all times been in full compliance with all Environmental Laws and the requirements of any authorization or permit issued under such Environmental Laws.

(g) County knows of no waste or other Hazardous Materials present on or in the Parking Facilities or Multipurpose Parking Facility Parcel or deposited or located on any part of the Parking Facilities and Multipurpose Parking Facility Parcel.

(h) To the best of County's knowledge, there are no past, pending or threatened administrative, regulatory, or judicial actions, suits, demands, demand letters, claims, liens, or Encumbrances, notices of noncompliance or violation, investigations or proceedings under any Environmental Law or any authorization or permit issued under any such Environmental Law, including without limitation (i) any and all claims by a Governmental Authority or regulatory authority for enforcement, cleanup, removal, response, remedial or other actions or damages pursuant to any applicable Environmental Law, and (ii) any and all Environmental Claims against County or any other entity or person, directly or indirectly, associated with the Parking Facilities and Multipurpose Parking Facility Parcel.

(i) To the best of County's knowledge, there are no threatened or pending annexations, moratoriums, or condemnations or other judicial or administrative proceedings against County which affect in a material way any part of the Parking Facilities or Multipurpose Parking Facility Parcel.

(j) As of the Effective Date, County has received no citation or similar official notice of any civil or criminal violation which affects the Parking Facilities or Multipurpose Parking Facility Parcel in a material way.

(k) County possesses fee title interest in the Parking Facilities and Multipurpose Parking Facility Parcel, free and clear of any Encumbrances other than Permitted Exceptions.

(l) County expressly makes no representations or warranties regarding the location of any Utilities to or within the Parking Facilities and Multipurpose Parking Facility Parcel or the adequacy or sufficiency of said Utilities, and it is understood by the Parties that the Parking Facilities and Multipurpose Parking Facility Parcel are provided in their "as is"

condition existing on the Effective Date, without any express or implied representations or warranties of any kind by County and County shall have no obligation to construct or install any improvements or alterations on the Parking Facilities and Multipurpose Parking Facility Parcel or to pay for such construction or installation.

ARTICLE III
MANAGEMENT AND DEVELOPMENT OF THE PARKING FACILITIES

3.01 Term. The County hereby engages NCLB to operate, manage, and maintain the Parking Facilities from January 1, 2025, through and including the final day of the term of the last expiring of the Cruise Terminal Agreements, subject to all extension and termination provisions contained in the Cruise Terminal Agreements. Notwithstanding the foregoing or anything to the contrary in this Agreement, this Agreement (and all rights and responsibilities concerning the Parking Facilities (other than those surviving termination)) shall terminate upon the termination (regardless of cause) of the Cruise Terminal B Agreement.

3.02 Parking Facilities. During the Term, County makes available to NCLB the Cruise Terminal B Garage and the Multipurpose Parking Facility Parcel until the Multipurpose Parking Facility is substantially completed and, thereafter, the Multipurpose Parking Facility. The Parking Facilities and the Multipurpose Parking Facility Parcel shall be utilized for the purposes described in this Agreement, including the accompanying Development Rider. The Parking Facilities, including the Multipurpose Parking Facility Parcel, are provided to NCLB in “as-is, where-is” condition, without any representation or warranties of their fitness for the purposes described in this Agreement.

3.03 Transition Assistance. From the Effective Date through March 31, 2025, NCLB may request and the County may, based on the availability of personnel and resources (as determined by the County), provide assistance to NCLB in connection with the transition of management responsibility from the County to NCLB. NCLB shall reimburse the County for expenses incurred (inclusive of staff time) in connection with providing such assistance. In accordance with the Tariff, such assistance shall be subject to the administrative fee set forth in Section 215 of the Tariff, as may be amended from time to time, which administrative fee is currently twenty percent (20%).

3.04 Permitted Use. The Parking Facilities and Multipurpose Parking Facility Parcel shall be used and maintained by NCLB and any permitted assignees in accordance with the Permitted Exceptions and Applicable Laws. Any uses other than (i) parking for PortMiami users and tenants and their employees, contractors, visitors, invitees, licensees, and subtenants (or persons of similar category), including parking for bicycles or other motorized and non-motorized transportation instruments; (ii) office space for County use; and (iii) services supportive of PortMiami operations (e.g., baggage handling, rental car

services, passenger pick up and drop off, and concierge services), shall require the prior written approval of the County, including as to any revenue-sharing with the County from such additional uses.

3.05 NCLB's Maintenance and Management of the Parking Facilities. Except as to the County Maintenance Obligations pertaining to the Cruise Terminal B Parking Facility (set forth in Exhibit B), NCLB shall manage, operate, and maintain the Parking Facilities. Other than the County Maintenance Obligations, NCLB shall be responsible for providing all management, operation, and maintenance of the Parking Facilities. Except with respect to the County Maintenance Obligations, NCLB will be responsible for providing complete parking management services including day-to-day operation and staffing of the parking facilities, daily parking management while ensuring that third-party vendors perform cleaning, custodial, and grounds maintenance services, as well as management and financial reporting, marketing, establishment and collection of parking fees, operation of any online booking systems, and remittance of payments to the County. Services shall be provided as agreed to by the Parties in the Operating Protocol and, in addition to those set forth in Exhibit A, include, but are not limited to:

- (a) Managing and operating the Parking Facilities in a neat, clean, and operable condition;
- (b) Providing and maintaining the necessary equipment and trained personnel to successfully operate the Parking Facilities;
- (c) Overseeing the maintenance and cleanliness of the Parking Facilities;
- (d) Providing emergency services, when feasible, to any customers for (i) lost vehicle search assistance; (ii) jump starts; (iii) inflation of flat tires or installation of spares; and (iv) lock-out assistance by providing contact information for authorized locksmiths;
- (e) Maintaining and repairing any furnishings or fixtures, including wayfinding and directional signage within the Parking Facilities (e.g., posts, signs, placards displaying information for customers);
- (f) Continuously monitoring the Parking Facilities to provide safe and secure facilities for customers pursuant to standards specified in the Operating Protocol, to include (i) performing nightly vehicle inventories; (ii) reporting vehicle counts; and (iii) identifying and reporting to PortMiami any abandoned vehicles and other potential security risks;

- (g) Confirming that parking location reminder systems and other safety measures are operational at all times;
- (h) Operating the Parking Facilities in accordance with Applicable Law, including the Deed Restrictions;
- (i) Collecting payment in the form of cash and credit card on-site at the Parking Facilities utilizing a garage-specific revenue collection system, whether as existing as of the date of this Agreement or as may be subsequently installed by NCLB at the Parking Facilities. In order to comply with regulatory requirements for the Payment Card Industry Data Security Standards (PCI-DSS), the County has developed the following policies and procedures for vendors accepting credit card payments:
<https://www.miamidade.gov/managementandbudget/library/procedures/333.pdf>, as such policies and procedures are updated from time to time. The Selected Proposer must comply with all PCI-DSS requirements throughout the term of the agreement and any applicable extensions;
- (j) Maintaining accurate revenue reporting systems to facilitate the County's determination, in an auditable manner, of the County Parking Surcharge;
- (k) Remitting the County Parking Surcharge to the County;
- (l) Processing revenues and receivables in accordance with standard industry practices, adhering to procedures and controls;
- (m) Coordinating with vendors and PortMiami to maintain the Parking Facilities while minimizing operational impacts to operations at PortMiami, including the operations of third parties operating at PortMiami;
- (n) Overseeing the delivery of goods and services for the Parking Facilities;
- (o) Developing and maintaining a customer service training program, inclusive of service standards for employees, which customer service training program will be provided to PortMiami for its review and approval within thirty (30) days of the Effective Date and should include methods for responding to customers and resolving complaints from customers;

- (p) Developing and maintaining and Operating Protocol, which shall be developed jointly with the County within thirty (30) days of the Effective Date,
- (q) Providing a comprehensive system (manual or computerized) that will track work orders for repairs and monitor improvements and preventive maintenance for the Parking Facilities;
- (r) Planning, assisting, and participating in providing personnel, as warranted, in the event of a hurricane, mass migration, natural, or manmade disaster, including preparedness for such events, and response thereto;
- (s) Providing limited construction services specifically related to the maintenance of the Parking Facilities;
- (t) Providing, within the Multipurpose Parking Facility, at no charge to the County or the users of such parking spaces, parking for port-wide ground transportation services to fully accommodate the ground transportation function existing on the Multipurpose Parking Facility Parcel as of the Effective Date; and
- (u) Accommodating within the Parking Facilities all terminal support staff for vessel operations at Cruise Terminals B and C. NCLB may charge the entities providing terminal support services parking charges; provided, however, that individual terminal support staff may not be charged for parking in an amount higher than the County charges terminal support staff parking at garages that are owned and operated by PortMiami.

3.06 Capital Maintenance Obligations.

(a) Cruise Terminal B Parking Facility. As to the Cruise Terminal B Parking Facility, the County shall retain the obligation to repair the capital components of the Cruise Terminal B Parking Facility, except to the extent that maintenance or repair is necessary because of damage or neglect caused by NCLB. The County's maintenance and repair obligations shall be those specified in Exhibit B, extending to (a) the foundation and foundation systems; (b) the roof system, including, without limitation, the roof drainage system; (c) beams and columns, load bearing or otherwise exterior walls; (d) all utility and plumbing lines, cables, and pipes within the Cruise Terminal B Parking Facility; and (e) certain electrical, heating, ventilation, air conditioning, mechanical, plumbing, and safety systems within Cruise Terminal B Parking Facility.

(b) Multipurpose Parking Facility. As to the Multipurpose Parking Facility, in addition to the maintenance obligations set forth in Section 3.05 and Exhibit A, NCLB shall be responsible, at its own cost, for the maintenance and repair of (a) the foundation and foundation systems; (b) the roof system, including, without limitation, the roof drainage system; (c) beams and columns, load bearing or otherwise exterior walls; (d) all utility and plumbing lines, cables, and pipes within the Multipurpose Parking Facility; and (e) the electrical, heating, ventilation, air conditioning, elevator(s) (if applicable), mechanical, plumbing, and safety systems; (ii) all maintenance and repair (including sweeping; striping; and trash, graffiti, and standing water removal) necessary to maintain all driveways, sidewalks, street, and parking areas within the Multipurpose Parking Facility in a clean, safe, sightly, and serviceable condition; (iii) the upkeep of the interior, public areas of the Multipurpose Parking Facility (except the County Office Element); and (iv) payment of all utility expenses (except those of the County Office Element).

3.07 Alterations and Improvements.

(a) NCLB's Changes—No Approval Required. Subject to the County rights to utilize the County Office Element and NCLB's compliance with any Applicable Laws governing improvements to County-owned property, including specifically, and to the extent applicable, Section 255.05, Fla. Stat., NCLB may place and replace NCLB's property in or on the Parking Facilities and may make alterations, improvements, or replacements to the interior of the Parking Facilities as it may desire at its own expense without County's consent. The foregoing, however, shall not authorize NCLB to place or replace property or make alterations, improvements, or replacements to the interior of the Parking Facilities for uses other than Permitted Uses. NCLB shall not alter, improve, or replace the load bearing walls, roof, exterior walls, support beams, foundation, window frames, floor slabs, and support columns of the Parking Facilities except in accordance with subsection (b).

(b) NCLB's Changes—County Approval Required. Subject to the County rights to utilize the County Office Element and NCLB's compliance with any Applicable Laws governing improvements to County-owned property, including specifically, and to the extent applicable, Section 255.05, Fla. Stat., NCLB may alter, improve, or replace the load bearing walls, roof, exterior walls, support beams, foundation, window frames, floor slabs, and support columns of the Parking Facilities only with the prior written consent of County, which shall not be unreasonably withheld, conditioned, or delayed.

(c) Mechanic's Liens. During the Term, NCLB shall discharge by payment, bond, or otherwise those mechanics' liens filed against the Parking Facilities (or the underlying real property) for work, labor, services, or materials claimed to have been performed at or furnished to the Parking Facilities for or on behalf of NCLB.

3.08 Service Contracts. To discharge its obligations under this Agreement, including but not limited to the provision of maintenance, repair, and replacement of the Parking Facilities or for the provision of any other services (including food and vending services),

supplies, materials, labor, equipment, transportation, tools, machinery, NCLB may negotiate and enter into service and supply contracts (including with its affiliates) as it deems necessary and reasonable for the proper operation of the Parking Facilities (the “Service Contracts”). With respect to the Cruise Terminal B Parking Facility, NCLB may seek to assume any contracts entered by the County to service the Cruise Terminal B Parking Facility; provided, however, that the County shall not be required to assume any liability in connection with such assumption, and the refusal of any third-party vendor under contract with the County to enter into a successor contract with NCLB shall not relieve NCLB of its responsibilities under this Agreement. NCLB shall supervise the performance of all independent contractors, subcontractors, suppliers, and servicing agents required for the proper management, maintenance, repair, and operation of the Parking Facilities. NCLB, without the prior written consent of the County, may negotiate and enter into, Service Contracts with third parties for concessions, services (including catering services that will be rendered on a continuing basis), electricity, trash or rubbish hauling, vermin extermination, janitorial services, parking area, and landscape maintenance, and such other services for the Parking Facilities as NCLB shall reasonably determine to be advisable. All Service Contracts shall be in writing, in the name of NCLB, and shall be either (i) assignable to the County, or (ii) terminated at any time at the convenience of NCLB. All Service Contracts shall be fully subject to and consistent with this Agreement, and the term of any Service Contract shall be no longer than the then-current remaining Term of this Agreement. NCLB shall be entitled to enter into an agreement with a management company, which may be an affiliate of NCLB, to perform the maintenance of the Parking Facilities, which management company shall be selected by NCLB in its sole discretion.

(a) County Indemnification Required. All Service Contracts shall include the following indemnification provision:

[Contractor] shall indemnify and hold harmless Miami-Dade County and its officers, employees, agents and instrumentalities from any and all liability, losses or damages, including attorneys’ fees and costs of defense, which Miami-Dade County 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 any negligent acts or omissions or willful misconduct by the [Contractor] or its employees, agents, servants, partners, principals, or subcontractors in connection with [Contractor] performance of this Service Contract, except to the extent caused by the gross negligence, willful misconduct or bad faith of the County or other indemnitee hereunder. [Contractor] shall pay all claims and losses in connections therewith and shall investigate and defend all claims, suits or actions of any kind or nature in the name of Miami-Dade County, where applicable, including appellate proceedings, and shall pay all costs, judgments,

and attorneys' fees which may issue thereon. [Contractor] expressly understands and agrees that any insurance protection required by this Service Contract or otherwise provided by [Contractor] shall in no way limit the responsibility to indemnify, keep and save harmless and defend Miami-Dade County or its officers, employees, agents and instrumentalities as herein provided. Any settlement indemnifiable hereunder shall not be entered into without [Contractor's] prior, written consent.

(b) Good Standing of Service Contractor. NCLB shall not enter into any Service Contract with a vendor that has been debarred by the County or is ineligible for receipt of a County contract under § 2-8.1(h)(i)-(iv) of the County Code, Implementing Order 3-9, § 2-8.1.1.1(j) of the County Code, and Implementing Order 3-41.

3.09 Development of Multipurpose Parking Facility. NCLB shall secure all financing necessary to design and construct the Multipurpose Parking Facility, except as provided in subsection (a). Such design and construction shall occur in the manner prescribed in the Development Rider. The Multipurpose Parking Facility shall be substantially completed on or before November 1, 2028 (the "Development Period").

(a) County's Office Element Option and County's Alternative Parking Option. The County shall have the option to direct NCLB to design and construct the Multipurpose Parking Facility to include office shell space and additional parking to be used as office space for PortMiami or PortMiami's designated tenants (the "County Office Element"). The County Office Element shall comprise the two (2) uppermost floors of the Multipurpose Parking Facility. The County Office Element shall include up to five hundred (500) parking spaces dedicated users of or visitors to the County Office Element, for which NCLB shall not be entitled to collect any revenues and the County shall not be entitled to the County's Parking Revenue Share. In the alternative to the County's Office Element Option, the County shall have the option to exercise the County's Alternative Parking Option in the manner specified in the Development Rider, for which NCLB shall not be entitled to collect any revenues and the County shall not be entitled to the County's Parking Revenue Share. The County shall be responsible for the incremental cost of designing and constructing the County Office Element (and associated parking), which cost shall be agreed upon in accordance with the deadlines set forth in the Development Rider. The County's reimbursement obligation shall be determined based on the actual cost of the design and construction (based on open book pricing), plus a markup of eight percent (8%). The County shall be responsible for payment of the operating and maintenance costs uniquely associated with the County Office Element or County's Alternative Parking Option on a pass-through basis. If the County exercises the County Office Element Option or County's Alternative Parking Option, the Parties shall agree on a funding schedule, such that NCLB is not required

to pre-fund any of the costs associated with the design and construction of the County Office Element or County's Alternative Parking Option.

(b) Liquidated Damages. To the extent the County exercises the County's Office Element Option or County's Alternative Parking Option, NCLB shall be required to incorporate into its design and construction agreement a provision to the effect that if the design and construction firm fails to achieve Substantial Completion with respect to the County's Office Element or County's Alternative Parking Option before the expiration of the Development Period (as extended for Delays or as otherwise mutually agreed by the Parties), then the design and construction firm shall be required to pay NCLB a market-standard liquidated damages amount (to be negotiated between NCLB and its selected design and construction firm and which liquidated damages amount shall be subject to the County's approval, which approval shall not be unreasonably withheld, conditioned, or delayed) per day of unexcused delay, which amount shall be shared between the County and NCLB, pro rata, based on the proportion of the cost of the County's Office Element Option or County's Alternative Parking Option (whichever is elected by the County) in relation to the contract sum of the design and construction agreement. The Parties recognize and agree that the County's damages in the event of an unexcused delay in attaining Substantial Completion are not readily ascertainable and that the foregoing liquidated damages are not intended as a penalty, but as a reasonable approximation of the damages that the County may incur in the event of a delay.

(c) Title. The County shall hold title to the Multipurpose Parking Facility throughout design and construction and upon its Substantial Completion. NCLB shall ensure that the Multipurpose Parking Facility and Multipurpose Parking Facility Parcel remain free and clear of any liens or other encumbrances of any kind whatsoever.

3.10 Access and Cross Easements.

(a) NCLB's Access. NCLB shall have a right of access onto the Parking Facilities and Multipurpose Parking Facility Parcel across all public roadways, paths, railroad rights-of-way, streets, and roads, serving PortMiami now existing and hereafter created. Such access shall exist 24 hours per day, 365/366 days per year. Nothing in this Agreement, however, shall prevent the County from implementing the directives of law enforcement during an emergency.

