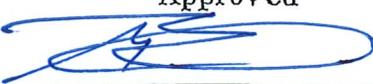




VILLAGE OF PALMETTO BAY  
 9705 E. HIBISCUS STREET  
 PALMETTO BAY, FLORIDA 33157  
 (305) 259-1234 Fax: (305) 259-1290

Approved  
  
 Edward Silva, Village Manager  
 Gregory Trivitt  
 1/23/2020  
 Date

REQUEST FOR PUBLIC RECORDS

Requests are filled in accordance with the provisions of Chapters 119 and 257, Florida Statutes.

DATE: 1-21-20  
 NAME: Scott Miller  
 COMPANY: \_\_\_\_\_  
 ADDRESS: \_\_\_\_\_  
 PHONE: \_\_\_\_\_ FAX: \_\_\_\_\_  
 EMAIL: slm9400@aol.com

REQUEST (Attach additional page, if necessary): Copies of the following documents:

Copy of concession contract  
for the park where the  
(Coral Reef)  
farmer's market is under  
contract. (Hole in the Wall)

\*\*\*\*\*

FOR USE BY VILLAGE STAFF ONLY

TRACKING NO.: 2020-029

DATE FORWARDED: 1-22-20

ASSIGNED DEPT: Park

DATE REQUEST FILLED: \_\_\_\_\_

NUMBER OF COPIES: \_\_\_\_\_

ESTIMATED TIME (IF APPLICABLE): \_\_\_\_\_

ESTIMATED COST: \_\_\_\_\_

HOW WAS REQUEST FILLED? \_\_\_\_\_

IF NOT FILLED, REASON: \_\_\_\_\_

BY: \_\_\_\_\_

**Melissa Dodge**

---

2020-029

**From:** Fanny Carmona  
**Sent:** Tuesday, January 21, 2020 10:40 AM  
**To:** Missy Arocha  
**Cc:** Melissa Dodge  
**Subject:** FW: Farmers market

Public Records Request for the concessions agreement for Coral Reef Park- (Hole in the Wall).

-----Original Message-----

From: SCOTT MILLER <slm9400@aol.com>  
Sent: Tuesday, January 21, 2020 9:16 AM  
To: Fanny Carmona <fcarmona@palmettobay-fl.gov>  
Subject: Farmers market

CAUTION: EXTERNAL SENDER -- Please avoid opening any unexpected attachments or clicking any strange links.

Good morning I think there's some confusion on my part regarding a concession area at the park at Southwest 152 St. and 77th Ave.

I was probably not clear in my request for records for the concession

Is there a concession contract for the park where the farmers market is under contract

Please advise

Thank you very much  
Scott Miller

Sent from my iPhone

## Yanara Modroño

---

**From:** Fanny Carmona  
**Sent:** Wednesday, January 22, 2020 5:04 PM  
**To:** Yanara Modroño  
**Cc:** Karla Morales-Maestre  
**Subject:** RE: Public Record Request - 2020-029 (Miller)  
**Attachments:** 20200122165913482.pdf

As requested, please see attached.

-----Original Message-----

**From:** Yanara Modroño <ymodrono@palmettobay-fl.gov>  
**Sent:** Wednesday, January 22, 2020 3:58 PM  
**To:** Fanny Carmona <fcarmona@palmettobay-fl.gov>  
**Cc:** Olga Cadaval <ocadaval@palmettobay-fl.gov>; Missy Arocha <marocha@palmettobay-fl.gov>; Melissa Dodge <mdodge@palmettobay-fl.gov>; Idalmy Vidaurre <ividaurre@palmettobay-fl.gov>; Karla Morales-Maestre <kmorales@palmettobay-fl.gov>; Greg Truitt <gtruitt@palmettobay-fl.gov>  
**Subject:** FW: Public Record Request - 2020-029 (Miller)

Good afternoon Fanny,

Please see the attached request and forward the response to my attention and cc' Karla.

Thank you!

Yanara Modroño  
Executive Assistant  
Office of the Village Manager  
Village of Palmetto Bay  
9705 East Hibiscus Street  
Palmetto Bay, Florida 33157  
T: 305-259-1234  
F: 305-259-1290

-----Original Message-----

**From:** Melissa Dodge <mdodge@palmettobay-fl.gov>  
**Sent:** Wednesday, January 22, 2020 12:26 PM  
**To:** Yanara Modroño <ymodrono@palmettobay-fl.gov>; Olga Cadaval <ocadaval@palmettobay-fl.gov>  
**Cc:** Missy Arocha <marocha@palmettobay-fl.gov>; Greg Truitt <gtruitt@palmettobay-fl.gov>  
**Subject:** Public Record Request - 2020-029 (Miller)

Good Afternoon,

Attached is Public Record Request No. 2020-029 received from Mr. Scott Miller. Please forward to the appropriate department.