(b) County's Access. County shall have the right:

(i) at all reasonable times during NCLB's normal business hours to inspect the Parking Facilities, Multipurpose Parking Facility Parcel, and any maintenance logs and service records relating to the Parking Facilities; and

(ii) during the last twelve (12) months of the Term, to show the same to prospective lessees or users;

(iii) at all times to make repairs or replacements as required or permitted to be made by County under this Agreement, if any; provided, however, that, in each case, County shall use all reasonable efforts not to disturb NCLB's use and occupancy of the Parking Facilities and Multipurpose Parking Facility Parcel; and

(iv) in the event that operations at one or both of the Parking Facilities are causing hindrances, impediments, or delays to traffic or operations at PortMiami, to enter the Parking Facilities and redirect or reconfigure operations so as to eliminate or mitigate such hindrances, impediments, or delays. NCLB shall be required to reimburse the County for the cost of any assistance provided by the County under this subsection, plus the administrative fee set forth in Section 215 of the Tariff, as may be amended from time to time, which administrative fee is currently twenty percent (20%).

(c) Emergency Access. County shall always have the right to enter the Parking Facilities and Multipurpose Parking Facility Parcel during an Emergency Event.

(d) Secure Areas. NCLB may designate one or more areas of the Parking Facilities and Multipurpose Parking Facility Parcel as secure areas, and County shall have no right of access thereto without being accompanied by NCLB's designated representative except in the case of an Emergency Event.

3.11 Signage and Building Names.

(a) NCLB's Signs. Subject to compliance with Applicable Laws, including specifically the Miami-Dade County Sign Ordinance, NCLB may place exterior informational and directional signs and at the entrances to the Parking Facilities, on and throughout the Parking Facilities, and throughout the Parking Facilities (except within the County Office Element and other areas licensed to third parties) as it desires.

(b) Building Sign and Name. Subject to compliance with Applicable Laws, including specifically the Miami-Dade County Sign Ordinance, with respect to exterior portions of the Parking Facilities, NCLB shall have the right to:

(i) design, erect, and designate the location of signs within the Parking Facilities, excepted within the County Office Element and other areas licensed to third parties; and

(ii) except within the County Office Element and other areas licensed to third parties prohibit any other sign, except wayfinding signage, to be placed within the Parking Facilities.

(c) Building Sign and Name of County Office Element Users. Subject to compliance with Applicable Laws, including specifically the Miami-Dade County Sign

Ordinance, the County may permit users of the County Office Element to design, erect, and designate prominent exterior signage identifying the Multipurpose Parking Facility as their business location.

(d) Required Signage. At each vehicular entry and exit point of the Parking Facilities, NCLB shall be required to install prominent signage stating that the Parking Facility is operated and maintained by NCLB, and that parking rates are set by NCLB. NCLB shall also provide contact information for customer service inquiries, directing any such inquiries to NCLB.

3.12 Estoppel Certificates. County and NCLB agree, at any time, and from time to time, within thirty (30) days after written request of the other, to execute, acknowledge and deliver a statement in writing to the requesting Party and/or its designee certifying that: (i) this Agreement is unmodified and in full force and effect (or, if there have been modifications, that the same is in full force and effect, as modified), (ii) whether or not, to the best of its knowledge, there exists any failure by the requesting Party to perform any term, covenant or condition contained in this Agreement, and, if so, specifying each such failure, and (iii) such additional factual matters regarding this Agreement as may be requested, it being intended that any such statement delivered pursuant hereto may be relied upon by the requesting Party.

3.13 Holdover. If NCLB remains on the Parking Facilities and Multipurpose Parking Facility Parcel beyond the expiration or earlier termination of the Agreement, such holding over in itself shall not constitute a renewal or extension of this Agreement, but in such event, a tenancy from month-to-month shall arise at one-twelfth (1/12) of one hundred twenty-five percent (125%) of the highest then-effective Tariff charge for the rental of space.

3.14 Surrender of Possession. At the expiration of the Agreement or upon its earlier termination, NCLB will peaceably surrender possession of the Parking Facilities and Multipurpose Parking Facility Parcel to County in its then “as is” condition, subject to its obligation not to commit waste upon the Parking Facilities and Multipurpose Parking Facility Parcel, and NCLB shall be entitled to remove all personal property on the Parking Facilities and Multipurpose Parking Facility Parcel except if the removal of that personal property would cause damage to the Parking Facilities and Multipurpose Parking Facility Parcel and specifically excluding any fixtures or equipment necessary to operate the Parking Facilities and Multipurpose Parking Facility Parcel. The provisions of this Section 3.14 shall survive the expiration or earlier termination of this Agreement.

3.15 Nuisance. NCLB shall not commit any nuisance on the Parking Facilities or do or permit to be done anything which may result in the creation of or commission of a nuisance on the Parking Facilities.

ARTICLE IV **FINANCIAL TERMS**

4.01 Establishment of Parking Rates; Retention of Parking Revenues. NCLB shall have the right to establish the parking rates chargeable to users of the Parking Facilities, subject to the exceptions set forth in subsections (a) and (b). NCLB shall be entitled to collect

and retain all parking fees collected at the Parking Facilities, including (if such parking fees are not waived as allowed under subsection (a) for County-sponsored events.

(a) Exception for Parking Rates for County-Sponsored Events. With respect to County-sponsored events for which the County determines that the use of the Parking Facilities is convenient or necessary, to the extent the Parking Facilities are available (as determined from the availability of sufficient parking spaces), the County shall be entitled to establish the parking rates chargeable to users of the Parking Facilities. Without limiting the foregoing, the County may waive parking charges for up to ten (10) County-sponsored events utilizing the Parking Facilities per County Fiscal Year, unless a greater number is agreed to by the Parties.

(b) Limitation on Minimum Parking Rates. NCLB shall not establish its parking rates for the Parking Facilities in an amount lower than the rates charged at County-owned and operated garages under the then-current Tariff.

4.02 County Parking Revenue Share. The County shall be entitled to a payment of the County Parking Revenue Share as provided herein. NCLB shall remit such payments, without offsets or deductions, to the County on a quarterly basis (based on the County's Fiscal Year), not more than sixty (60) days after the conclusion of the quarter. In no event shall the County's Parking Revenue Share be collected for vehicles entering the Multipurpose Parking Facility for the sole purpose of visiting or utilizing the County Office Element.

(a) Cruise Terminal B Garage Revenue Share. From the Effective Date, NCLB shall be required to remit to the County a Four Dollar (\$4.00) fee per vehicle parking at the Cruise Terminal B Garage (the "Cruise Terminal B Garage Revenue Share"), which shall be collected for each overnight, revenue-generating vehicle parking at the Cruise Terminal B Garage. The Cruise Terminal B Garage Revenue Share shall increase to Six Dollars (\$6.00) per vehicle in Fiscal Year 2027-28; to Seven Dollars (\$7.00) per vehicle in Fiscal Year 2028-29; to Eight Dollars (\$8.00) per vehicle in Fiscal Year 2029-30; and to Nine Dollars (\$9.00) per vehicle in Fiscal Year 2030-31. Commencing in Fiscal Year 2031-32, Cruise Terminal B Garage Revenue Share shall increase to Ten Dollars (\$10.00) per vehicle through the conclusion of the Term, including renewal periods.

(b) Multipurpose Parking Facility Revenue Share. From the earlier expiration of the Development Period (as extended for Delays) or the commencement of revenue-generating parking operations at the Multipurpose Parking Facility, NCLB shall be required to remit to the County a fee per vehicle parking at the Multipurpose Parking Facility (the "Multipurpose Parking Facility Revenue Share"), which shall be collected for each overnight, revenue-generating vehicle parking at the Multipurpose Parking Facility. The Multipurpose Parking Facility Revenue Share shall start at Six Dollars (\$6.00) per vehicle in Fiscal Year 2027-28; to Seven Dollars (\$7.00) per vehicle in Fiscal Year 2028-29; to Eight Dollars (\$8.00) per vehicle in Fiscal Year 2029-30; and to Nine Dollars (\$9.00) per vehicle in Fiscal Year 2030-31. Commencing in Fiscal Year 2031-32, Multipurpose Parking Facility Revenue Share shall increase to Ten Dollars (\$10.00) per vehicle through the conclusion of the Term.

(c) Parking Revenue Share Minimum Annual Guarantee. NCLB shall be required to pay the County, at a minimum, the Parking Revenue Share Minimum Annual Guarantee stipulated in Exhibit F. In the event of a Delay to the completion of the Multipurpose Parking Facility, the portion of the Parking Revenue Share Minimum Annual Guarantee relating to the Multipurpose Parking Facility applicable in calendar year 2029 shall be prorated based on the duration of the Delay.

(d) Reduction of Minimum Annual Guarantee for Force Majeure Events. To the extent a Force Majeure event results in the unavailability of Cruise Terminals B and C for passenger cruise operations on a day on which there is a scheduled berthing of an NCLB vessel, NCLB shall be entitled to a pro rata reduction of the Cruise Terminal B Parking Revenue Share Minimum Annual Guarantee and the Multipurpose Parking Facility Parking Revenue Share Minimum Annual Guarantee for each day that Cruise Terminals B and C are unavailable for the scheduled berthing of an NCLB vessel for passenger cruise operations.

(e) Parking Revenue Shares. NCLB shall be required to pay the County the Cruise Terminal B Garage Revenue Share and Multipurpose Parking Facility Revenue Share for each overnight, revenue-passenger vehicle parking at the Parking Facilities. The Cruise Terminal B Garage Revenue Share and Multipurpose Parking Facility Revenue Share shall be payable to the County regardless of how NCLB charges parking to its customers, including through bundling or in the event that NCLB includes parking as part of a promotion or as a benefit provided to a certain category of passengers. NCLB shall not be required to pay the Cruise Terminal B Garage Revenue Share and Multipurpose Parking Facility Revenue Share when the Parking Facilities are used in connection with non-revenue inaugural sailings, christenings, travel agent, sales and employee events, cruises to nowhere, and other promotional events associated with the marketing of NCLB's vessels or NCLB.

4.03 Project Contribution. The Parties agree that NCLB is entitled to receive a project contribution payment in the amount of Three Million Five Hundred Thousand Dollars (\$3,500,000.00) ("County's Project Contribution Payment"). The County's Project Contribution Payment shall be deemed earned following NCLB's takeover of the Cruise Terminal B Garage. Payment of the County's Project Contribution Payment shall be made no earlier than March 31, 2025, and no later than September 30, 2025.

4.04 NCLB's Obligations for Impositions.

(a) Payment of Impositions. Subject to subsection (b), NCLB shall pay or cause to be paid, prior to their becoming delinquent, all Impositions on the Parking Facilities and Multipurpose Parking Facility Parcel or any part thereof, or any appurtenance thereto, provided, however, that:

(i) If, by law, any Imposition (for which NCLB is liable hereunder) may, at the option of NCLB or County be paid in installments (whether or not interest shall accrue on the unpaid balance of such Imposition), NCLB may exercise the option to pay the same, including any accrued interest on the unpaid balance of such Imposition, in installments and, in such event, shall pay such installments as may become due during the Term (and provided further, that those installments which are to become due and payable

after the expiration of the then-applicable period or term, but relating to a fiscal period fully included in the then-applicable period or term, shall be paid in full by NCLB); and

(ii) Any Imposition for which NCLB is liable hereunder relating to a fiscal period, a part of which period is included within the Term and a part of which is included in a period of time after the expiration of the period or term, shall be adjusted between NCLB and County as of the expiration of the period or term so that NCLB shall pay only that portion of such Imposition which is applicable to the period of time prior to expiration of the period or term, and County, if so obligated, shall pay the remainder thereof.

(b) Contesting Impositions. NCLB shall have the right to contest the amount or validity, in whole or in part, of any Imposition, for which NCLB is or is claimed to be liable, by appropriate proceedings diligently conducted in good faith but only after payment of such Imposition, unless such payment or payment thereof under protest would operate as a bar to such contest or interfere materially with the prosecution thereof, in which event, notwithstanding the provisions of subsection (a), NCLB may postpone or defer payment of such Imposition if:

(i) Neither the Parking Facilities or Multipurpose Parking Facility Parcel nor any part thereof would by reason of such postponement or deferment be in danger of being forfeited or lost; and

(ii) Upon the termination of any such proceedings, NCLB shall pay the amount of such Imposition or part thereof, if any, as finally determined in such proceedings, together with any costs, fees, including counsel fees, interest, penalties and any other liability in connection therewith.

(c) County Joinder Not Required. County shall not be required to join in any proceedings referred to in subsection (b) unless the provisions of Applicable Law require that County is a party to such proceedings, as owner of the Parking Facilities and Multipurpose Parking Facility Parcel or otherwise, in which event County shall participate in such proceedings at County's cost.

ARTICLE V

CASUALTY, INSURANCE, AND INDEMNIFICATION

5.01 Casualty.

(a) Notice of Damage and Destruction. If the Parking Facilities, in whole or in part, are damaged or destroyed by any Casualty, NCLB shall promptly notify County of such destruction or damage within five (5) Business Days, and shall provide, within thirty (30) days of the occurrence of said casualty, a full written description of the Casualty, including, to the extent known at such time, a written and detailed estimate of all damage to Parking Facilities and the estimated costs to repair and restore same.

(b) Material Casualty. If (1) the Parking Facilities or any material part of the Parking Facilities are damaged or destroyed by any Casualty so that, in NCLB's

reasonable opinion, they shall be economically unsuitable for restoration after full application of available insurance proceeds, or during the last five (5) years of the then-current Term, fifty percent (50%) or more of Parking Facilities is damaged, as reasonably determined by NCLB, then in lieu of NCLB's obligation hereunder to rebuild, replace, and repair the Parking Facilities, NCLB shall have the option to provide County a "Casualty Termination Notice," subject to County's right to assume any insurance proceeds deficiency provided below. The Casualty Termination Notice shall specify (1) the "Casualty Termination Date," and (2) contain a certification by NCLB to the effect that either (x) the Parking Facilities have been damaged or destroyed and that NCLB has reasonably determined that the Parking Facilities are economically unsuitable for restoration (including the amount of available insurance proceeds to restore the Parking Facilities, the amount NCLB has reasonably determined it will cost to restore the Parking Facilities, the amount of any insurance deficiency reasonably anticipated by NCLB ("Insurance Deficiency"), reasonable supporting documentation for all such estimates of proceeds and costs, and a statement by NCLB that it seeks to not restore the Parking Facilities due to NCLB's projected insurance proceeds deficiency); or (y) during the last five (5) years of the then-current Term, fifty percent (50%) or more of the Parking Facilities are damaged.

(c) Casualty Termination Notice. Within thirty (30) days of County's receipt of the Casualty Termination Notice due to the Parking Facilities being economically unsuitable for restoration, County will provide NCLB in writing of its election to either (x) accept the Casualty Termination Notice or (y) provide a written notice that County will pay the Insurance Deficiency. In the event of a timely notice by County that it will assume the Insurance Deficiency ("County Deficiency Assumption"), this Agreement shall not terminate and NCLB shall use all commercially reasonable efforts to promptly and fully restore the Parking Facilities, and to recover all available insurance proceeds and damages from available insurers and culpable third parties, with County solely responsible for any remaining restoration cost deficiency, if any. In the event, however, that County accepts NCLB's proposed Casualty Termination Notice, this Agreement shall then terminate as of such Casualty Termination Date, and if so terminated, all obligations of NCLB and County under this Agreement shall cease as of said date.

(d) Late Term Casualty. If NCLB issues a Casualty Termination Notice during the last five (5) years of the then-current Term due to fifty percent (50%) or more of the Parking Facilities being damaged, as reasonably determined by NCLB, this Agreement shall terminate as of the Casualty Termination Date, and all obligations of NCLB and County under this Agreement shall cease as of said date.

(e) Proceeds of Casualty Termination. In the event of a Casualty termination, the net proceeds of insurance procured by NCLB pursuant to Section 5.04 of this Agreement and covering such damage of destruction shall be utilized, first, to pay all costs associated with demolition and cleanup of the damaged portion of the Parking Facilities (if such work is requested in writing by County) and, then, to County, the entire remaining balance of such amount (if any).

(f) Restoration. Unless NCLB terminates this Agreement in the manner set forth herein, this Agreement shall continue in full force and effect and NCLB shall, promptly

and diligently after any such damage or destruction and at its own cost and expense, use all insurance proceeds payable with respect thereto to reconstruct the Parking Facilities. If NCLB repairs or restores the Parking Facilities under this Section, then proceeds from insurance procured by NCLB in accordance with Section 5.04 and providing coverage in connection with the damage or destruction shall immediately be paid over to NCLB, to be used by NCLB for the purposes of repairing and restoring the Parking Facilities. So long as this Agreement remains in effect, County hereby agrees to promptly and diligently repair and restore at its sole cost and expense any construction which is an obligation of County under this Agreement.

5.02 Risk of Personal Property Loss. All NCLB property or other personal property brought upon, placed in, or located upon the Parking Facilities shall be at the risk of NCLB or owner thereof, and County shall not be liable for any loss of or damage to said personal property, unless such loss is caused by the gross negligence, willful misconduct, or bad faith of County.

5.03 Casualty Repairs. If by reason of casualty any repair, restoration, or replacement becomes necessary, NCLB shall make such repairs, restoration, or replacements which are necessary for the preservation of the Parking Facilities, or for the safety or health of the occupants of the Parking Facilities, or of NCLB's property, or as are required by any Applicable Laws; provided, however, that NCLB shall first make a reasonable effort to inform County before taking such action except in the case of an emergency affecting life, safety, or welfare. In making such emergency repairs, NCLB shall comply with any Applicable Laws governing improvements to County-owned property, including specifically, and to the extent applicable, Section 255.05, Fla. Stat.

5.04 Insurance. During the Term for each of the Parking Facilities (and in the case of the Multipurpose Parking Facility, from the date of Substantial Completion), NCLB shall be required to keep and maintain insurance in accordance with Exhibit I.

5.05 County Named as Additional Insured. Public liability, demolition, and debris removal, and all-risk casualty policies evidencing such insurance shall name County and/or its designee(s) as additional insured (when possible) and shall be primary and non-contributory. A certificate evidencing such insurance shall be deposited with County by NCLB promptly upon commencement of NCLB's obligation to procure the same.

5.06 No Double Recovery. Nothing in this Agreement shall be construed to allow for double recovery on account of the payment of insurance for any loss or damage to either Party. The amount of recovery available to either Party from the other shall be reduced by the amount of an insurance payment for such event. Except as expressly provided for herein, each Party's obligations to the other as set forth in this Agreement shall remain unaffected.

5.07 Indemnities.

(a) NCLB Indemnification. NCLB shall indemnify, defend and hold County harmless from and against any loss, cost, damage, claim, liability, and expense (including reasonable attorneys' fees and disbursements) resulting from a third-party claim if,

and to the extent, arising from (a) any default by NCLB under this Agreement, (b) any negligent acts or omissions or willful misconduct of NCLB, or (c) any accident, injury, or damage occurring in, at, or upon the Parking Facilities (except to the extent arising from the negligent acts or omissions or misconduct of County), except to the extent the same are caused by the negligence, willful misconduct or bad faith of County.

(b) County Indemnification. The County does hereby agree to indemnify and hold harmless NCLB to the extent and within the limitations of Fla. Stat. § 768.28, subject to the provisions of that statute whereby the County shall not be held liable to pay a personal injury or property damage claim or judgment by any one person which exceeds the sum of \$200,000, or any claim or judgments of portions thereof, which, when totaled with all other occurrences, exceeds the sum of \$300,000, from any and all personal injury or property damage claims, liabilities, losses, and causes of action which may arise solely as a result of the negligence of the County. However, nothing herein shall be deemed to indemnify NCLB from any liability or claim arising out of the negligent performance or failure of performance of NCLB, its affiliates, licensees, contractors, subcontractors, agents or any other unrelated third party. Further, the County shall not be liable for any liabilities, damages, suits, claims and judgments of any nature (including reasonable attorneys' fees and expenses) arising from or in connection with any loss or liability due to a Force Majeure.

5.08 Environmental Indemnification.

(a) As between County and NCLB, NCLB will be deemed the sole generator and arranger under 40 CFR, Part 262 in respect of any NCLB release of Hazardous Materials. NCLB agrees that it shall be identified as the sole generator and arranger of such Hazardous Materials on waste manifests and any other documentation submitted to transporters, disposal facilities and any Governmental Authority, and that it shall be responsible for the management, treatment, handling, storage, monitoring, remediation, removal, transport, and disposal of any such Hazardous Materials in, under or on the Parking Facilities.

(b) As between County and NCLB, County will be deemed the sole generator and arranger under 40 CFR, Part 262 in respect of any County release of Hazardous Materials. County agrees to be identified as the sole generator and arranger of such Hazardous Materials on waste manifests and any other documentation submitted to transporters, disposal facilities and any Governmental Authority, and that it shall be responsible for the management, treatment, handling, storage, monitoring, remediation, removal, transport, and disposal of any such Hazardous Materials in, under or on the Parking Facilities, unless NCLB elects to manage, treat, handle, store, monitor, remediate, remove, transport and dispose the same, in which case such actions shall be taken by NCLB at County's cost.

(c) Notwithstanding anything contained herein to the contrary, NCLB shall, at its sole cost and expense, be responsible for the removal and remediation of any Hazardous Material and environmental conditions requiring remediation under Environmental Laws introduced onto the Parking Facilities by NCLB, its agents, employees, or contractors, all in accordance with Environmental Laws.

5.09 County Self-Insured. County is a political subdivision of the state of Florida and is authorized, subject to the provisions of Section 768.28 of the Florida Statutes, providing limitations for the making of claims against County as a sovereign, to self-insure against claims. Such self-insurance program shall not be deemed a waiver of the County's liability limits under Section 768.28 of the Florida Statutes. County shall upon request of NCLB from time to time provide to NCLB through County's duly authorized officers, written assurances to NCLB with respect to County's status as a self-insured entity under Florida law and its ability to satisfy its claims as they become due.

ARTICLE VI
DEFAULT AND TERMINATION

6.01 Default by NCLB; Notice and Right to Cure.

(a) If NCLB defaults in the payment of any amount due under this Agreement and such default continues for ten (10) business days after written notice thereof from County; or

(b) if NCLB materially defaults in the performance or observance of any of its other covenants or obligations set forth in this Agreement (other than any payment covenant), and if such default continues for thirty (30) days after notice thereof from County specifying in writing in what manner NCLB has defaulted (except that if such default cannot by its nature be cured within said thirty (30) day period, this period shall be extended for a reasonable additional time, provided that NCLB commences to cure such default within the thirty (30) day period and proceeds diligently thereafter to effect such cure); or

(c) if NCLB materially defaults in the performance or observance of any obligation relating to the County Office Element, and if such default continues for thirty (30) days after notice thereof from County specifying in what manner NCLB has defaulted (except that if such default cannot by its nature be cured within said thirty (30) day period, this period shall be extended for a reasonable additional time, provided that NCLB commences to cure such default within the thirty (30) day period and proceeds diligently thereafter to effect such cure);

Then County may, but only during the continuance of any such uncured default, elect as follows:

(i) Cure such default and any costs and expenses incurred by County therefore shall be paid within forty-five (45) days of NCLB's receipt of an invoice therefor; or

(ii) Lawfully and subject to Applicable Laws, enter the Parking Facilities and repossess the same and expel NCLB and those claiming under NCLB without being deemed guilty of any manner of trespass and without prejudice to any other remedies which County may have for arrears of any monetary amounts due under the Agreement or preceding breach of covenant. Upon entry as aforesaid, this Agreement shall terminate and NCLB covenants that in case of such termination it shall pay any debt owed by NCLB for the

Parking Facilities as of the date of the termination and shall owe the County Parking Revenue Share Minimum Annual Guarantee until the conclusion of the then-current Term.

6.02 Suspension of NCLB Default. If NCLB disputes any sum claimed by County to be due and payable hereunder and NCLB gives County written notice specifying in reasonable detail the basis for its dispute, NCLB may withhold payment of the amount in dispute. NCLB and County shall negotiate in good faith to resolve the dispute by agreement. NCLB shall not be deemed to be in default hereunder by reason of withholding such amount until the dispute is finally determined adversely to NCLB, and NCLB shall fail to pay so much of the withheld amount determined to be payable to County within ten (10) days after NCLB is notified of the adverse determination.

6.03 Default by County; Notice and Right to Cure.

(a) Notice and Right to Cure. If NCLB discovers that County has committed a material breach of any of the warranties made in this Agreement, and if such default continues for fifteen (15) days after notice thereof from NCLB to County, NCLB may declare an event of default. Further, if County defaults in the performance or observance of any of its covenants or obligations set forth in this Agreement, NCLB shall give County notice specifying in what manner County has defaulted and if such default shall not be cured by County within thirty (30) days after the delivery of such notice (except that if such default cannot be cured within said thirty (30) day period, this period shall be extended for a reasonable additional time, provided that County commences to cure such default within the thirty (30) day period and proceeds diligently thereafter to effect such cure), NCLB may declare an event of default.

(b) NCLB's Remedies. If NCLB declares an event of default, NCLB may cure such default and invoice County for costs and expenses incurred by NCLB therefor. If County does not reimburse NCLB within thirty (30) days after it receives NCLB's invoice, NCLB may deduct all such costs and expenses from the County Parking Revenue Share due and to become due hereunder plus interest at the statutory rate established by the Florida Chief Financial Officer. To the extent such event of default has a material adverse effect on NCLB's rights hereunder, NCLB shall be entitled to terminate this Agreement, subject only to the payment of the County Parking Revenue Share through the termination date hereof, which shall be NCLB's sole recourse against the County.

6.04 Delays. Whenever a Party is required by the provisions of this Agreement to perform an obligation (other than a payment obligation hereunder) and such Party is prevented beyond its reasonable control from doing so by reason of a Delay, such Party shall be temporarily relieved of its obligation to perform, provided it promptly notifies the other Party of the specific delay and exercises due diligence to remove or overcome it.

6.05 Due Diligence Period. With respect to NCLB's obligation to design and construct the Multipurpose Parking Facility, for a period of six (6) months from the Effective Date, NCLB shall have the right to exercise a partial termination for convenience as to the design and construction of the Multipurpose Parking Facility and any financial obligations (including, without limitation, the Parking Revenue Share Minimum Annual Guarantee)

applicable to the Multipurpose Parking Facility. Such right of partial termination for convenience shall be exercisable only in the event that NCLB discovers an unforeseen site condition within the Multipurpose Parking Facility Parcel that renders the design and construction of the Multipurpose Parking Facility economically unfeasible. To exercise such right of partial termination for convenience, NCLB shall provide the County with written notice, thirty (30) days before the effective date of the partial termination for convenience and such notice shall specify the anticipated monetary impact of the unforeseen site condition rendering the design and construction of the Multipurpose Parking Facility economically unfeasible. For clarity, the aforementioned 30-day notice period shall not be construed to limit NCLB's due diligence period to a period less than 6 months. The Parties shall then discuss alternatives to the partial termination for convenience for a period not to exceed thirty (30) days and, if no agreement on how to address the unforeseen site condition is reached, the partial termination for convenience shall become effective and NCLB shall be relieved of its obligations relating to the Multipurpose Parking Facility as provided in this paragraph. All other provisions of the Management Agreement shall remain in effect and unmodified by the partial termination for convenience. To the extent that NCLB performs any destructive testing (including, e.g., borings), NCLB shall be obligated to return the site to its preexisting condition.

ARTICLE VII
NOTICES

7.01 Notices. All notices, requests, demands and other communications required or permitted to be given pursuant to this Agreement shall be in writing and shall be deemed to have been duly given when delivered by hand or when deposited in the United States mail, by registered or certified mail, return receipt requested, postage prepaid, or a nationally recognized overnight courier, as follows:

If to County: Miami-Dade County
 Seaport Department
 1015 North America Way
 Miami, Florida 33132
 Attn.: Director, Seaport Department

With a copy to: County Attorney's Office
 Stephen P. Clark Center
 111 Northwest First Street, Suite 2810
 Miami, Florida 33128
 Attn.: Miguel A. Gonzalez, Esq.

If to NCLB: Norwegian Cruise Line
 Attn: Senior Vice President, Port
 Development & Construction
 7665 Corporate Center Drive
 Miami, Florida 33126

With a copy to: Norwegian Cruise Line
Attn: General Counsel
7665 Corporate Center Drive
Miami, Florida 33126

and to such other Parties as shall be notified in writing by each Party to the other.

ARTICLE VIII
ADDITIONAL TERMS

8.01 Governing Law; Venue. This Agreement shall be governed by, construed and enforced in accordance with the laws of the state of Florida, without regard to any choice-of-law provisions that would result in the application of the law of another jurisdiction. Venue shall be exclusively in Miami-Dade County, Florida.

8.02 Attorneys' Fees and Costs. Except as otherwise provided herein, in any proceeding or controversy associated with or arising out of this Agreement or a claimed or actual breach thereof, or in any proceeding to recover the possession of the Parking Facilities or any portion thereof, each Party shall bear its own attorneys' fees and costs.

8.03 Non-Exclusive Remedies. No remedy or election given by any provision in this Agreement shall be deemed exclusive unless so indicated, but each shall, wherever possible, be cumulative in addition to all other remedies at law or in equity which either Party may have arising out of an event of default of the other Party.

8.04 Limitation on Liability. Neither Party shall be liable to the other Party for any incidental or consequential loss or damage whatsoever, including lost profits, arising from the rights of such Party hereunder.

ARTICLE IX
MISCELLANEOUS

9.01 Delays. Notwithstanding and prevailing over any contrary term contained herein, in the event of a Delay, NCLB shall be entitled to extensions of time hereunder (including with respect to the Completion Date and the commencement date for payment of Rent), with each day of Delay entitling NCLB to an equivalent day of extended time, unless the Parties agree that a Delay has caused a greater impact on critical path items, in which case, NCLB shall receive an extension reflecting such longer period of time.

9.02 Compliance with Laws. The Parties shall comply with all Applicable Laws that affect or relate to the Parking Facilities or Multipurpose Facility and that relate to the performance of any duties or obligations arising out of this Agreement.

9.03 Inspector General and Independent Private Sector Inspector General. The County's Inspector General and any independent private sector inspector general ("IPSIG") retained, exercising any powers afforded under this Agreement or Applicable Laws, shall have the right to examine all documents and records in NCLB's possession, custody or control which, in their reasonable judgment, pertain to the project design and performance of construction matters under this Agreement, including but not limited to, original estimate files; change order estimate files; worksheets; proposals and agreements from and with subcontractors and suppliers; all project related correspondence, memoranda, instructions, financial documents, construction documents, bid and contract documents; back-charge documents; documents and records which involve cash, trade or volume discounts, insurance proceeds, rebates, or dividends received; payroll and personnel records; and supporting documentation for the aforesaid documents and records. Upon written notice to NCLB from the Inspector General or an IPSIG retained by the Inspector General, NCLB shall make all requested records and documents available to the Inspector General or the IPSIG for inspection and copying. The Inspector General and the IPSIG shall have the right to inspect and copy all documents and records in NCLB's possession, custody, or control which, in the Inspector General's or the IPSIG's sole judgment, pertain to performance of the Agreement.

(a) The provisions in this Section shall apply to any entity with whom NCLB contracts for the performance of the work described in the Development Rider and that entity's officers, agents and employees. NCLB shall incorporate the provisions in this Section in all other contracts executed by NCLB in connection with the performance of this Agreement, including Service Contracts and contracts executed in connection with the Development Rider.

(b) Nothing in this Section shall impair any independent right that NCLB may grant to the County to conduct audit or investigative activities. The provisions in this Section are neither intended nor shall they be construed to impose any liability on County, NCLB, or third parties.

9.04 Non-Discrimination. NCLB shall abide by Applicable Laws with regard to its employment hiring practices and use of the Parking Facilities, or in any other respect; must provide equal access and equal opportunity in employment and services; and will not discriminate on the basis of race, color, religion, ancestry, national origin, sex, pregnancy, age, disability, marital status, familial status, sexual orientation, gender identity, gender expression, physical ability, or status as a victim of domestic violence, dating violence, or stalking, all in accordance with Title VI and Title VII of the Civil Rights Act of 1964, the Age Discrimination Act of 1975, Title IX of the Education Amendments of 1972 as amended (42 U.S.C. 2000d et seq.), the Americans with Disabilities Act (ADA) of 1990, Section 504 of the Rehabilitation Act of 1973, and Chapter 11A of the County Code.

9.05 Ownership Disclosure. NCLB shall provide a sworn statement simultaneously herewith stating its legal name and business address as well as that of its stockholders owning more than five percent (5%) of its outstanding membership interests or stocks, directors, and officers. In the event of a transfer of interest of any such membership interests or stocks, NCLB will notify County within thirty (30) days of such transfer. To the extent this Agreement is assigned and County is entitled to approve such assignment in accordance with the terms

hereof, the same disclosure must be made, at the County's election, either as a condition of the County's approval of the assignment or within fifteen (15) days of the effectiveness of the assignment.

9.06 Public Records. To the extent required under Applicable Law, NCLB shall comply with Florida's public records law, including Fla. Stat. § 119.0701. NCLB shall specifically: (a) keep and maintain public records that ordinarily and necessarily would be required by the public agency in order to perform the service; (b) upon request of the custodian of public records, provide the County with a copy of the public records or allow the public records to be inspected or copied within a reasonable time and at a cost that does not exceed the cost provided in Chapter 119, F.S., 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) transfer, at no cost, to the public agency all public records in possession of NCLB upon termination of the Agreement and destroy any duplicate public records that are exempt or confidential and exempt from public records disclosure requirements or keep and maintain public records required by the public agency to perform the service. All records stored electronically must be provided to the public agency, upon request of custodian of public records in a format that is compatible with the information technology systems of the public agency.

**IF NCLB HAS QUESTIONS CONCERNING THE
APPLICATION OF CHAPTER 119, FLORIDA
STATUTES, TO NCLB'S DUTY TO PROVIDE
PUBLIC RECORDS RELATING TO THIS
AGREEMENT, CONTACT THE CUSTODIAN
OF PUBLIC RECORDS AT:**

**PortMiami Customer Service Manager
1015 North America Way
Miami, Florida 33132
pomservice@miamidade.gov
305.347.4844**

9.07 Time of Essence. Time is of the essence with respect to each obligation of County or NCLB under this Agreement. If the final day of any period described in this Agreement is not a Business Day, that period is extended to the next day that is not a Business Day.

9.08 Entire Agreement. This Agreement, including all Exhibits and other attachments referred to herein, contains the entire agreement of County and NCLB with respect to the matters stated herein, and may not be modified except by an instrument in writing which is signed by both Parties and delivered by each to the other. Exhibits and such other attachments are incorporated herein as fully as if their contents were set out in full at each point of reference to them.

9.09 Successors and Assigns. The provisions of this Agreement shall be binding on and inure to the benefit of the Parties, their successors, and their permitted assigns. Notwithstanding the foregoing, NCLB shall not be permitted to assign this Agreement to a third-party other than an NCLB parent, subsidiary, or sibling entity without the prior approval of the BCC, as required under Section 2-11.6 of the County Code.

9.10 Additional Instruments. The Parties shall execute and deliver any instruments in writing necessary to carry out any agreement, term, condition, or assurance in this Agreement whenever occasion shall arise and request for such instruments shall be made.

9.11 Relationship of Parties. Nothing contained in this Agreement shall be deemed or construed to create the relationship of principal and agent or of a joint venture or of any association whatsoever between County and NCLB; it being expressly understood and agreed that none of the provisions contained in this Agreement nor any of the acts of the Parties hereto shall be deemed to create any relationship between County and NCLB other than the relationship of County and NCLB as landlord and tenant.

9.12 Sovereign Rights. The County retains all its sovereign prerogatives and rights as a county under State law with respect to the planning, design, construction, development and operation of Parking Facilities and Multipurpose Facility. It is expressly understood that notwithstanding any provisions of this Agreement and the County's status under this Agreement or any other agreement: (a) the County retains all of its sovereign prerogatives and rights and regulatory authority (quasi-judicial or otherwise) as a county under State law and shall in no way be estopped from withholding or refusing to issue any approvals of applications for building, zoning, planning, or development under present or future laws and regulations whatever nature of general applicability which is applicable to the planning, design, construction and development of Parking Facilities and Multipurpose Facility, or the operation thereof, or be liable for the same; (b) the County shall not by virtue of this Agreement or any development agreement be obligated to grant any approvals of applications for building, zoning, planning or development under present or future laws and ordinances of whatever nature of general applicability which is applicable to the planning, design, construction, development and/or operation of the Parking Facilities and Multipurpose Facility; and (c) notwithstanding and prevailing over any contrary provision in this Agreement, any County covenant or obligation that may be contained in this Agreement shall not bind the Board of County Commissioners, the County's Planning and Zoning Department, Department of Regulatory and Economic Resources, or any other County, federal or state department or authority, committee or agency to grant or leave in effect any zoning changes, variances, permits, waivers, contract amendments, or any other approvals that may be granted, withheld or revoked in the discretion of the County or other applicable governmental agencies in the exercise of its police power.

9.13 Counterparts. This Agreement may be executed in one or more counterparts, each of which shall be an original, and all of which shall constitute one and the same instrument. This Agreement may be signed and delivered by electronic mail in an Adobe PDF document. The effectiveness of any such signature shall have the same force and effect as manually signed originals and shall be binding on the Parties.

9.14 E-Verify. By entering into this Agreement, NCLB and its agents and subcontractors are jointly and severally obligated to comply with the provisions of Section 448.095, Florida Statutes, as amended, titled “Employment Eligibility.” NCLB affirms that (a) it has registered and uses the U.S. Department of Homeland Security’s E-Verify system to verify the work authorization status of all new NCLB employees; (b) it has required all subcontractors to this Agreement to register and use the E-Verify system to verify the work authorization status of all new employees of the subcontractor; (c) it has an affidavit from all subcontractors to this Agreement attesting that the subcontractor does not employ, contract with, or subcontract with, unauthorized aliens; and (d) it shall maintain copies of any such affidavits for duration of the Agreement. Registration information is available at: (<http://www.uscis.gov/e-verify>). If County has a good faith belief that NCLB has knowingly violated Section 448.09(1), Florida Statutes, then County shall terminate this Agreement in accordance with Section 448.095(5)(c), Florida Statutes. In the event of such termination NCLB agrees and acknowledges that it may not be awarded a public contract for at least one (1) year from the date of such termination and that NCLB shall be liable for any additional costs incurred by the County because of such termination. In addition, if County has a good faith belief that a subcontractor has knowingly violated any provisions of Sections 448.09(1) or 448.095, Florida Statutes, but NCLB has otherwise complied with its requirements under those statutes, then Contractor agrees that it shall terminate its contract with the subcontractor upon receipt of notice from the County of such violation by subcontractor in accordance with Section 448.095(5)(c), Florida Statutes. Any challenge to termination under this provision must be filed in the Circuit or County Court by the County, NCLB, or subcontractor no later than twenty (20) calendar days after the date of contract termination.