Sincerely,

Melissa Dodge  
Administrative Assistant/Passport Acceptance Agent Office of the Village Clerk Village of Palmetto Bay  
9705 East Hibiscus Street  
Palmetto Bay, FL 33157  
Ph: 305-259-1234  
Fax: 305-259-1290

PLEASE NOTE: Florida has very broad public records laws. Most written communications to or from local officials regarding official business are public records available to the public and media upon request. Your e-mail communications may therefore be subject to public disclosure.

-----Original Message-----

From: Fanny Carmona <fcarmona@palmettobay-fl.gov>  
Sent: Tuesday, January 21, 2020 10:40 AM  
To: Missy Arocha <marocha@palmettobay-fl.gov>  
Cc: Melissa Dodge <mdodge@palmettobay-fl.gov>  
Subject: FW: Farmers market

Public Records Request for the concessions agreement for Coral Reef Park- (Hole in the Wall).

-----Original Message-----

From: SCOTT MILLER <slm9400@aol.com>  
Sent: Tuesday, January 21, 2020 9:16 AM  
To: Fanny Carmona <fcarmona@palmettobay-fl.gov>  
Subject: Farmers market

CAUTION: EXTERNAL SENDER -- Please avoid opening any unexpected attachments or clicking any strange links.

Good morning I think there's some confusion on my part regarding a concession area at the park at Southwest 152 St. and 77th Ave.

I was probably not clear in my request for records for the concession

Is there a concession contract for the park where the farmers market is under contract

Please advise

Thank you very much  
Scott Miller

Sent from my iPhone

**VILLAGE OF PALMETTO BAY**

**Coral Reef Park "Parkview Café" Operations and Management**

**AGREEMENT**

THIS AGREEMENT is made and entered into this 3<sup>rd</sup> day of June, 2018, by and between the Village of Palmetto Bay, a Florida municipal corporation (hereinafter referred to as "Village"), and Bird Road Hole In The Wall, LLC, authorized to do business in the State of Florida, (hereinafter referred to as "Proposer" and jointly referred to as "the Parties".)

WITNESSETH:

WHEREAS, on April 14, 2016 the Village released a notice of receipt of Unsolicited Proposal for Coral Reef Park – Parkview Café Operations and Management and noticed UP NO. 1516-12-002 ("UP"), accepting alternative proposals; and,

WHEREAS, on May 19, 2016, Proposer submitted a proposal in response to the Village's request; and,

WHEREAS, on October 2, 2017, the Village Council adopted Resolution No. 2017-110, which selected the Proposer and authorized the Village Manager to enter into a contract with the Proposer to perform the services described in the UP.

NOW THEREFORE, in consideration of the promises and the mutual covenants herein named, the parties hereto agree as follows:

Article 1: Incorporation by Reference

The following documents are hereby incorporated by reference and made part of this Agreement.

(i) Exhibit 1: List of Proposer responsibilities to this Agreement and the Village of Palmetto Bay's responsibilities to this Agreement.

All exhibits may also be collectively referred to as the "Document". In the event of any conflict between the Documents or any ambiguity or missing specifications or instructions, the following priority is established:

A. This Agreement

B. Exhibit 1

Village K  
Proposer CC

B. For the purposes of the administration of this Agreement, the following shall apply: The Village Manager or his designee is hereby designated as the Contract Administrator for this Agreement. Reports and information as the Village may reasonably require regarding the administration of this Contract should be addressed to the Village Manager.

Article 6: Termination

**Termination Because of Default:** The Village may issue a written notice to the other claiming that the other party is in breach of contract and giving the other party ten (10) business days to cure the default, or if the default is not capable of being cured within the aforesaid time, to have commenced curing of the default without unreasonable delay. If the alleged breach of contract is not cured or correction commenced without unreasonable delay, then the party serving the notice may terminate the Contract and be excused from further performance following termination. However, termination of the Contract will not relieve the Proposer of any deliverables and work product due prior to the termination of the Contract (this will include but not be limited to reports, statements of accounts, payments due the Village and any other records requested by the Village prior to the termination of the Contract.)

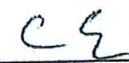
Article 7: Hold Harmless and Indemnification of the Village

The Village shall not be liable for any damages or claims of any type including but not limited to lost profits, special damages, consequential damages or business interruption on account of the Village's decision to terminate this Contract. Additionally, the Proposer agrees that in the event this Contract is terminated for the Village's breach, the damages that Proposer may have against the Village shall be limited to damages, for a period equal to the unexpired term of the Agreement, including any extensions.

Article 8: Term

The term of this Agreement shall commence upon the date of execution hereof and shall remain in effect for a period of five (5) years with an option to renew at the Proposer's request, providing Proposer is not in default of any term of this Agreement, for an additional (2) two extensions of five (5) consecutive years not to exceed (15) total consecutive years. Proposer's request for an extension shall be in writing to Village, at least three (3) months prior to the expiration of the then current term.

Village 

Proposer 

Article 9: Audit and Inspection Rights

The Village may, at reasonable times, and for a period of up to one (1) year following the date of final performance of Services by the Proposer under this Agreement, audit, or cause to be audited, those books and records of Proposer which are related to Proposer's performance under this Agreement. Proposer agrees to maintain all such books and records at its principal place of business for a period of one (1) years after final payment is made under this Agreement. The Village may, at reasonable times during the term hereof, inspect Proposer's facilities and perform such inspections, as the Village deems reasonably necessary upon no less than forty-eight (48) hours written notice and in such a manner as to not interrupt or disturb Proposer's business, to determine whether the services required to be provided by Proposer under this Agreement conform to the terms hereof and/or the terms of the Solicitation Documents, if applicable. Proposer shall make available to the Village all reasonable facilities and assistance to facilitate the performance of inspections by the Village's representatives with no less than forty-eight (48) hours' notice and a maximum of four (4) times per year. All inspections shall be subject to, and made in accordance with, the provisions of the Village Code as same may be amended or supplemented, from time to time.

Article 10: Federal and State Tax

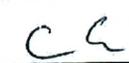
The Village is exempt from payment of Florida State Sales and Use Taxes. The Village will sign an exemption certificate submitted by the Proposer. The Proposer shall not be exempted from paying sales tax to its suppliers for materials used to fulfill contractual obligations with the Village, nor is the Proposer authorized to use the Village's Tax Exemption Number in securing such materials.

The Proposer shall be responsible for payment of its own and its share of its employee taxes and Social Security benefits.

Article 11: Indemnification

Proposer shall indemnify and hold harmless the Village and its officers, employees, agents and instrumentalities from any and all liability, losses or damages, including attorneys' fees and costs of defense, which the Village 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 the Proposer or its employees, agents, servants, partners, principals or sub-Proposers, unless said claims, demands, suits, causes of actions or proceeding is the result of the negligence or intentional conduct of the Village or its officers, employees, agents. Proposer shall pay all of the aforesaid 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

Village 

Proposer 

Village, where applicable, including appellate proceedings, and shall pay all costs, judgments, and attorney's fees which may issue thereon. Proposer expressly understands and agrees that any insurance protection required by this Agreement or otherwise provided by Proposer shall in no way limit the responsibility to indemnify, keep and save harmless and defend the Village or its officers, employees, agents and instrumentalities as herein provided. One (1%) percent of the contract amount, to be paid by deduction from Proposer's monthly payments, shall represent the consideration to be provided for this indemnification.

Village shall indemnify and hold harmless the Proposer and its officers, employees, agents and instrumentalities from any and all liability, losses or damages, including attorneys' fees and costs of defense, which the Proposer 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 negligence or intentional conduct of the Village or its officers, employees, agents .

Article 12: Insurance

Award of this Contract is contingent upon the receipt of the insurance documents, as required, within ten (10) calendar days after Village notification to Proposer. Certificates of Insurance must be submitted to the Procurement Division, Certificates of Insurance that indicate that insurance coverage has been obtained which meets the requirements as outlined below:

- Comprehensive General Liability - \$1,000,000 combined single limit for each occurrence for bodily injury and property damage – designating the Village as Additional Insured
- Workers Compensation - Statutory Limits
- Automobile Liability - \$1,000,000 per occurrence for all claims arising out of bodily injuries or death and property damages.

All insurance policies must be issued by companies authorized to do business under the laws of the State of Florida. The companies must be rated no less than "B+" as to management and no less than "Class V" as to strength by the latest edition of Best's Insurance guide, published by A.M. Best Company, Olwick, New Jersey, or its equivalent, or the companies 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 Insurance and are members of the Florida Guaranty Fund.