9.15 Human Trafficking. By entering into, amending, or renewing this Agreement, including NCLB is obligated to comply with the provisions of Section 787.06, Florida Statutes, “Human Trafficking,” as amended, which is incorporated by reference into this Agreement. All definitions and requirements from Section 787.06, F.S., apply to this Agreement. This compliance includes NCLB providing an affidavit that it does not use coercion for labor or services. This attestation by the Agreement shall be in the form attached to this Agreement as the Kidnapping, Custody Offenses, Human Trafficking and Related Offenses Affidavit (the “Affidavit”) and must be executed by NCLB and provided to the County when entering, amending, or renewing this Agreement. This Agreement shall be void if NCLB submits a false Affidavit pursuant to this Act or NCLB violates the Act during the term of this Agreement, even if NCLB was not in violation at the time it submitted its Affidavit.

IN WITNESS WHEREOF, this Agreement has been executed and delivered as of the date first written above.

COUNTY:

NCLB:

MIAMI-DADE COUNTY, FLORIDA, a political subdivision of the State of Florida

NCL (BAHAMAS), LTD., a Bermudian corporation

By: _____
Name: _____
Title: _____

Signed by:
By: Daniel S. Farkas
Name: Daniel S. Farkas
Title: EVP & General Counsel CDO & AS

Approved as to form and legal sufficiency:

Assistant County Attorney

Attest:

Deputy Clerk

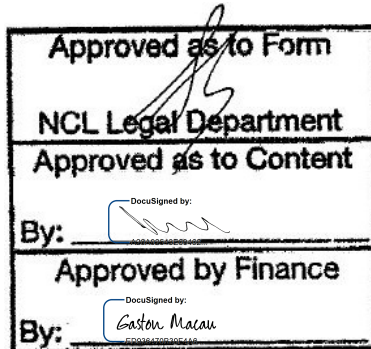


Exhibit A
(NCLB Maintenance Obligations)

NCLB shall take over day-to-day operations, management, maintenance, and repair responsibilities for the Cruise Terminal B Garage and, once Substantially Completed, the Multipurpose Parking Facility.

Housekeeping

NCLB shall oversee and carry out the day-to-day housekeeping, janitorial, and groundskeeping functions of the Parking Facilities. NCLB shall conduct regular inspections of the Parking Garages (and surrounding grounds) to identify and promptly address housekeeping needs.

Maintenance, Repairs & Replacement

NCLB shall be responsible for the day-to-day operations, maintenance, repair, and replacement responsibilities of the Parking Facilities, to include but not limited to:

As to the Cruise Terminal B Garage:

1. Four (4) Elevators
2. Elevator Room on 7th floor (P702) and one (1) of the 4 compressors on the roof to service the A/C split unit in the elevator room.
3. Garage restrooms (2) and all associated equipment on the first floor.
4. Stripping, car stops, bollards, vehicle and pedestrian control devices, and garage signage.
5. Storage room (P701) on 7th floor.
6. All garage lighting, associated controls, and equipment throughout the garage.
7. Waste management.

As to the Multipurpose Parking Facility:

All elements, including, but not limited to, all elements analogous to those identified above with respect to the Cruise Terminal B Garage.

Signage

NCLB shall affix prominent signage at the ingress and egress points of the Parking Facilities notifying all users that the Parking Facilities are operated by and maintained by NCLB. Such

signage must clearly state that NCLB is responsible for setting parking rates at the Parking Facilities and must include a point of contact to address any inquiries or complaints.

Technology Solutions

NCLB shall purchase, implement, and maintain technology solutions (with redundancy in the event of temporary outages with the primary solutions) at the Parking Facilities, as needed, including but not limited to smart parking meters, digital payment platforms, parking sensors, mobile applications, required network switches, and back-end servers.

NCLB shall be responsible for the parking access system, which (at the Cruise Terminal B Parking Garage) includes the CBP-nested parking area on the 2nd floor, whether through the assumption of the existing County contract or through a contract separately entered by NCLB. Any successive parking system contracts shall be entered by NCLB and shall be assignable to the County upon termination of the Agreement. In no event, however, shall the term of such contracts exceed the term the Agreement.

NCLB shall execute and contract with the credit card processors, bearing the sole responsibility for PCI compliance in accordance with the County's policies (as such policies may change during the term) and all other applicable IT, consumer, and credit safeguards.

Safety & Security

NCLB shall implement and maintain security protocols, including surveillance, access control, security personnel, lighting, or other measures. NCLB shall remain in compliance with Port emergency and evacuation plans.

NCLB shall conduct regular safety inspections to identify and rectify any potential hazards. For any safety issues that may have a Port-wide impact, NCLB shall provide the County with a report summarizing the findings and corrective actions taken. This report shall be submitted to the County within five (5) business days of the occurrence.

Customer Service

NCLB shall handle customer inquiries and complaints promptly and help users of the Parking Facilities, as needed.

Human Resources (HR) Management Functions

NCLB shall recruit, train, and manage staff for the Parking Facilities following Applicable Law.

Emergency Repairs

NCLB shall handle all emergency repairs promptly to mitigate any immediate risks or damages. NCLB must notify the County of any significant emergencies and the actions taken to address them.

Major Repairs, Replacements and Capital Improvements

NCLB shall perform and fund any repairs, replacements, or capital improvements necessitated by NCLB's use and operation of the Parking Facilities.

Exhibit B
(County's Maintenance Obligations)

The County shall maintain the structural elements of the Cruise Terminal B Garage.

With respect to the Cruise Terminal B Garage, the County retains responsibility for several operational elements including:

- Security Access Control System: Includes door access control, cameras, intercoms, emergency call stations connected to C-3 Building.
- IT Rooms (P201) with Maintenance Fire Alarm System: Includes related safety components (red panels and repeaters). NCLB may be granted access to the IT Rooms (P201), provided there is adequate and secure separation between the County's safety systems and NCLB's use of the room.
- Chillers and cooling Towers (3) and associated equipment.
- Baggage Conveyor System: Includes the Bag Chute section for VIP on 3rd floor.
- Generator, 2,266-gallon fuel tank and all associated equipment on the roof.
- Switch Gear Room (Door P118) on Ground Floor, which brings power from garage to terminal.
- FPL Vault (Room P101), assigned to Florida Power & Light.
- Fire Suppression System
- Fire Sprinklers
- North Garage wall dock lights.
- Provisioning Building and baggage conveyor roll up doors.
- Port related A/C split units throughout the garage: Includes units inside port IT rooms, mechanical rooms, and 3 A/C compressors on the roof.
- Storm drains, main drainpipes
- Landscaping

NCLB shall grant unlimited access to Port personnel, subcontractors and/or authorized vendors for the purpose of supporting and maintaining these assets. The County shall conduct annual inspections of the facility to ensure it is structurally sound and being maintained in accordance with the terms of this agreement. The inspection may include structural integrity, plumbing, electrical systems, heating and cooling systems, and general cleanliness and maintenance of the property. The County will prepare an inspection report outlining any issues found and recommendations for repairs or improvements.

Exhibit C
(Cruise Terminal B Garage)



Exhibit D
(Multipurpose Parking Facility Parcel)

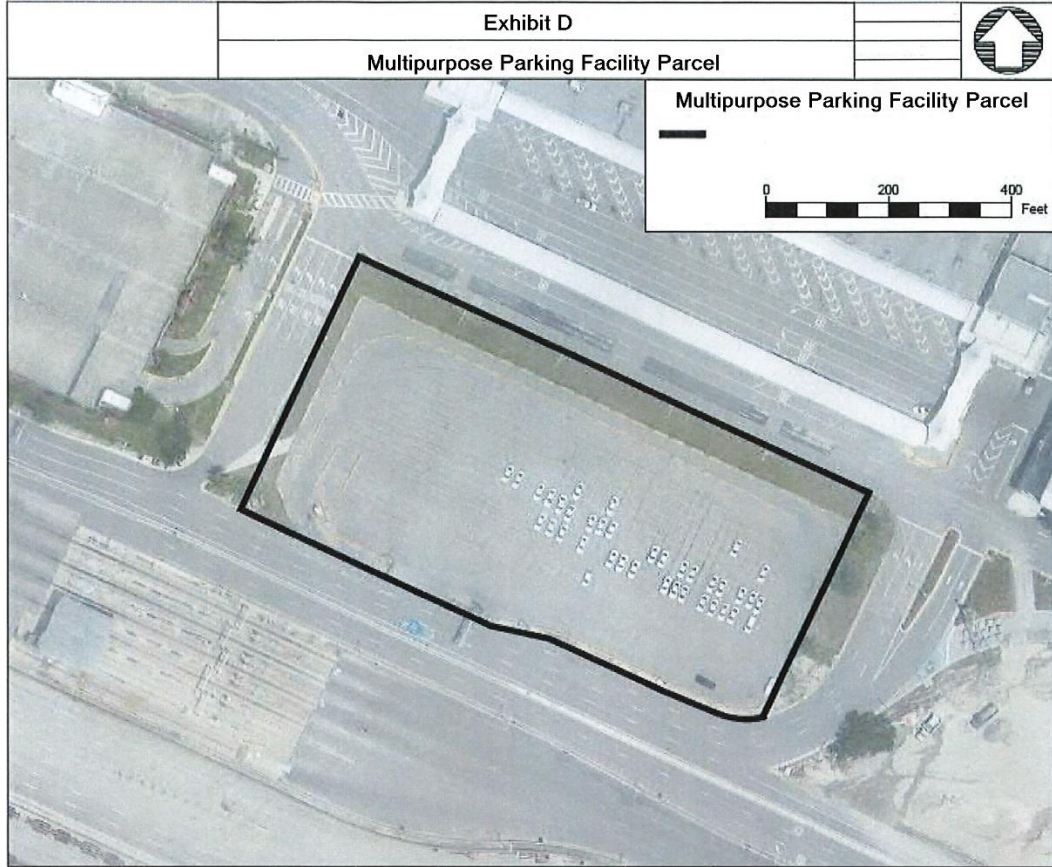


Exhibit D-1
(Multipurpose Parking Facility Parcel Surveyed)

Exhibit E
[reserved]

Exhibit F
(County's Parking Revenue Share Minimum Annual Guarantee)

Calendar Year	Rate	Cruise Terminal B Garage	Multipurpose Parking Facility	Parking Revenue Share Minimum Annual Guarantee Due to County
2025	\$4.00	Yes	No	\$100,000.00
2026	\$4.00	Yes	No	\$100,000.00
2027	\$4.00	Yes	No	\$100,000.00
2028	\$6.00	Yes	Yes	\$150,000.00
2029	\$7.00	Yes	Yes	\$675,000.00
2030	\$8.00	Yes	Yes	\$750,000.00
2031	\$9.00	Yes	Yes	\$825,000.00
2032*	\$10.00	Yes	Yes	\$1,000,000.00

* And each year thereafter agreement is in effect

Exhibit G
[reserved]

Exhibit H
(Development Rider)

DEVELOPMENT RIDER

This Development Rider to the Parking Facilities Management Agreement between the County and NCLB is of even date with the Agreement.

RECITALS

WHEREAS, the Parties have entered into that certain Agreement providing for NCLB's construction and operation of the Multipurpose Parking Facility;

NOW, THEREFORE, for good and valuable consideration, the exchange and sufficiency of which the Parties acknowledge, the Parties enter into this Development Rider to the Agreement on the terms and conditions set forth below:

TERMS AND CONDITIONS

ARTICLE I
CONCEPTUAL PLAN

1.01 **The Multipurpose Parking Facility.** NCLB shall develop the Multipurpose Parking Facility on the Multipurpose Parking Facility Parcel at NCLB's sole cost and expense (other than the County's Multipurpose Parking Facility Contribution and, if the County's Office Element Option or the County's Parking Alternative Option (together, the "County's Office Element" and the "County's Parking Alternative" are the "County Elements") are exercised, the amount due under Section 3.09(a) of the Agreement) including as to any cost overruns incurred in connection therewith, in accordance with the terms and conditions contained herein. NCLB shall be solely responsible for undertaking and coordinating any required relocation of utilities, environmental analysis, environmental approvals, environmental remediation (if any), and all permits and approvals, and comply with all Applicable Laws, including, specifically, Environmental Laws, in connection therewith. NCLB shall be fully responsible for supervising the complete performance of all design and construction work for the Multipurpose Parking Facility (subject to the County's rights in this Development Rider) and for the methods, means, and equipment used in performing the construction work and for all materials, tools, apparatus, and property of every description used in connection therewith. The Multipurpose Parking Facility shall be subject to revision, refinement, and approval during site planning and permitting. Currently, the Multipurpose Parking Facility is depicted in Exhibit E of the Agreement, as otherwise described in the Agreement. The Parties acknowledge and agree that subject to the terms and conditions hereof, the Multipurpose Parking Facility will be developed in accordance with the Final Site Plan, and the Multipurpose Parking Facility will consist, at a minimum, of the following:

A cruise passenger parking facility with an approximate footprint of 70,000 – 80,000 square feet with a minimum of two thousand (2,000) spaces and parking for port-wide ground transportation services on the lowermost levels of the Multipurpose Parking Facility to fully accommodate the ground transportation function existing on the

Multipurpose Parking Facility Parcel as of the Effective Date; the County Office Element, if the County's Office Element Option is exercised, up to and five hundred (500) non-revenue parking spaces dedicated therefor; or, if the County's Office Element Option is not exercised, and the County exercises the County's Parking Alternative Option, up to five hundred (500) non-revenue spaces for the use of those designated by the County. All parking elements of the Multipurpose Parking Facility shall be constructed with access control systems, and any parking areas established for the County Office Element, County's Parking Alternative, or otherwise not intended for public parking shall be constructed with independent access control systems.

1.02 **County Facility Design Standards.** In designing and constructing the Multipurpose Parking Facility, NCLB shall ensure that it incorporates high-quality finishes of similar quality to parking facilities at PortMiami, including as to mechanical and electrical systems. The Multipurpose Parking Facility, including the County Office Element and County Alternative Parking Option, shall meet or exceed all Applicable Laws (including applicable building codes), specifications of the Miami-Dade Information Technology Department, the requirements of any other Governmental Authority intending to occupy the Multipurpose Parking Facility, and standards required under the County's Sustainable Buildings Ordinance.

1.03 **Minimum Investment.** Subject to all terms and conditions in the Agreement and this Development Rider, the design and construction obligations of NCLB shall result in an investment by NCLB of an amount not less than Sixty Million Dollars (\$60,000,000.00) (exclusive of any County contributions) for the design, demolition, site work, construction, equipment, machinery, supplies, labor and professional fees, permits, development fees, and related expenses of the Multipurpose Parking Facility, exclusive of capital improvements and maintenance which may occur following the original development. In determining the amount of NCLB's investment in the design and construction of the Multipurpose Parking Facility, NCLB may include all reasonable hard and soft costs including all (i) architectural, consulting, accounting, claims resolution, experts, legal fees, planning, design, engineering, geotechnical, inspection, construction administration, owner representative services, contractor fees and costs, including the design and preparation of all drawings, renderings, surveys, models and as-builts; (ii) labor and material and supply costs; and (iii) expenditures relating to the construction work including dewatering, permits, applications, and approvals. NCLB shall demonstrate to the reasonable satisfaction of the County that it has incurred the minimum investment provided for herein.

1.04 **Preliminary Schedule.** As of the Effective Date, the Parties have attached as **Attachment 3** the Preliminary Schedule for constructing the Multipurpose Parking Facility. The Preliminary Schedule provides for the timing related to the commencement and completion of the Multipurpose Parking Facility. The Preliminary Schedule shall also reflect the date on which the County shall be required to deliver the Multipurpose Parking Facility Parcel free and clear of users, provided, however, that the County shall not be required to relocate any infrastructure serving other PortMiami needs (including, specifically, shore power transformers), which shall either be integrated into the Multipurpose Parking Facility or relocated elsewhere within the Multipurpose Parking Facility Parcel, without interruption to shore power service, at NCLB's own cost.

ARTICLE II
SITE PLAN DEVELOPMENT

2.01 **Development of Preliminary Site Plan.** Using the Conceptual Site Plan, NCLB shall create the Preliminary Site Plan for the Multipurpose Parking Facility, which shall be finalized by NCLB by the date set forth in the Preliminary Schedule and thereafter approved or rejected by the County, in the exercise of its reasonable discretion whose approval will not be unreasonably withheld, within fifteen (15) Business Days of receipt of the finalized Preliminary Site Plan. If the County fails to approve or reject the Preliminary Site Plan within fifteen (15) Business Days, the Preliminary Site Plan shall be deemed approved. The Preliminary Site Plan shall contain sufficient detail for the County to evaluate the external appearance of the proposed structures and its relation to other Port structures and facilities, the footprint of the proposed structures, the proposed vehicular and pedestrian traffic flow, the conceptual layout of the existing port-wide ground transportation for taxis and Transportation Network Entities, the location of the County Office Element within the Multipurpose Parking Facility, the location of the utilities and connection(s) thereof, the electrical and water supply needs of the Multipurpose Parking Facility and its contemplated use, and such other details as County may reasonably require to understand the integration of the Multipurpose Parking Facility to the appearance, use, operation, and efficiency of the Port. NCLB shall perform a traffic analysis to determine the ingress/egress locations of the Multipurpose Parking Facility to minimize traffic impacts to port operations. The Preliminary Site Plan shall incorporate a separate entrance and exit for the Ground Transportation operation, restroom facilities on the first floor, Maintenance of Traffic plans, and possible elevated passenger walkways to maintain traffic flow around the garage.

2.02 **Revision of Preliminary Site Plan.** If the County rejects the Preliminary Site Plan, or should it contain insufficient detail for the County to review and approve it in the manner set forth in § 2.01 above, the County shall provide NCLB with the reasons for such disapproval and, if appropriate, proposed revisions. NCLB shall then revise the Preliminary Site Plan and resubmit it to the County for approval within thirty (30) days. The County shall thereafter approve or reject the resubmission within fifteen (15) Business Days. If the County fails to approve or reject the resubmission within fifteen (15) Business Days, the resubmission shall be deemed approved. This process shall continue until issuance by the County of the Final Site Plan Approval.

2.03 **Final Site Plan.** Upon issuance of the Final Site Plan Approval, the County-approved Preliminary Site Plan for the Multipurpose Parking Facility shall be deemed the Final Site Plan. Thereafter, NCLB shall develop the Multipurpose Parking Facility in accordance with the Final Site Plan. If implementing the Multipurpose Parking Facility requires a material change from the Final Site Plan, NCLB shall submit such change for the County's consideration and approval, to be exercised reasonably and given or rejected within fifteen (15) Business Days of resubmission. If the County fails to approve or reject the resubmission within fifteen (15) Business Days, the resubmission shall be deemed approved.

ARTICLE III
DESIGN AND CONSTRUCTION

3.01 **Suitability.** Except as specifically provided in the Agreement, NCLB acknowledges that the County has made no representations as to the Multipurpose Parking Facility Parcel or the suitability of the Multipurpose Parking Facility Parcel for the Multipurpose Parking Facility or the adequacy and availability of utility connections within the Multipurpose Parking Facility Parcel. The County notes explicitly that it shall not be required to relocate any infrastructure serving other PortMiami needs (including, specifically, shore power transformers), which shall either be integrated into the Multipurpose Parking Facility or relocated elsewhere within the Multipurpose Parking Facility Parcel without interruption to shore power service, at NCLB's own cost. To the extent adequate utilities are not available within the Multipurpose Parking Facility Parcel for the development of the Multipurpose Parking Facility, it shall be NCLB's obligation to make any necessary alterations or modifications that are required including outside of the Multipurpose Parking Facility Parcel, and if such work is required outside of the Multipurpose Parking Facility Parcel, its scope, constructability, and maintenance of traffic plan shall be reviewed and approved, at the sole discretion of the County. The County shall have no obligation to perform or cause to be performed any work on or about the Multipurpose Parking Facility Parcel, including but not limited to all demolition (surface and subsurface as required), vibration monitoring to ensure the tunnel is not impacted, removal and disposal of materials, dewatering, construction, new or relocated utilities, temporary roadways, traffic maintenance, watershed control, erosion control, maintenance, repair, renovation, or cleanup. NCLB's obligation under the Agreement to obtain all land use, construction, and operating permits and approvals required of NCLB shall not require the County to take any action or perform any tasks within or outside of the Multipurpose Parking Facility Parcel to enable NCLB to obtain such permits and approvals, including the temporary and permanent certificate of occupancy. INCLB's exclusive obligation shall remain to take or perform all acts necessary to obtain such permits and approvals. Notwithstanding the foregoing, the County agrees to execute any documents required to be executed by the County as the owner of the fee interest in the land with respect to such applications by NCLB for permits and approvals.

3.02 **Title to Multipurpose Parking Facility Parcel.** NCLB acknowledges that the County does not warrant the title or represent any facts concerning the title to the Multipurpose Parking Facility Parcel, nor does it warrant fitness for any particular use or purpose. Those matters identified in **Exhibit G** to the Agreement that affect the Multipurpose Parking Facility Parcel shall be deemed **Permitted Exceptions.**

3.03 **Agreement to Design and Construct.** NCLB agrees to design and complete the construction of the Multipurpose Parking Facility in accordance with the terms and conditions contained in this Agreement and, with respect to the County Office Element and the County's Parking Alternative, the County Facility Design Standards. Subject to the County's right to approve the Preliminary Site Plan and the **Plans and Specifications** (incorporating the County Facility Design Standards) as provided in § 3.04 below, NCLB shall, except as specifically provided herein and specifically in Sections 3.03(a) and (b), have total control of the design and construction of the Multipurpose Parking Facility and shall effectively direct and supervise the work so that it is undertaken in compliance with this

Agreement. NCLB shall furnish at its sole cost and expense all necessary architectural, design, and engineering services, scheduling, cost estimating, claims resolution, experts, legal fees, planning, geotechnical, inspection, construction administration, owner representative services, labor, materials, equipment and supplies, insurance, testing, accounting, recordkeeping and other things and services of every kind necessary for the entire performance and completion of NCLB's design, engineering, construction, start-up, commissioning, obtaining and maintaining governmental approvals and related obligations with respect to the Multipurpose Parking Facility. During the design and construction of the Multipurpose Parking Facility, NCLB shall have meet the insurance and other requirements set forth in **Attachment 2**.

(a) Tunnel Vibration Monitoring. NCLB shall be required to adhere to the requirements of this subsection and incorporate the provisions of this subsection into its agreements with such contractors, agencies, or companies, and an obligation that such contractors, agencies, or companies incorporate this requirement into any contracts with downstream contractors, agencies, or companies. NCLB shall:

(i) Coordinate with the PortMiami tunnel operator to monitor vibrations within the tunnel during construction or demolition work as per the Planned Work steps described in this Development Rider. Miami Access Tunnel ("MAT") and Webber Infrastructure Management shall be provided with emergency contact information and contact information for NCLB's on-site project manager; the PortMiami Tunnel Operator may require additional contact information.

(ii) Utilize its equipment or, if available, obtain data from the existing monitoring systems within the tunnel controlled and operated by MAT. Vibration imposed on the tunnel by the entity performing demolition or construction shall not exceed a Limiting Value of peak particle velocity of 3.0 inches per second for continuous near steady state vibrations (e.g., pile driving) and shall not exceed a peak particle velocity of 3.5 inches per second for transient vibration (e.g., dropped weight). If these levels are exceeded, the work causing the disturbance must be halted until the process can be modified to limit the vibration to within acceptable limits. A 2.0 inches per second threshold value shall be set on monitoring equipment to initiate alarms and responses at a lower level than the Limiting Value. If the threshold value is exceeded, the entity performing demolition or construction shall initiate response actions to prevent vibration levels from exceeding the Limiting Value. Once the threshold value has been exceeded, the Port of Miami Tunnel Operator and County shall be notified of the event, the magnitude of the vibration level, and the actions initiated to reduce or ensure that the Limiting Value is not exceeded.

(iii) Monitor Vibration Levels on three axes for peak particle velocity within the 1 to 315 Hz range. Vibration monitoring devices shall be able to present the combined peak particle velocity value. They shall be capable of monitoring between 0.005 in/sec with data stored and reportable via software or website.

(iv) Indemnify and defend the County from and against all claims arising out of or relating to damage or loss to the PortMiami Tunnel in connection with demolition and construction activities on the Multipurpose Parking Facility Parcel.

(b) County Elements. Notwithstanding the control granted to NCLB with respect to the design and construction of the Multipurpose Parking Facility, if the County exercises either option relating to the County Elements, subject to the procedures below regarding the development of the County Elements Plans and Specifications and the design and construction costs of the County Elements, NCLB shall have an obligation to design and construct the County Elements in accordance with the County Facility Design Standards applicable to shell construction and shall implement any comments made by the County during the design and construction process concerning the County Elements.

(i) Within thirty (30) days of the Effective Date, the County shall provide NCLB with the County's requested scopes for the County's Office Element and the County's Parking Alternative. The scopes shall be sufficiently detailed to allow NCLB to develop cost proposals for each County Element.

(ii) Within ninety (90) days of NCLB's receipt of the County's scopes for the County Elements, provided under the preceding subparagraph, NCLB shall provide the County with an industry-standard design fee proposal for each of the County Elements, together with an industry-standard cost estimate for construction of the County Elements. The design and construction proposals provided pursuant to the preceding sentence shall be itemized with reasonable backup as requested by the County. Within thirty (30) days of the County's receipt of the cost estimates for the design and construction of the County Elements, the County shall advise NCLB whether it intends to seek BCC approval to pursue the County Office Element Option, the County Parking Alternative Option, or neither option (in which case no BCC approval shall be required). The County shall obtain BCC approval within ninety (90) days of the preceding period or, unless such timeframe is extended by the mutual agreement of the Parties, the County shall be deemed to have declined to exercise the County Office Element Option and County Parking Alternative Option. The County shall be liable to meet 100% of the County Office Element design and construction fees, subject to a not-to-exceed amount, plus a markup as provided in Section 3.09(a) of the Agreement.

(iii) The County shall have the right to review and approve the design of the County Elements Plans and Specifications at the thirty percent (30%), sixty percent (60%), and ninety percent (90%) stages of completion and any material changes that occur thereafter. The County shall, acting reasonably, review and confirm whether it approves the design of the selected County Element. To the extent the County does not approve the design, the County shall provide detailed reasons. NCLB shall consider the County's comments and, in its reasonable discretion, confirm whether it will update the design to accommodate the County's request. Once approved, the design plans and specifications shall be referred to as the "Approved County Element Plans and Specifications."

(iv) Nothing shall preclude the County from negotiating savings with NCLB's Design-Builder, provided that savings shall not be generated in a manner that would materially and adversely impact the integrity and design of the Multipurpose Parking Facility.

3.04 Design. NCLB shall design the Multipurpose Parking Facility in accordance with the Final Site Plan and the County Facility Design Standards. NCLB shall provide the County with copies of the Plans and Specifications for the Multipurpose Parking Facility at

the thirty percent (30%), sixty percent (60%), and ninety percent (90%) stages of completion and any material changes that occur thereafter. The County shall have the right to approve the Plans and Specifications for consistency with the Final Site Plan and the County Facility Design Standards. The County shall also have the right to approve NCLB's maintenance of traffic plan and any phasing plan for constructing the Multipurpose Parking Facility. The Plans and Specifications (and maintenance of traffic and phasing) shall be approved or rejected by the County, at its reasonable discretion, within fifteen (15) Business Days of receipt. If the County rejects the Plans and Specifications (and maintenance of traffic and phasing), the County shall provide NCLB with the reasons for such disapproval and, if appropriate, proposed revisions. NCLB shall then revise the Plans and Specifications (and maintenance of traffic and phasing) and resubmit them to the County for approval within thirty (30) days. The County shall thereafter approve or reject the resubmission within fifteen (15) days. If the County fails to approve or reject the resubmission within fifteen (15) Business Days, the resubmission shall be deemed approved. This process shall continue until the County approves the Plans and Specifications (and maintenance of traffic and phasing). Notwithstanding the foregoing, the Parties understand and agree that changing the points of connection or loads (basis of design) of water and sewer and electric utilities from those approved in the Final Site Plan or shown in the thirty percent (30%) Plans and Specifications shall require the express written approval of both Parties.

3.05 Multipurpose Parking Facility Construction Schedule and Reports. NCLB shall prepare and provide the County with a Multipurpose Parking Facility Construction Schedule in the native electronic format of the software used to prepare the schedule, in general conformance with the approved Preliminary Schedule (except as otherwise mutually agreed upon by the Parties), in accordance with critical path methodology (showing predecessor and successor activities), prepared with industry-standard scheduling software, which, at a minimum, contains the critical dates for commencement and completion of construction activities, preceding, following and dependent activities, and the anticipated cost of such construction activities. NCLB shall update the Multipurpose Parking Facility Construction Schedule regularly and, at minimum, every month. NCLB shall submit to the County a monthly work progress schedule and copies of any other schedules used by NCLB to manage the construction of the Multipurpose Parking Facility.

3.06 Permits and Approvals. Subject to obtaining Final Approval, NCLB shall apply in the usual manner to the appropriate Governmental Authorities to seek all necessary permits and approvals to develop the Multipurpose Parking Facility in accordance with the Final Site Plan and Preliminary Schedule. Within a reasonable time of submittal, the County shall execute any documents required by NCLB with respect to such applications for permits and approvals. NCLB shall notify the County in writing, giving the reason(s) therefore, if NCLB believes it will be unable to obtain, in accordance with the approval process and time frames as set forth in this Agreement, any permit or approval necessary to construct, operate, maintain, repair or manage the Multipurpose Parking Facility. The County agrees to appoint a PortMiami representative to assist NCLB with facilitating NCLB's receipt of required permits and approvals.

3.07 Commencement and Completion of Construction Activities. NCLB shall continuously diligently pursue the construction of the Multipurpose Parking Facility.

Periodically, during construction, the Parties shall hold progress meetings. In the progress meetings, NCLB shall demonstrate to the County's reasonable satisfaction that the Multipurpose Parking Facility is progressing in accordance with the Multipurpose Parking Facility Construction Schedule, that all delays have been adequately accounted for, or otherwise that NCLB has sufficient plans to accomplish the Multipurpose Parking Facility reasonably within the Multipurpose Parking Facility Construction Schedule and before the expiration of the Development Period. NCLB shall provide the County with copies of such documents as the County may reasonably require to determine the progress of the Multipurpose Parking Facility. Failure to demonstrate such progress to the County in the reasonable discretion of the County at the progress meetings, as such deadline may be mutually extended by the Parties' agreement, shall be deemed an event of default of NCLB. The Multipurpose Parking Facility shall be Substantially Completed no later than the expiration of the Development Period. The above obligations of NCLB may be extended for Delay.

3.08 **Assignment of Contract Documents.** As additional security for its Multipurpose Parking Facility obligations hereunder, NCLB hereby collaterally assigns to County its rights under its contracts with its architects, contractors, and design-builders, provided that County shall take no action thereunder, except to the extent County takes action thereunder reasonably necessary to remedy contract matters affecting life, safety, or public health not being remedied by NCLB following written notice and reasonable opportunity to cure. Notwithstanding anything herein to the contrary, but subject to NCLB's compliance with the competitive selection requirements contained in this Development Rider, the County shall have no approval rights with respect to (i) NCLB's selection of architects and contractors and (ii) the type and content of the contracts with such architects and contractors, except that the County shall have the right to review and approve such contracts to confirm consistency with the requirements of the Agreement and Development Rider.

ARTICLE IV PROJECT FINANCING

4.01 **Development Cost.** NCLB shall establish a Project Budget, which shall be no less than the minimum investment required under Section 1.03 of this Development Rider. NCLB shall develop and construct the Multipurpose Parking Facility at its sole cost and expense (including any Cost Overruns), except with respect to actual costs of any County Requested Changes, which the County shall be required to fund in the manner agreed upon by the Parties. To the extent NCLB desires to mitigate the impact of any Cost Overruns, NCLB may make design changes or modifications to the Multipurpose Parking Facility, provided that any changes that cause NCLB to materially depart from the Final Site Plan or Plans and Specifications shall receive the advance written approval of the County. Any changes or modifications affecting the County Elements, regardless of materiality, shall also require the written approval of the County to be given or withheld in the County's sole discretion.

4.02 **NCLB's Funding of Development Costs.** Except regarding the County's Contribution and the costs of the County Elements (determined as set forth in Section 3.09(a) of the Agreement), NCLB agrees to contribute or arrange the contribution of all equity and/or

debt capital as NCLB, in its sole discretion, deems necessary to complete the construction of the Multipurpose Parking Facility.

ARTICLE V
DEVELOPMENT CONTRACTS; COMPLETION; DELAYS

5.01 **Development Contracts.** Subject to NCLB's compliance with the competitive selection requirements imposed by Applicable Law, NCLB shall engage and contract with one or more duly licensed and qualified design professionals to design the Multipurpose Parking Facility. NCLB shall contract with one or more construction contractors to construct the Multipurpose Parking Facility. Each of the contracts entered into by NCLB shall comply with those County requirements relating to design and construction on property owned by the County and constructed for the use and benefit of public and private parties as specifically set forth in this Article 5. Each professional services agreement, general contract, and all subcontracts of any tier shall provide the obligation to indemnify, hold harmless, and defend the County for, from, and against claims or losses arising from the negligence of such professionals or general contractor(s) or subcontractors of any tier. They shall name the County an express third-party beneficiary with the right to enforce such obligation.

5.02 **Procurement Requirements.** NCLB shall prepare all contract documents and solicitation documents with respect to the Multipurpose Parking Facility consistent with this Agreement and Development Rider, subject to the review and approval of the County. NCLB shall engage the designer, contractor, and/or design-builder after selection pursuant to Applicable Law. If NCLB asserts an exemption from any requirement ordinarily applicable to County design and construction projects, NCLB shall be required to seek written confirmation from the County Attorney's Office, and the County Attorney's Office's determination regarding the applicability of the requirement shall be final and binding on NCLB. Any contract(s) entered by NCLB for the design and construction of the Multipurpose Parking Facility shall include the requirements set forth in this Agreement and Development Rider and any other modification as agreed upon by NCLB, County, and the contracting entity.

5.03 **Bonding Requirements.** NCLB shall be required to execute, record in the public records of the County, and furnish to the County at least ten (10) days before commencing work on the Multipurpose Parking Facility a payment and performance bond and/or alternate form of security satisfactory to County and in compliance with the requirements of § 255.05 of the Florida Statutes, in the amount of the contract price for each contract then to be undertaken on the Multipurpose Parking Facility, to assure completion of the work and payment of the costs, free and clear of all claims of subcontractors, laborers, mechanics, suppliers, and materialmen. If, in partial satisfaction of this requirement, NCLB furnishes a payment and performance bond not by NCLB but by NCLB's construction contractor or construction manager, then the payment and performance bond shall name County and NCLB as dual obligees. The payment and performance bond shall be issued through a surety authorized to do business in the State of Florida as a surety and be otherwise in compliance with the requirements set forth in § 255.05 of the Florida Statutes and Applicable Laws.

5.04 **Art in Public Places.** The Multipurpose Parking Facility is subject to the Art in Public Places (“APP”) provisions in Section 2.11.15 of the Code and Administrative Order 3-11, as managed by the Miami-Dade County Department of Cultural Affairs (“Department of Cultural Affairs”) pursuant to Procedure 358 in the Miami-Dade County Procedures Manual (“Procedures Manual”). NCLB shall transmit one and a half percent (1.5%) of the cost of the Multipurpose Parking Facility (in the amount determined by the Department of Cultural Affairs under the Procedures Manual) thirty (30) days after execution of this Agreement to the Department of Cultural Affairs for implementation of the APP program. NCLB is required to work collaboratively with the Department of Cultural Affairs on implementing the APP program pursuant to the requirements of said program. The Procedures Manual is attached hereto as **Attachment 5**.

5.05 **Consideration of Sea Level Rise.** NCLB shall ensure that contractors comply with Board Resolution No. R-451-14, if applicable, requires the consideration of sea level rise projections and potential impacts as best estimated at the time of the Multipurpose Parking Facility.

5.06 **County Not a Party.** County is not and shall not be construed as a party to any construction contract related to the Multipurpose Parking Facility, nor shall County in any way be responsible for any or all claims of any nature whatsoever arising from or which may arise from any such construction contract.

5.07 **Completion Deadline.** NCLB shall design and complete construction of the Multipurpose Parking Facility on the Multipurpose Parking Facility Parcel on or before the expiration of the Development Period, as the same may be extended for Delays.

5.08 **Delays.** Notwithstanding and prevailing over any contrary term contained herein, in the event of a Delay, NCLB’s sole remedy shall be, where such Delay affects the completion of a deadline, the extension of such deadline included herein including, but not limited to, the Completion Deadline, with each day of Delay entitling NCLB to an equivalent day of extended time to comply with such deadlines. Except in instances of active interference and bad faith, the County shall not be responsible for any costs, whether direct, indirect, or pass-through, as may be incurred by NCLB on account of any delay caused by the County and the time extension provided for herein shall be deemed total and complete compensation for any costs, damages, or impacts suffered by NCLB arising out of or relating to such Delay.