Certificates of Insurance must indicate that for any cancellation of coverage before the expiration date, the issuing insurance carrier will endeavor to mail thirty (30) day written advance notice to the certificate holder. In addition, the Proposer hereby agrees not to modify the insurance coverage without thirty (30) days written advance notice to the Village.

Village \_\_\_\_\_

Proposer \_\_\_\_\_

Compliance with the foregoing requirements shall not relieve the Proposer of this liability and obligation under this section or under any other section in the Agreement.

If the insurance certificate is received within the specified time frame but not in the manner prescribed in the Agreement, the Proposer shall be verbally notified of such deficiency and shall have an additional five (5) calendar days to submit a corrected certificate to the Village. If the Proposer fails to submit the required insurance documents in the manner prescribed in the Agreement within fifteen (15) calendar days after Village notification to comply, the Proposer shall be in default of the contractual terms and conditions and award of the Contract will be rescinded, unless such time frame for submission has been extended by the Village.

The Proposer shall be responsible for assuring that the insurance certificates required in conjunction with this Section remain in force for the duration of the contractual period of the Contract, including any and all option years or extension periods that may be granted by the Village. If insurance certificates are scheduled to expire during the contractual period, the Proposer shall be responsible for submitting new or renewed insurance certificates to the Village at a minimum of thirty (30) calendar days in advance of such expiration. In the event that expired certificates are not replaced with new or renewed certificates which cover the contractual period, the Village shall suspend the Contract until such time as the new or renewed certificates are received by the Village in the manner prescribed herein; provided, however, that this suspended period does not exceed thirty (30) calendar days. Thereafter, the Village may, at its sole discretion, terminate this contract.

Article 13: Modification/Amendment

This writing and exhibits contains the entire Agreement of the parties. No representations were made or relied upon by either party, other than those that are expressly set forth herein. No agent, employee, or other representative of either party is empowered to modify and amend the terms of this Agreement, unless executed in writing with the same formality as this Document. No waiver of any provision of this Agreement shall be valid or enforceable unless such waiver is in writing and signed by the party granting such waiver.

Article 14: Severability

Village 

Proposer 

If any term or provision of this Agreement shall to any extent be held invalid or illegal by a court of competent jurisdiction, the remainder of this Agreement shall not be affected thereby, and each term and provision of this agreement shall be valid and be enforced to the fullest extent permitted by law.

Article 15: Governing Law

This Agreement shall be construed in accordance with and governed by the laws of the State of Florida. Exclusive venue for any litigation shall be in Miami-Dade County, Florida.

Article 16: Waiver

The failure of either party to this Agreement to object to or to take affirmative action with respect to any conduct of the other which is in violation of the terms of this Agreement shall not be construed as a waiver of the violation or breach, or of any future violation, breach or wrongful conduct. No waiver by either party of any provision of this Agreement shall be deemed to be a waiver of any other provisions hereof or of any subsequent breach by either party of the same, or any other provision or the enforcement thereof. The either party's consent to or approval of any act by the other party requiring consent or approval shall not be deemed to render unnecessary the obtaining of consent to or approval of any subsequent consent or approval, whether or not similar to the act so consented to or approved.

Article 17: Notices/Authorized Representatives

Any notices required or permitted by this Agreement shall be in writing and shall be deemed to have been properly given if transmitted by hand-delivery, by registered mail with postage prepaid return receipt delivery, by registered or certified mail with postage prepaid return receipt requested, or by Federal Express addressed to the parties at the following address:

Village:  
Edward Silva, Village Manager  
Village of Palmetto Bay  
9705 E. Hibiscus Street  
Palmetto Bay, FL 33157

Proposer:  
Craig Erickson  
Bird Road Hole in the wall, LLC  
8002 SW 81<sup>st</sup> Drive  
Miami, FL. 33143

Either party shall have the right to change its address for notice purposes by sending written notice of such change of address to the other party in accordance with the provisions herein.

Article 18: Independent Proposer

Village AS  
Proposer CE

Proposer is and shall remain an Independent Proposer, and not an employee or agent of the Village. Services provided by Proposer shall be by employees of the Proposer and nothing in this Agreement shall in any way be interpreted or construed to deem said employees to be agents, employees, or representatives of the Village. Proposer shall be responsible for all compensation, tax responsibilities, insurance benefits, other employee benefits, and any other status or rights of its employees during the course of their employment with Proposer. During the course of this Agreement, the rights granted to Proposer hereunder are exclusive, and the Village shall not enter into agreements with other persons to perform similar services. Further, Village shall not permit any event where food and/or beverages are being served or provided to take place in Coral Reef Park at which event, the attendees are being charged for their food and/or beverages or paying a fee to attend, unless Proposer is the provider of such food and/or beverages.