5.09 **Additional Conditions.** Any agreements entered by NCLB for the performance and completion of the Multipurpose Parking Facility shall provide that the County is an intended third-party beneficiary of any warranties provided by the contractors, subcontractors, or materialmen performing or providing such work or materials. Such warranties shall last the period customarily provided by contractors, subcontractors, or materialmen providing similar work or materials on similar projects, but in no event for fewer than twenty (20) years for roofing and one (1) year from the date NCLB accepted the work provided by the contractor, subcontractor, or materialmen providing the work or materials. If, for any reason, the County is unable to enforce any warranty because any such agreement does not provide that the County is an intended third-party beneficiary of any warranties

provided by the contractors, subcontractors, or materialmen performing or providing such work or materials, NCLB shall be required to enforce the warranty in the County's stead.

5.10 **Sustainable Buildings Program.** NCLB shall comply with the County's Sustainable Buildings Program, as implemented pursuant to Section 9-71, et seq., of the County Code and Implementing Order 8-8.

5.11 **Extensions of Timeframes.** With respect to any period of time specified in this Development Rider in which one Party must provide review and comment to a deliverable from the other Party, the Parties may mutually agree to extend the timeframe for review and comment.

ARTICLE VI THE WORK

6.01 **Maintenance of the Multipurpose Parking Facility.** During the performance of the construction of the Multipurpose Parking Facility, NCLB shall be responsible for maintaining the Multipurpose Parking Facility Parcel. NCLB shall always keep the construction area neat and orderly, clean up, and remove all rubbish and construction debris as they accumulate.

6.02 **Encumbrances.** Except as otherwise permitted in this Agreement, NCLB shall cause the Multipurpose Parking Facility to be constructed free and clear of any and all liens arising from the Multipurpose Parking Facility that encumber or may encumber the Multipurpose Parking Facility Parcel. If any such lien is filed by a contractor, consultant, or sub-contractor (of any tier), NCLB shall cause said lien to be discharged and transferred to the appropriate bond within thirty (30) days of recording. If NCLB does not discharge or transfer to appropriate bond any such lien within thirty (30) days of recording, the County shall have the right, but not the obligation, to cause the lien to be released by any means the County reasonably deems proper. NCLB shall have the right to contest any such lien in good faith. If the lien is not the subject of a good-faith dispute or if NCLB fails to transfer the lien to a bond as required under this Section, NCLB shall be obligated to reimburse the County for all costs and expenses incurred by the County in connection with the release of such lien, including reasonable attorney's fees.

6.03 **Quality of the Work.** The work shall be done in a good and workmanlike manner in accordance with the State of Florida construction industry standards.

6.04 **Laydown Areas and Construction Office Space.** A laydown and staging area for construction materials and machinery for the construction of the Multipurpose Parking Facility shall be located within an area of approximately twenty thousand (20,000) square feet, to be designated by the County, within PortMiami and paid for by NCLB at the rates established in the Port Tariff. NCLB shall have the right to set up construction trailers and implement other project management requirements within PortMiami's designated laydown and staging area in a manner that does not interfere with the operations of other Port users and is consistent with a PortMiami-approved maintenance of traffic plan. Any such laydown and staging area shall be provided in its as-is, where-is state, and it shall be NCLB's

responsibility to provide (at its own cost) any utilities required for its operations within the designated laydown and staging area.

6.05 **County Field Personnel at Multipurpose Parking Facility Parcel.** The County reserves the right to maintain a reasonable number of its field personnel and designees at the Multipurpose Parking Facility Parcel to observe the construction of the Multipurpose Parking Facility, and the County shall be entitled to have its field personnel, or other designees attend NCLB's job and/or safety meetings; provided, however, that the foregoing shall be subject to: (i) County regularly notifying NCLB of those persons who will be on the Multipurpose Parking Facility Parcel; (ii) compliance by such persons with all reasonable instructions given by NCLB or its designee; and (iii) compliance by such persons with all Applicable Laws and applicable safety guidelines. NCLB shall be required (and shall require its contractor (and their subcontractors)) to follow the safety directives of the County's field personnel or designees.

6.06 **Supervision of Multipurpose Parking Facility Engineer.** All construction undertaken by NCLB shall be carried out under the supervision of the project engineer, who shall be selected at the sole discretion of NCLB, subject to NCLB's compliance with the competitive selection requirements in this Development Rider. Through its agents and authorized personnel, the County shall be provided reasonable access to consult with the project engineer to monitor the construction work. NCLB shall provide the County with notice before all inspections concerning the construction of the Multipurpose Parking Facility are performed.

6.07 **Compliance with Applicable Laws.** In performing any and all its obligations under the Agreement, including those set forth in this Development Rider, NCLB shall comply with all Applicable Laws.

6.08 **Completion of Construction.** When the Multipurpose Parking Facility is Substantially Complete, NCLB shall furnish the County with a complete set of "as built" plans and surveys for the Multipurpose Parking Facility. On or before ninety (90) days following issuance of a final certificate of occupancy for the Multipurpose Parking Facility, NCLB shall provide the County with two (2) signed and sealed sets of complete Multipurpose Parking Facility as-built drawings certified both by the architect(s) and/or engineer(s) of record and also by the Professional Surveyor and Mapper ("PSM") where required, which as-builts must show all changes and deviations from or to permitted plans and drawings and include as-built dimensions and elevations recorded or verified by the PSM. All as-built information regarding underground or otherwise concealed facilities shall be taken in the field concurrently with the construction program and before facilities are covered or otherwise concealed. Otherwise, NCLB's contractor or design-builder shall expose (and restore) sufficient areas of work to allow the PSM to meet the aforementioned NCLB PSM dimension, elevation, and location verification certification requirements. The as-built drawing shall be submitted to the County in AutoCAD for Windows Release 14 format or later and in Geographic Information System ("GIS") as-built information format.

Attachment 1 – Development Rider
(Conceptual Site Plan)

[To be developed as provided in § 1.06 of the Agreement.]

Attachment 2
(Insurance Requirements)

Design-Builder shall indemnify and hold harmless the County and its officers, employees, agents and instrumentalities from any and all liability, losses or damages, including attorneys' fees and costs of defense, which the County 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 this Agreement by Design-Builder or its employees, agents, servants, partners principals or subcontractors. Design-Builder 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 County, where applicable, including appellate proceedings, and shall pay all costs, judgments, and attorney's fees which may issue thereon. Design-Builder expressly understands and agrees that any insurance protection required by this Agreement or otherwise provided by Design-Builder shall in no way limit the responsibility to indemnify, keep and save harmless and defend the County or its officers, employees, agents and instrumentalities as herein provided.

INSURANCE DURING THE DESIGN-BUILD PERIOD

The following policies of insurance shall be obtained and kept in force during the Design-Build Period in accordance with the terms and conditions of this agreement.

- A. Automobile Liability Insurance covering all owned, non-owned and hired vehicles, in an amount not less than \$1,000,000 combined single limit per occurrence for bodily injury and property damage.
- B. Commercial General Liability Insurance in an amount not less than \$1,000,000 per occurrence and \$2,000,000 in the aggregate, not to exclude Products & Completed Operations. **Miami-Dade County must be shown as an additional insured with respect to this coverage.**
- C. Worker's Compensation Insurance for all employees of the Contractor as required by Florida Statute 440 and Employers Liability Insurance for all employees of the contractor having coverage limits of limits of \$1,000,000 for each accident, \$1,000,000 for disease (each employee), and \$1,000,000 for disease.
 - a. If applicable, the U.S. Longshoremen and Harbor Workers' Act (USLH) and/or Jones Act, as applicable for any activities on or about navigable water.
- D. Umbrella insurance providing excess coverage over underlying(s) Auto and commercial general liability coverage \$5,000,000 each occurrence. Terms to be not more restrictive than underlying coverages.
- E. Completed Value Builders' Risk Insurance on an "all risk" basis in an amount not less than one hundred (100%) percent of the completed value of the

project. Coverage shall remain in place until final completion of construction and/or specific construction elements have been put to their intended use as determined by Miami Dade County Seaport Department. The policy shall be in the name of Miami Dade County and the Design-Builder. Such Builder's Risk policy:

- a. shall be maintained until the Occupancy Readiness Date;
- b. shall be in an amount not less than the completed value of the Project;
- c. shall be written on an all risk basis, including coverage for the perils of equipment breakdown, flood, water damage, earth movement including earthquake, collapse, machinery breakdown, testing and commissioning of equipment, wind and hail including named windstorm, and terrorism. Sublimit for flood, named windstorm, and earth movement should be based on a probable maximum loss study.
- d. shall include LEG2 coverage;
- e. shall include coverage for demolition and debris removal, ordinance and law, crane re-erection, and extra expense with sub-limits as mutually agreed by both parties based on project size and scope;
- f. shall include coverage for delay in completion covering the Design-Builder's soft costs and other indirect construction costs necessarily incurred due to the delay in completion as mutually agreed by both parties. The limit will reflect 100% of recurring soft costs with an indemnity period of at least 24 months;
- g. shall include as named insureds the County, Design-Builder, all Subcontractors, and the Developer.

F. Professional Liability or Errors & Omissions insurance on a project specific basis in the name of the licensed professional Design-Builder and/or lead Design Firm providing architectural and/or engineering, project design, construction supervision, administration, surveying, testing, engineering and any other related professional qualifications or functions required by the project in an amount not less than \$5,000,000 per claim. For licensed professionals subcontracted by the lead Design-Builder and/or lead Design Firm providing architectural and/or engineering, project design, construction supervision, administration, surveying, testing, engineering and any other related professional qualifications or functions required by the project, coverage shall not be less than \$1,000,000 per claim, and \$2,000,000 in the aggregate.

- a. If any required insurance purchased by the Design-Builder and/or lead Design Firm is issued on a 'claims made' basis, the claims made coverage must have an extended reporting or discovery "tail" period of not less than ten years after the project completion date and shall have a retroactive date to the date of first design.

G. Contractor's Pollution Liability insurance: The Design Builder shall obtain and keep in force, or cause to be obtained and kept in force, a project specific contractor's pollution liability insurance with limits of not less than \$5,000,000 per occurrence covering sums the insured becomes legally obligated to pay to a third party or for the investigation, removal, remediation (including associated monitoring) or disposal of soil, surface water, groundwater or other contamination to the extent required by Applicable Laws caused by pollution conditions caused by the performance of the Design-Build Work. The coverage must remain in force throughout the design-build phase, with coverage incepting no later than the first day of mobilization on the project, and provide for an extended reporting period of at least ten years following the Occupancy Readiness Date. Such policy shall:

- a. include bodily injury, property damage (including natural resource damage), clean-up costs, legal defense costs, transportation including loading and unloading;
- b. apply to sudden and non-sudden pollution conditions;
- c. contain a severability or separation of insureds provision; and
- d. include Miami Dade County as an additional insured

NOTE: The Risk Management Division of Miami-Dade County Internal Services Department reserves the right, upon reasonable notice, to examine or request the policies of insurance (including but not limited to policies, binders, amendments, exclusions or riders, etc.). Miami-Dade County reserves the right to adjust these requirements, including coverage limits, based on the nature of the risk, prior experience, coverage specifics, or other unique circumstances. Any modifications will occur not more than once every five (5) years, and NCLB shall be provided with 90-days' notice of any change to these requirements. The first adjustment shall not be made sooner than five (5) years from the Effective Date and any adjustments, once made, shall not be revised until the passage of five (5) years.

All insurance policies required above shall be issued by companies authorized to do business under the laws of the State of Florida, with the following qualifications:

The company must be rated no less than "A-" as to management, and no less than "Class VII" as to financial strength by Best's Insurance Guide, published by A.M.

Best Company, Oldwick, New Jersey, or its equivalent, subject to the approval of the County Risk Management Division.

or

The company must hold a valid Florida Certificate of Authority as shown in the latest "List of All Insurance Companies Authorized or Approved to Do Business in Florida" issued by the State of Florida Department of Financial Services.

**CERTIFICATE HOLDER MUST READ: MIAMI-DADE COUNTY
111 NW 1ST STREET
SUITE 2340
MIAMI, FL 33128**

Attachment 3 – Development Rider **(Preliminary Schedule)**

Construction Schedule for Pre-Cast Parking Garage with Office Space

Project Overview

This document outlines the construction schedule for a new 14- 16-story pre-cast parking garage that will accommodate approximately 2000 passenger parking spaces, provide 120,000 square feet of office space and up to 500 employee parking spaces. The overall project duration is estimated to be 30 months.

Phase 1: Pre-Construction

1.1 County Scope Provided

- Start Date: January 1st, 2025
- Duration: 1 month
- End Date: February 1st, 2025
- The County shall provide NCLB with the County's requested scopes for the County's Office Element and the County's Parking Alternative. The scopes shall be sufficiently detailed to allow NCLB to develop cost proposals for the each of the County Elements.

1.2 Cost Estimating

- Start Date: February 1st, 2025
- Duration: 3 months
- End Date: May 1st, 2025
- NCLB shall provide the County with an industry standard design fee proposal for the each of the County Elements, together with an industry standard cost estimate for construction of the County Elements.

1.2 County Decision / Approval

- Start Date: May 1st, 2025
- Duration: 5 months
- End Date: October 1st, 2025
- The County shall advise NCLB whether it is exercising the county Office Element Option, the County Parking Alternative Option, or neither option and obtain Board approval.

1.3 Construction Documents and Permitting

- Start Date: October 1st, 2025

- Duration: 5 months
- End Date: March 1st, 2026
- During this phase, detailed construction drawings and specifications will be developed. These documents will be used for permitting and bidding purposes. Simultaneously, all necessary permits and approvals will be obtained from local authorities.
- Added time to comply with 15 business day review period by either party for design approval/changes

Phase 2: Site Preparation

2.1 Utility Relocation and Installation

- Start Date: March 1st, 2026
- Duration: 4 months
- End Date: July 1st, 2026
- Existing utilities will be relocated as needed, and new utility lines (water, sewer, electrical, etc.) will be installed to serve the construction site.
- Duration added based on utility plan provided on 11/19- 2 water mains need to be relocated outside of garage footprint

2.2 Site Clearing and Grading

- Start Date: July 1st, 2026
- Duration: 2 months
- End Date: September 1st, 2026
- This involves clearing the site of any existing structures, vegetation, and debris. The land will be graded to provide a level foundation for construction activities.

Phase 3: Foundation and Structural Work

3.1 Foundation Construction

- Start Date: September 1st, 2026
- Duration: 4 months
- End Date: January 1st, 2027
- Excavation will be carried out for the foundation, followed by the installation of formwork, rebar, and concrete pouring. This phase ensures a strong and stable base for the structure.

3.2 Erection of Pre-Cast Structural Elements

- Start Date: January 1st, 2027
- Duration: 5 months
- End Date: June 1st, 2027
- Pre-cast concrete components, including columns, beams, and floor slabs, will be transported to the site and assembled. This method allows for faster construction and high-quality control.

Phase 4: Superstructure Construction

4.1 Construction of Parking Levels

- Start Date: June 1st, 2027
- Duration: 6 months
- End Date: December 1st, 2027
- The parking levels will be constructed sequentially, beginning with the lower floors and progressing upwards. Each level will include ramps, lighting, and safety features.

Phase 5: Exterior and Interior Finishing

5.1 Exterior Finishing

- Start Date: December 1st, 2027
- Duration: 3 months
- End Date: March 1st, 2028
- Exterior cladding, windows, and doors will be installed. The building facade will be completed with architectural finishes and any required external fixtures.

5.2 Interior Finishing

- Start Date: March 1st, 2028
 - Duration: 4 months
 - End Date: July 1st, 2028
- Interior spaces will be finished, including painting, flooring, installation of fixtures, and final connections of mechanical, electrical, and plumbing systems

Phase 6: Testing, Commissioning, and Handover

6.1 System Testing and Commissioning

- Start Date: July 1st, 2028
- Duration: 2 months
- End Date: September 1st, 2028
- All building systems (HVAC, electrical, plumbing, fire safety) will be thoroughly tested and commissioned to ensure they operate as intended.

6.2 Final Inspections and Handover

- Start Date: September 1st, 2028
- Duration: 1 month
- End Date: October 1st, 2028
- The project will undergo final inspections by local authorities, and any identified issues will be addressed. Upon successful inspection, the building will be handed over to the owner.

Conclusion

This construction schedule provides a comprehensive timeline for the successful completion of the 14-16 story pre-cast parking garage and office space. By adhering to this schedule and addressing any potential challenges promptly, the project can be completed within the 30-month timeframe.

Attachment 4 – Development Rider
[reserved]

Attachment 5 – Development Rider
(Art in Public Places Procedures Manual)

SUMMARY

The Art in Public Places (APP) program is a requirement for all capital projects of Miami-Dade County and each municipality in Miami-Dade County that develop new government buildings that shelter people in a wholly or partially enclosed manner and serve a public purpose. New government buildings include newly constructed structures built by and/or for the County or a municipality, prefabricated structures procured for public use, and existing buildings that are converted to a new use. The County Code requires that one and a half percent (1½%) of the capital cost of new government buildings be dedicated to public art projects through the APP program. This procedure explains:

- how to work with the Department of Cultural Affairs to implement the APP requirement;
- the processes to follow for repairing, restoring and inventorying public art works;
- procedures for municipalities to comply with the APP requirement;
- procedures for private sector capital development on land owned by local government or on private property with the building owned by local government;
- procedures for accessioning and deaccessioning artworks in the Public Art Collection; and
- “Frequently Asked Questions” that are based on policies established by the Department of Cultural Affairs and a series of opinions issued by the Office of the County Attorney to help clarify the requirements of the APP program.

PROCEDURE

General Information for Implementing APP Projects

1. Contact the Department of Cultural Affairs to set up a meeting to confirm the eligibility of the capital project for the APP program and for the Department of Cultural Affairs to review a complete capital budget for the project and to confirm that an accurate calculation of the APP contribution has been made.
2. All capital costs are included in the calculation of the one and a half percent (1½%) APP allocation, including but not limited to:
 - architectural and engineering fees;
 - specialty consulting fees;
 - capital project management fees (for County and/or contracted services)
 - construction costs (including all systems and features that make a facility functional);
 - site work;
 - allowance accounts (e.g., permitting, surveying, inspections); and
 - contingency allowance(s).

The only exclusions are land acquisition and subsequent changes to the construction contract through change orders that do not involve a major change in the project’s scope.

3. Departments convey funds to APP from the moment the department receives spending authority for the capital project, upon award of design contract and/or construction contract. APP will work with department to determine the best approach and timing for the conveyance of the funds to the Department of Cultural Affairs.

4. APP funds are used by the Department of Cultural Affairs for commissioning works of art, APP program administrative costs, and repair and restoration expenses.
5. Municipal, state, federal, private and other non-County funds for a capital project are subject to the one and a half percent (1 ½%) public art requirement.
6. APP may use funds generated from a construction project for acquisition of art works for other government facilities throughout the County. Every effort is made to use funds generated by a department's project within that department.
7. Projects done through development agreements (i.e., the County contracts with another party to develop a building that the County will own now or in the future) are subject to the APP requirement.
 - All solicitations for and resulting development agreements must include the following language provided by APP regarding the requirement to transfer public art funds to Art in Public Places:

Art in Public Places. This Project is subject to the Art in Public Places (“APP”) provisions in Section 2.11.15 of the Miami-Dade County Code and Administrative Order 3-11, as managed by the Miami-Dade County Department of Cultural Affairs (“Department of Cultural Affairs”) pursuant to Procedure 358 in the Miami-Dade County Procedures Manual (“Procedures Manual”). The Developer shall transmit 1.5% of the Project costs for all development on County land (as outlined in the Procedures Manual) to the Department of Cultural Affairs for the implementation of the APP program. The Developer is required to work collaboratively with the Department of Cultural Affairs on the implementation of the APP program pursuant to the requirements of said program. The referenced documents can be accessed at:

<https://library.municode.com/fl/miami-dade-county/codes/code-of-ordinances>

<http://www.miamidade.gov/ao/home.asp?Process=alphalist>

<http://intra.miamidade.gov/managementandbudget/library/procedures/358.pdf>

Tools for Departments to Implement APP

1. A completed APP Capital Project Budget Allocation Worksheet must be submitted by departments to the Department of Cultural Affairs as soon as a capital project budget is developed and prior to design contract and construction award. APP staff will confirm the accuracy of the calculation of the APP requirement for the project (see sample “APP Capital Budget Allocation Worksheet” at <http://www.miamidadepublicart.org/#tools>; this form also is available from APP staff).
2. The following language must be included by departments under the “General Conditions Section 01042 - Art in Public Places Coordination” of the departments’ capital projects contracts with architects, engineers, consultants, outside project management services, construction and development agreements:

This project is subject to the Miami-Dade County Art in Public Places requirements, pursuant to Section 2-11.15 of the Code of Miami-Dade County, managed by the Miami-Dade County Department of Cultural Affairs as detailed in Procedure 358 in the Miami-Dade County Procedures Manual (see <http://www.miamidadepublicart.org/#tools> or <http://intra.miamidade.gov/managementandbudget/procedures.asp>).

3. Examples of prior APP projects, the list of members of the APP Trust and other APP background information can be found at www.miamidadepublicart.org.

The APP Artists Selection Process

1. APP works collaboratively with departments on developing the artists' selection process:
 - To identify opportunities for public art in a project (with departments' project managers, planners and architects);
 - To understand the unique features of the department's capital project (e.g., community impact, timetable requirements, etc.); and
 - To draft the "Call to Artists" (i.e., the APP request for artists' qualifications and/or proposals).
2. An APP Professional Advisory Committee (PAC) is convened to review artists' submissions and to make art commissioning recommendations to the APP Trust. PAC members are arts and design professionals appointed by the APP Trust.
 - Departments attend and participate in the PAC selection process (especially, project managers/architects/engineers and representatives from the specific users of the building).
 - Community representatives can participate at the departments' and APP's discretion.
 - The size and scope of the project help determine the opportunities identified for public art and the number of artists that may be selected to work on a project.
3. The PAC's recommendations of artists are approved and finalized by the Art in Public Places Trust (a 15-member board appointed by the Board of County Commissioners).
4. APP staff manages the work of the selected artists and closely coordinates this work with departments' project managers, architects/engineers/specialty consultants and contractors.

Keys to Successful APP Projects

1. Calculation of APP project funds must be done by using the APP Capital Budget Allocation Worksheet in consultation and concurrence with APP staff and based on actual capital project contract awards including but not limited to A&E, consultants' and contractors' awards.
2. It is essential to contact APP as soon as capital project planning begins so that the timetable for the artists' selection process can be coordinated with the overall project's early design work.
3. Departments' full involvement with APP in identifying opportunities for art works, participating in the selection process and developing the art projects helps ensure that departments' needs can be addressed.
4. Departments must include APP requirements and APP-authorized contractual language in all capital projects agreements and contracts.
5. Representatives from departments must be identified for clear, consistent and regular communication and coordination with APP staff for each stage of the work - planning,

A&E selection, design, construction, and commissioning; these representatives must have direct access to decision-making authority for APP issues.

6. Departments must keep APP fully informed of capital project developments and especially of changes in order to avoid additional APP costs (e.g., redesign of art works, artists' delay claims, storage costs for art works, etc.); costs associated with failure to communicate with APP are the responsibility of the department.
7. The APP project manager must be included on the department's project management team, the artist(s) on the A&E team and the artist's fabricator/installer on the contractor's team; this is essential to ensure that departments' capital projects and the development of art works remain interlocked (e.g., planning, design and construction of the building is coordinated closely with the development and installation of the art work).

Repair and Restoration

1. Art in Public Places will dedicate fifteen percent (15%) of all new public art allocations to a repair and restoration fund that will be utilized for specialized tasks required to restore and/or repair works of art in its collection (i.e., these funds are allocated from within the one and a half percent (1½%) of APP funds generated by the capital project). These funds will be replenished on an ongoing basis with proceeds from new commissions.
2. Regular maintenance requirements of the commissioned artwork and the costs of regular maintenance are discussed and coordinated with the department in advance of the project completion to ensure the long-term care of the work and are the responsibility of the department.
3. Contact APP before undertaking maintenance and/or repair of any artwork. Works of art may require specialized treatment for upkeep and qualified professionals for maintenance or repair.
4. When a work of art is designed as an integrated part of a building, it simply may require that the department conduct standard cleaning procedures. For example, an artist-designed terrazzo floor typically requires the same kind of maintenance as a regular terrazzo floor and the department is responsible for doing the day-to-day maintenance. Please call APP if there is any question about the care of a department's integrated artwork.
5. Art works fabricated from special materials may require specialized maintenance treatment. For example, a bronze or stonework of art must be cleaned and treated with a specific maintenance product of a certain brand. Please call APP for guidance regarding the maintenance of art works made of special materials.
6. It is the departments' responsibility to train cleaning crews regarding the treatment of public artworks to ensure proper care; APP is available to provide guidance for this training.
7. It is the departments' responsibility to inform tenants and lessees of their facilities about the care and requirements of public art works and to include provisions in tenant and lease agreements that make tenants and lessees responsible for the cost of repairing damages to public art works that are the result of negligence by the tenant or lessee.

Repair

1. Never attempt to repair an artwork.

2. Contact APP immediately to report any damage to an artwork and an APP staff member will be responsible for assessing the damage and determining the repair procedures. Please contact David Martinez-Delgado, Department of Cultural Affairs, for assistance (305-375-1067; david.martinez-delgado@miamidade.gov).

Inventory: Departments' Responsibilities

1. Departments are responsible for conducting an annual inventory of their public artworks and for reporting the results to APP.
2. Departments must appoint an APP liaison responsible for the annual inventory and annually inform APP regarding contact information for this individual.
3. Departments cannot move or relocate works of art; APP must be contacted if a department wants to move or relocate a work of art.
5. Site specific and/or integrated works of art (i.e., works of art that are incorporated as an integral part of a building or structure) may not be moved without the review and approval of the Art in Public Places Trust. When possible, the Art in Public Places Trust will seek the advice and/or involvement of the artist in regard to the advisability and feasibility of moving her/his work of art.

Inventory: APP's Responsibilities

1. APP annually will provide departments with a list of the art works and locations of the works in the departments to initiate the annual inventory.
2. APP will provide departments with contact information for its Collections Manager who is responsible for the inventory results.
3. APP will respond to departments' requests to move or relocate art works.

Information for Municipalities to Implement APP Projects

1. Municipal governments are required to implement the APP provision set forth in the County Code.
2. Municipalities have the option of enacting their own art in public places programs and administering their own public art projects or working collaboratively with Miami-Dade County's Art in Public Places for APP to administer, manage and implement their public art projects.
3. If the municipality chooses to implement its own public art projects, the city is responsible for enacting its own art in public places ordinance which adheres to the minimum standards set forth in Section 2-11.15 of the Code. APP is available to provide guidance to municipalities in regard to enacting their own ordinances and establishing their programs. The following highlights requirements and guidance for municipal art in public places programs:
 - One and a half percent (1½%) of the total capital cost of new government buildings must be allocated for the commission or purchase of artworks as defined in the Code and these procedures;
 - a competitive, quality-based artist selection process must take place and a selection committee with knowledge and expertise in the visual arts must select the artwork;
 - APP funds must be used solely for commissioning works of public art and a professional artist must be contracted with to implement the public art project;

- a percentage of the APP funds may be set aside for program administrative costs and repair and restoration expenses for the public art project. It is recommended that up to fifteen percent (15%) of the total public art allocation be set aside for costs associated with administering the project and up to fifteen percent (15%) be set aside for costs associated with the future repair or restoration of the public art project;
 - Department of Cultural Affairs and its APP staff are available to work with municipalities to assist them and confirm that they are meeting the APP program's requirements;
 - Municipalities must consult with Section 2-11.15 of the Code in regard to the minimum standards and notice required to enact and administer their own art in public places program;
 - for General Obligation Bond-funded (GOB) projects, APP funds must be spent within the project that generates the APP funds; and
 - if a municipality chooses to implement its own public art projects, but requires the technical assistance of Miami-Dade County APP, a negotiated administrative fee can be determined based upon the complexity and duration of the project.
4. If the municipality does not enact its own art in public places program and/or chooses to work collaboratively with Miami-Dade APP to implement the public art requirements, Miami-Dade APP will oversee and provide services, highlighted as follows:
- work collaboratively with the municipality and its project team to identify opportunities for public art in the facility;
 - draft and distribute Call to Artists;
 - administer artist selection process;
 - coordinate the submission of the recommended artist(s) to the Miami-Dade APP Trust;
 - provide contract language for municipality's architect and contractor contracts to ensure APP coordination;
 - provide technical assistance to the selected artist(s) and serve as liaison between the artist(s) and commissioning municipality and its project team;
 - manage contract negotiations and process payments with artist(s);
 - coordinate installation of artwork(s) with the municipality's project managers, architects/engineers/specialty consultants and contractor;
 - if a municipality chooses to work collaboratively with Miami-Dade APP, not less than fifteen percent (15%) of the total public art funds will be allocated to Miami-Dade Department of Cultural Affairs for costs associated with its administration of the public art project - this administrative percentage may change in consultation with the Department of Cultural Affairs based on the complexity and duration of the administrative services required for the public art project;
 - should the entirety of the APP management services not be required, a negotiated administrative fee can be determined based upon the level of APP services required and the complexity and duration of the project; and
 - if required by the municipality, the selected artist(s)/artwork(s), along with an alternate recommendation, will be presented to and reviewed by the municipality's governing body prior to the final approval of the Miami-Dade APP Trust.

5. Municipalities will own the resulting public art works and will be responsible for the maintenance, repair (as necessary), and inventorying of public art works. Municipalities can consult with Miami-Dade APP for technical assistance with these responsibilities.
6. County facilities located, or intended to be located, within the boundaries of a municipality are governed solely and exclusively by the Miami-Dade County Art in Public Places program.

Information for Private Sector Capital Development on Land Owned or Leased by Local Government or on Private Property with the Building Owned, Leased or Operated by Local Government

1. Capital projects done through agreements with a private entity, including but not limited to leases or development agreements (i.e., the local government contracts with another party to develop a building that the local government will own now or in the future), are subject to the APP requirement if:
 - The project meets the eligibility criteria for the public art requirement (e.g., it is a building that shelters people in a wholly or partially enclosed manner); and
 - The project serves a public purpose whether operated by local government or on its behalf, by a private operator; and/or
 - The project relies on surrounding or adjacent local government buildings to function and is an integral component of the overall infrastructure of a public complex (e.g., a cargo facility at the airport);
 - The project advances a public policy objective (e.g., an office building or residential development that encourages public transit ridership); and/or
 - The project enhances a patron experience at a local government facility (e.g., a restaurant).

Capital projects that are done through agreements with a private entity, including but not limited to leases or development agreements, may not be eligible for the art in public places requirement if the project meets the following criteria:

- The agreement between the local government and the private entity has a provision that allows the private entity the option to purchase the facility; and/or
 - The project has no public purpose and is not part of a complex of surrounding or adjacent local government buildings that function as a public complex and/or does not enhance a patron experience at a local government facility.
2. Capital projects that include complexes in which one or more of the buildings and/or a portion of a building meet the criteria for the APP requirement need to comply with the APP requirement for those eligible buildings and/or eligible portions of the building (e.g., a public parking garage built as a part of a private development complex that otherwise may not be subject to the APP requirement).
 3. Determinations as to the applicability of the public art requirement are made by the Director of the Miami-Dade Department of Cultural Affairs, are based on the section 2-11.15 of the County Code, Administrative Order 3-11 and the Miami-Dade Procedures Manual (Procedure No. 358), and may be considered by the Review Committee as set forth in Administrative Order 3-11, prior to consideration of the Board of County Commissioners.

4. Private entities must work collaboratively with Miami-Dade APP to oversee the artist commissioning process to ensure the highest level of artistic quality and adherence to the program's requirements, as outlined in these procedures. APP will oversee and provide services, highlighted as follows:
 - work collaboratively with the private entity and its project team to identify opportunities for public art in the facility;
 - work with the private entity to calculate the APP project funds, using the APP Capital Budget Allocation Worksheet based on actual capital project contract awards including but not limited to A&E, consultants' and contractors' awards;
 - provide the private entity with a payment schedule for the conveyance of the APP project funds to the Department of Cultural Affairs;
 - draft and distribute the Call to Artists;
 - administer the artist selection process;
 - coordinate the submission of the recommended artist(s) for the review and approval of the Miami-Dade APP Trust;
 - provide contract language for private entity's architect and contractor agreements to ensure APP coordination; and
 - provide technical assistance to the selected artist(s) and serve as liaison between the artist(s) and commissioning private entity and its project team.

Once an artist is commissioned, the private entity may choose to oversee the implementation of approved public art projects or work collaboratively with Miami-Dade APP for it to oversee and provide services for the project's implementation. If APP administers the entire project, the private entity shall remit an amount not less than 15% of the total public art funds to the Miami-Dade Department of Cultural Affairs for costs associated with its administration of the public art project; this administrative percentage may change at the discretion of the Department of Cultural Affairs based on the complexity and duration of the administrative services required for the public art project. Should the entirety of the APP management services not be required, a negotiated administrative fee can be determined based upon the level of APP services required and the complexity and duration of the project. If APP oversees the implementation, APP's services are highlighted as follows:

- manage contract negotiations and process payments with artist(s);
 - coordinate the installation of art work(s) with the private entity's project managers, architects/engineers/specialty consultants and contractor; and
 - oversee the artist's work on design, fabrication, installation and commissioning of the art work(s).
6. The private entity must commit 15% of the total public art allocation for costs associated with the future repair and restoration of the public art project and remit the funds to the Miami-Dade County Department of Cultural Affairs for this purpose, no later than the art work's completion.
 7. Miami-Dade County will own the resulting public art work(s) and will be responsible for costs associated with the implementation of repairs (as necessary and as long as repairs are not the result of negligence on the part of the private entity, in which case the cost of repairs is the responsibility of the private entity), and inventorying of the public art work(s).

8. Regular maintenance requirements of the commissioned art work(s) and their costs are the responsibility of the private entity. These needs will be discussed and coordinated with the private entity in advance of the project completion to ensure the long-term care of the work.
9. Works of public art may not be moved without the review and approval of Art in Public Places. Site specific and/or integrated works of art (i.e., works of art that are incorporated as an integral part of a building or structure) may not be moved without the review and approval of the Art in Public Places Trust. When possible, the Art in Public Places Trust will seek the advice and/or involvement of the artist in regard to the advisability and feasibility of moving her/his work of art.

Accession Procedures

1. Accessioning is the formal acceptance of an artwork into the Miami-Dade County Art in Public Places Collection (Collection). Accessioning artwork into the Collection indicates the intent to apply professional standards of care, display, and maintenance over the life of the artwork, or until the artwork is no longer displayable and is deaccessioned from the Collection.
2. Artworks will be entered into the Collection inventory as soon as a commissioning or purchasing contract is executed and these inventory entries will be annotated as “works in progress” with periodic updates included as necessary to describe the status of completion accurately. Artworks will be annotated as fully accessioned in the Collection inventory only upon completion of all facets of the commissioning or purchasing contract or of the required review process for gifts and other artworks. Conditions, restrictions, or limitations cannot be attached to the accessioning that would limit the use of the artwork.
3. The signed contract transferring title for the artwork and clearly defining the rights and responsibilities of all parties will accompany every acquisition.
4. Acquisitions result from:
 - Projects of the Miami-Dade County Art in Public Places Program pursuant to Section 2.11.15 of the Miami-Dade County Code;
 - Gifts with a fair market value greater than \$1,000, which will be reviewed and accessioned in accordance with the Miami-Dade County Administrative Order No. 1-3;
 - Gifts with a fair market value less than \$1,000 that are reviewed and accepted by the Art in Public Places Trust; or
 - Other artworks, including but not limited to work that are un-accessioned items found in the existing Public Art Collection or in the possession of Miami-Dade County government that are determined to have sufficient artistic merit and recommended for inclusion in the Miami-Dade County Public Art Collection. Factors considered in making this recommendation include: the quality of the work; the artist’s intent for the work to be considered a stand-alone art work; the degree to which the design, materials and execution of the work constitutes a finished work of art; the suitability of the work to be placed on public display in furtherance of the mission of the APP program; and the commitment to exercising accountability and care for works of art created through the APP commissioning process and/or owned by the County. These artworks must be reviewed and accepted by the Art in Public Places Trust.

5. All acquisitions will be entered into the Collection inventory and added to the Internal Services Department (ISD) Capital Inventory Record.
6. Once the Art in Public Places program takes possession of an artwork, it should have the sole right to determine how and when that artwork is shown, safeguarded, or deaccessioned, subject to its professional practices and policies and in accordance with County policy.