Article 19: Assignment

The Proposer shall not assign, transfer, convey, sublet or otherwise dispose of this Contract, including any or all of its right, title or interest therein, or his or its power to execute such Contract to any person, company or corporation without prior written consent of the Village. The Proposer shall not assign, transfer or pledge any interest in this contract without the prior written consent of the Village which consent shall not be unreasonably withheld; provided, however, that claims for money by the Proposer from the Village under this Contract may be assigned, transferred or pledged to a bank, trust company, or other financial institution without the Village's approval. Written notice of any assignment, transfer or pledge of funds shall be furnished within 10 days by the Proposer to the Village. None of the work or services under this Contract shall be subcontracted unless the Proposer obtains prior written consent from the Village which consent shall not be unreasonably withheld. Approved Sub-Vendor shall be subject to each provision of this Contract and the Proposer shall be responsible and indemnify the Village for all Sub-Vendor's acts, errors or omissions. No consent shall be required for subcontractors/subvendors who are affiliates of Proposer.

Article 20: Prohibition Against Contingent Fees

Proposer warrants that it has no employees or retained any Vendor or person, other than a bona fide employee or agent working for Proposer or affiliate of Proposer, to solicit or secure this Agreement, and that it has not paid or agreed to pay any person(s), Proposer, corporation, individual or Proposer, other than a bona fide employee working solely for Proposer or, any fee, commission, percentage, gift, or any other consideration, contingent upon or resulting from the award or making of this Agreement.

Article 21: Attorneys Fees

Should any dispute arise hereunder, the prevailing party shall be entitled to recover all costs, expenses and attorney's fees incurred by the in such dispute, whether or not suit be

Village

Proposer

brought, and such right shall include all of such costs, expenses and attorney's fees through all appeals or other actions. Neither party shall be entitled to prejudgment interest.

Article 22: Conflict of Interest

Proposer agrees to adhere to and be governed by the Village's Conflict of Interest Ordinance 2-121, et seq, which is incorporated by reference herein as if fully set forth herein, in connection with the Agreement conditions hereunder.

Article 23: Binding Effect

All of the terms and provisions of this Agreement shall be binding upon and inure to the benefit of the parties hereto, their respective assigns, successors, legal representatives, heirs and beneficiaries, as applicable.

Article 24: Entire Agreement

No statements, representations, warranties, either written or oral, from whatever source arising, except as expressly stated in this Agreement, shall have any legal validity between the parties or be binding upon any of them. The parties acknowledge that this Agreement contains the entire understanding and agreement of the parties. No modifications hereof shall be effective unless made in writing and executed by the parties hereto with the same formalities as this Agreement is executed.

Article 25: Captions and Paragraph Headings

Captions and paragraph headings contained in this Agreement are for convenience and reference only and in no way define, describe, extend or limit the scope and intent of this Agreement, nor the intent of any provisions hereof.

Article 26: Joint Preparation

The preparation of this Agreement has been a joint effort of the parties, and the resulting document shall not, solely as a matter of judicial construction, be construed more severely against one of the parties than the other. It is the parties' further intention that this Agreement be construed liberally to achieve its intent.

Article 27: Counterparts

This Agreement may be executed in one or more counterparts, each of which shall be deemed an original, but all of which shall constitute one and the same agreement.

Article 28: Exhibits are Inclusionary

All exhibits attached hereto or mentioned herein which contain additional terms shall be deemed incorporated herein by reference. Typewritten or handwritten provisions inserted in this form or attached hereto shall control all printed provisions in conflict therewith.

Article 29: Jurisdiction And Venue

For the purposes of this contract, Florida law shall govern the terms of this contract. Venue shall be in Miami-Dade County, Florida.

Article 30: Sovereign Immunity And Attorney's Fees.

The Village waives sovereign immunity under 768.28, Florida Statutes, for any claim for breach of contract; provided, however, that in any action arising out of or to enforce this contract, the prevailing party shall be entitled to its reasonable attorney's fees and costs in any state or federal administrative, circuit court and appellate court proceedings. In the event of any litigation arising out of this agreement or project agreement, each party hereby knowingly, irrevocably, voluntarily, and intentionally waives its right to trial by jury.

Article 31: Permits, Licenses and Filing Fees

The Proposer shall procure all permits and licenses, pay all charges and fees, and file all notices as they pertain to the completion of the Proposer's work.

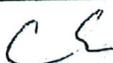
Article 32: Safety Provisions

The Proposer shall conform to the rules and regulations