Deaccession Procedures

1. The deaccessioning of artwork is the removal of an object from the Miami-Dade County Art in Public Places Collection. This includes the removal of the artwork from its public site, removal from the maintenance cycle, and moving of records, both hard copy and electronic, into a Deaccessioned Collection file and as required by Miami-Dade County Administrative Order No. 8-2, transferred into the archived portion of the ISD Capital Inventory Record. Deaccessioning will be considered only after a careful evaluation of the artwork within the context of the Collection as a whole and will be consistent with Miami-Dade County Administrative Order No. 8-2 – Care, Control and Disposal of County Property. Only the Miami-Dade County Art in Public Places Trust has the authority to deaccession artworks in the Art in Public Places Collection.
2. Once an artwork has been accessioned, it may not be deaccessioned on the basis of content.
3. An artwork may be considered for deaccession under the following conditions only:
 - The artwork cannot be located after reasonable and diligent searches. As required by Miami-Dade County Administrative Order No. 8-2, a police report must be filed for unlocated artwork(s) and an investigation report and recommendation must be submitted to ISD;
 - The artwork has been damaged beyond repair, damaged to the extent that it no longer represents the artist's intent, or damaged to the extent that the expenses of restoration and repair are found to equal or exceed current market value of the artwork. As required by Miami-Dade County Administrative Order No. 8-2, a police report must be filed for damaged or destroyed artwork(s) and an investigation report and recommendation must be submitted to ISD;
 - The artwork is not, or is only rarely, on display due to lack of a suitable site;
 - For site-integrated or site-specific artworks, the site for which the artwork was specifically created is structurally or otherwise altered and can no longer accommodate the artwork, is made publicly inaccessible as a result of new construction, demolition, or security enhancement, or has its surrounding environment altered in a way that significantly and adversely impacts the artwork;
 - For site-integrated or site-specific artworks, the site for which the artwork was specifically created is sold or acquired by an entity other than Miami-Dade County;
 - The artwork was purchased as a semi-permanent acquisition and the County's predetermined period of obligation is terminated;
 - There is a documented history of incident(s) that shows the artwork is a threat to public safety;
 - The artist legally exercises the right of disassociation granted by the Visual Artists Rights Act of 1990, preventing the use of his or her name as the creator of the artwork;

- The artwork requires excessive maintenance and/or the condition or security of the artwork cannot be reasonably guaranteed;
 - The artwork has been determined by the Art in Public Places Trust deaccession process to be of inferior quality relative to the quality of other works in the Collection or the County wishes to replace the artwork with a work of more significance by the same artist; and/or
 - At the time of accessioning, complete information on the provenance of the artwork was not available, or more information has since become available, indicating that the artwork should not be part of the Miami-Dade County Art in Public Places Collection.
4. Department of Cultural Affairs staff will prepare a written recommendation for deaccession of artworks from the Collection based on one or more of the conditions in Section 3 above for review and evaluation by the Miami-Dade County Art in Public Places Professional Advisory Committee (Professional Advisory Committee), and subsequent review, evaluation and action by the Art in Public Places Trust. The staff reserves the option of hiring a consultant for advice on specific elements of the artwork being considered through the deaccession process.
 5. Artists whose work is being considered for deaccession shall be notified by mail using the current address provided by the artist. Artists also shall be notified of the recommendation of the Professional Advisory Committee and of the Art in Public Places Trust meeting scheduled to consider this recommendation.
 6. All legal documents relating to the artwork, including but not limited to contracts with the artist and agreements related to a donation of the artwork as applicable, will be consulted as part of the deaccession process. When applicable and feasible, the donor of an artwork under consideration for deaccessioning will be notified.
 7. At a Professional Advisory Committee meeting, Miami-Dade County Department of Cultural Affairs staff will present reports on artworks to consider for deaccession that include:
 - Reasons for the suggested deaccession accompanied by such other documentation and information as may be relevant;
 - Acquisition method, cost, and estimated current market value;
 - Documentation of correspondence with the artist;
 - Photo documentation of site conditions (if applicable);
 - In the case of damage, a report that includes the official police and investigation reports and recommendation, and documents the original cost of the artwork, estimated market value, and the estimated cost of repair; and/or
 - In the case of theft or loss, the official police and investigation report and recommendation, including when possible, a report prepared by the agency responsible for the site of the loss.
 8. The Professional Advisory Committee will then make a recommendation to the Miami-Dade County Art in Public Places Trust, including actions regarding the disposition of the artwork pursuant to Section 9 below. If the Professional Advisory Committee recommends that an artwork be retained, an explanation stating the Committee's reasons and recommendations shall be set forth in the minutes of the Committee's meeting and shall be submitted to the Art in Public Places Trust. The Trust may decide to seek additional information.

9. The decision to deaccession artwork will result from a resolution requiring a majority vote by the Miami-Dade County Art in Public Places Trust. Upon this decision to deaccession artwork, the Trust will consider what action should be taken, with priority given to public benefit from the Collection. Every step will be taken to arrive at a mutual balance between observing the rights of the artist and public benefit. Actions will be consistent with Miami-Dade County Administrative Order No. 8-2 and may include:
 - Trade through artist, gallery, museum, or other institutions for one or more other artwork(s) of comparable value by the same artist or to reduce the purchase price of a replacement artwork;
 - Long-term or permanent loan offered first to other governmental units and then, to eligible community based organizations, such as museums or educational/non-profit institutions, subject to being afforded equal participation opportunity to review and select the artwork(s);
 - Donation first to other governmental units and then, to eligible community based organizations, such as museums or educational/non-profit institutions, subject to being afforded equal participation opportunity to review and select the artwork(s);
 - Sale to interested potential bidders with “first offer” right to governmental units located within Miami-Dade County, in compliance with Administrative Order No. 8-2 governing surplus County property. Any pre-existing contractual agreements between the artist and the County regarding resale shall be honored, including but not limited to the original artist’s having first right of refusal to purchase his or her artwork at its current market value;
 - In special situations, the Miami-Dade County Art in Public Places can negotiate the transfer of an artwork to another entity. For site-integrated or site-specific artworks, when the site for which the artwork was specifically created is sold or acquired by an entity other than Miami-Dade County, the ownership of the artwork can transfer to that entity. Artwork in the Public Art Collection should be in exhibitable condition and continue to reflect the artist’s original intent. Should the artwork selected for transfer need to be repaired cleaned, or restored, the negotiated transfer will include conservation provisions and, unless negotiated otherwise, the receiving entity pays for the restoration. The receiving entity should have an art plan that defines their commitment to the artist and the continued care of the artwork; and/or
 - For artwork(s) not able to be disposed of by the methods outlined above, destruction or recycling of materials comprising the artwork, in accordance with Chapter 274 of the Florida Statutes, so that no piece is recognizable as part of that artwork.
10. In the event the artist disagrees with the decision of the Miami-Dade County Art in Public Places Trust, the artist may request reconsideration of the deaccession. This request must be filed in writing with the Miami-Dade County Department of Cultural Affairs within 30 days of the Trust’s deaccession decision, and it must be based on information that was not considered during the Professional Advisory Committee’s and the Art in Public Places Trust’s meetings on the deaccession.
11. The Miami-Dade County Department of Cultural Affairs will work cooperatively with the Internal Services Department, Fixed Assets & Division Operations section of the County regarding the implementation of this policy for deaccessioned artworks and will notify ISD about all actions under formal consideration and taken by the Miami-Dade County Art in Public Places Trust affecting artwork(s) in the County’s inventory.

12. A report will be sent to the County Mayor, Board of County Commissioners and ISD regarding the Miami-Dade County Art in Public Places Trust's action(s) regarding deaccessioned artworks.
13. The artwork, or its remains, shall be disposed of by the Miami-Dade County Art in Public Places staff, or its agents, upon deaccession action. It is the obligation of the Miami-Dade County Art in Public Places Program to ensure that all disposals with regard to the Collection be formally and publicly conducted and adequately documented in accordance with applicable provisions of the Florida Statutes and the Code of Miami-Dade County utilizing a variety of disposal methodologies.
14. A permanent record of the artwork's inclusion in the Miami-Dade County Art in Public Places Collection, and reasons for its removal, shall be maintained in a Deaccessioned Collection file, and will be kept as a separate section of the Miami-Dade County Art in Public Places Collection records. Miami-Dade County Department of Cultural Affairs staff will notify ISD Fixed Assets & Division Operations section of all deaccessioned artwork(s) so that the artwork(s) can be deleted from the Department's Capital Inventory Record.
15. No artworks shall be sold or traded to a member of a governing body or staff of Miami-Dade County government including the members of the Miami-Dade County Art in Public Places Trust and its Professional Advisory Committee, consistent with Miami-Dade County conflict of interest policies.
16. All proceeds from the sale of any artwork from the Miami-Dade County Art in Public Places Collection shall be deposited in the Art in Public Places Trust Fund. Funds from artwork sales may be used in any manner consistent with the enabling legislation of the Art in Public Places program and County policies regarding public artwork.

Frequently Asked Questions

1. Applicable Projects and Costs.
 - What if we are uncertain about whether the APP requirement applies to a project or components of a project?
 - Call APP staff if you have any questions about the APP requirements. In addition, the FAQs below may provide answers to your questions.
2. Contingency Allowances.
 - Are contingency allowances covered by the APP requirement, even if eventually they are not used or fully used for the project.
 - Yes. The APP allocation is calculated and transferred to APP upon the award of the contract.
3. Calculation of APP Amount.
 - How does a capital project accurately calculate the 1 ½% APP requirement amount?
 - A completed APP Capital Project Budget Allocation Worksheet must be submitted by departments to the Department of Cultural Affairs as soon as a capital project budget is developed and prior to design contract and construction award. APP staff will confirm the accuracy of the calculation of the APP requirement for the project and the final Worksheet must be signed by the department and the Department of Cultural Affairs (see sample "APP Capital Budget Allocation Worksheet" at <http://www.miamidadepublicart.org/#tools>; this form also is available from APP staff).

4. Project Changes
 - Are the costs associated with significant changes in a project's scope and budget subject to the APP requirement?
 - Yes. Typically, regular additive change orders are subject to the APP requirement as they are paid for from the project contingency allowance which is covered by the APP requirement. More significant scope additions which are accompanied by increases to the project's capital budget are subject to the APP requirement.
5. Inspector General.
 - In calculating the APP allocation, should the Inspector General cost be included in the base for the APP calculation?
 - Yes, the APP calculation is taken against the total contract amount.
6. Capital Outlay Reserve Funds (CORF).
 - Are construction projects funded by the Capital Outlay Reserve Fund covered by the APP requirement?
 - Yes. The APP requirement applies to all County construction projects for new buildings.
7. Funding Sources That Disallow Public Art.
 - Does the APP requirement apply to construction projects that are funded by grants or other sources which disallow public art?
 - If a grant or another funding source specifically prohibits the use of funds for compliance with the APP requirement, the department must use other funds to satisfy the APP requirement.
8. General Obligation Bond (GOB) Projects.
 - Does the APP requirement apply to GOB projects?
 - Yes, the APP requirement applies to all County construction projects for new buildings. In addition, the APP requirement applies to GOB projects for new buildings done by municipal governments.
9. Capital Work Done by the County.
 - Does the APP requirement apply to the cost of architectural and engineering services performed by County personnel and to the cost of in-house construction labor, materials, and/or machinery?
 - Yes. The APP requirement applies to the construction cost of new government buildings regardless of the source of funds for the project.
10. Private Sector-Funded Projects.
 - Does the APP requirement apply to buildings financed and constructed on County property by private sector investors?
 - Yes. The APP requirement applies to the construction cost of new government buildings regardless of the source of funds for the project. Please see the section "Information for Private Sector Capital Development on Land Owned or Leased by Local Government or on Private Property with the Building Owned, Leased or Operated by Local Government."
 - What happens if the APP funds are not included in the development agreement with the private sector and/or are not collected by the department from the private sector?

- The department will need to convey the funds for the APP requirement from another revenue source.
11. Conveyance of APP Funds.
 - When are funds conveyed to APP? Whom do we contact for details about conveying funds?
 - Funds are conveyed to APP when the department receives spending authority for the capital project. For example, when an A&E contract is authorized, 1½% of the contract must be conveyed to APP. Please contact Patricia Romeu, Department of Cultural Affairs, for instructions to convey funds (305-375-5920; romeu@miamidade.gov).
 12. Cancellation of Capital Projects
 - Do APP costs incurred to date need to be covered by the department if the capital project is cancelled?
 - Yes.
 13. Demolition.
 - Does the APP requirement apply to demolition costs?
 - Yes, if demolition is part of a construction project that is covered by the APP requirements.
 14. Building Additions.
 - Are additions to an existing structure covered by the APP requirement?
 - Yes, additions are considered to be “new government buildings.”
 15. Building Adaptations.
 - Are existing buildings that are acquired and converted for a new governmental use covered by the APP requirement?
 - Yes, the acquisition cost of the building (excluding the estimated cost of the land) and the capital costs of the conversion of the building for a new governmental use are covered by the APP requirement.
 16. Structures
 - Does APP cover structures that are built by or for the County that serve the public (e.g., parks, playgrounds, bridges, pre-fabricated shells, utilities buildings, etc.)?
 - Yes, if the structure is intended to be used directly by the public.
 17. Equipment.
 - Are equipment costs subject to the APP requirement?
 - Yes. The APP requirement covers all systems and features that make a facility functional, even if the equipment is acquired through a separate contract.
 18. Parking Garages.
 - Does the APP requirement apply to a parking garage?
 - Yes.
 19. Roadways, Sidewalks Parking and Site Improvements.
 - Does the APP requirement apply to roadways, sidewalks, parking and site improvements?
 - Yes, if the roadways, sidewalks, parking (e.g., parking lots) and site improvements (e.g., site lighting, signage, etc.) are part of a construction project that is covered by the APP requirement.
 20. Selection of Art Must Be by APP.

- Can a department satisfy the APP requirement by selecting and purchasing an artwork itself?
- No. Works of art must be selected in compliance with the process required by the APP program and overseen by the APP Trust and staff. Please see the section, “The APP Artists Selection Process” on page 2.

21. Adherence to the Art in Public Places Requirement.

- Can departments waive the APP requirement?
- No. Section 2-11.15 of the Miami-Dade County Code sets forth the requirements for the APP program and provides that only the Board of County Commissioners has the authority to waive the APP requirement. Administrative Order 3-11 prescribes a process involving a Review Committee which can be convened to conduct a hearing of a request for a waiver and states that the Review Committee will evaluate such requests as follows: “If the facility does not conform to the definition of ‘new governmental building’ a waiver will be recommended to the Board of County Commissioners. Only the BCC is authorized to grant waivers. Waivers must be secured prior to the award of the construction contract.”

22. Required Art in Public Places Language

- Can departments change the required APP language that is provided in this Procedure?
- No, departments must use the following language in all solicitations for APP eligible capital projects:

This project is subject to the Miami-Dade County Art in Public Places requirements, pursuant to Section 2-11.15 of the Code of Miami-Dade County, managed by the Miami-Dade County Department of Cultural Affairs as detailed in Procedure 358 in the Miami-Dade County Procedures Manual (see <http://www.miamidadepublicart.org/#tools> or <http://intra.miamidade.gov/managementandbudget/procedures.asp>).

23. Unsuitable Locations.

- Does the APP requirement apply to a new building that may not provide a suitable location for a public artwork and may the APP funds be transferred for expenditure to another site?
- Yes. The APP requirement covers all new government buildings. There is no requirement in Section 2-11.15 of the Miami-Dade County Code that artworks be located at the site of the project that funded the artwork. APP will work with departments to identify suitable alternative locations.

24. Donations of Artwork.

- What is the process for departments to accept donations of art work(s)?
- The process for accepting gifts of art works is covered by Administrative Order No. 1-3. It requires that the APP Trust and its Professional Advisory Committee review and provide the department with a recommendation for all donations of artwork or commemorative and/or memorial structures of artistic merit, valued in excess of \$1,000. The donation of art work(s) does not satisfy the APP requirement for an eligible capital project.

CONTACT(S):

Department/Division

Department of Cultural Affairs

REFERENCE DOCUMENT(S):

Section 2-11.15 of the Miami-Dade County Code

Administrative Order 3-11, Art in Public Places Program Implementation and Fund Transfer Procedure

Administrative Order No. 8-2, Care, Control and Disposal of County Property

Administrative Orders No. 1-3, Gifts to the County

Copies of all County Attorney Opinions related to these procedures are maintained by the Department of Cultural Affairs

EXHIBIT I
(Insurance Requirements)

NCLB expressly understands and agrees that any insurance protection required by this Agreement or otherwise provided by NCLB shall in no way limit the responsibility to indemnify, keep and save harmless and defend the County or its officers, employees, agents and instrumentalities as herein in the Agreement.

- H. Automobile Liability Insurance covering all owned, non-owned and hired vehicles, in an amount not less than \$1,000,000 combined single limit per occurrence for bodily injury and property damage.
- I. Commercial General Liability Insurance in an amount not less than \$1,000,000 per occurrence and \$2,000,000 in the aggregate, not to exclude Products & Completed Operations. **Miami-Dade County must be shown as an additional insured with respect to this coverage, which must encompass both the County's vicarious liability and any joint or separate County liability.**
- J. Worker's Compensation Insurance for all employees of the Contractor as required by Florida Statute 440 and Employers Liability Insurance for all employees of the contractor having coverage limits of limits of \$1,000,000 for each accident, \$1,000,000 for disease (each employee), and \$1,000,000 for disease.
 - a. If applicable, the U.S. Longshoremen and Harbor Workers' Act (USLH) and/or Jones Act, as applicable for any activities on or about navigable water.
- K. Umbrella insurance providing excess coverage over underlying(s) Auto and commercial general liability coverage \$5,000,000 each occurrence. Terms to be not more restrictive than underlying coverages.
- L. If applicable, Property insurance on an "All Risk" basis, in an amount not less than one hundred (100%) percent of the replacement cost of all real property. Sublimit for flood, named windstorm, and earth movement should be based on a probable maximum loss study.

NOTE: The Risk Management Division of Miami-Dade County Internal Services Department reserves the right, upon reasonable notice, to examine or request the policies of insurance (including but not limited to policies, binders, amendments, exclusions or riders, etc.). Miami-Dade County reserves the right to adjust these requirements, including coverage limits, based on the nature of the risk, prior experience, coverage specifics, or other unique circumstances. Any modifications will occur not more than once five (5) years, and NCLB shall be provided with 90-days' notice of any change to these requirements. The first adjustment shall not be made

sooner than five (5) years from the Effective Date and any adjustments, once made, shall not be revised until the passage of five (5) years.

All insurance policies required above shall be issued by companies authorized to do business under the laws of the State of Florida, with the following qualifications:

The company must be rated no less than “**A-**” as to management, and no less than “**Class VII**” as to financial strength by Best’s Insurance Guide, published by A.M. Best Company, Oldwick, New Jersey, or its equivalent, subject to the approval of the County Risk Management Division.

or

The company must hold a valid Florida Certificate of Authority as shown in the latest “List of All Insurance Companies Authorized or Approved to Do Business in Florida” issued by the State of Florida Department of Financial Services.

**CERTIFICATE HOLDER MUST READ: MIAMI-DADE COUNTY
111 NW 1st STREET
SUITE 2340
MIAMI, FL 33128**

EXHIBIT J
(Human Trafficking Affidavit)

**KIDNAPPING, CUSTODY OFFENSES, HUMAN TRAFFICKING AND
RELATED OFFENSES AFFIDAVIT**

The Kidnapping, Custody Offenses, Human Trafficking and Related Offenses Affidavit is required by Section [787.06](#), Florida Statutes, as amended by [HB 7063](#), which is deemed as being expressly incorporated into this Form. The Form must be completed by a person authorized to make this attestation on behalf of the NCLB for the purpose of executing, amending, or renewing a contract with the County. The term Governmental Entity has the same meaning as in [Section 287.138\(1\), Florida Statutes](#).

_____ does not use coercion for labor or services as defined in Section [787.06, Florida Statutes](#)

[Legal Company Name]

Pursuant to Section [92.525, Florida Statutes](#), under the penalties of perjury, I declare that I have read the foregoing statement and that the facts stated in it are true.

Print Name of NCLB's Authorized Representative:

Title of NCLB's Authorized Representative:

Signature of NCLB's Authorized Representative:

Date: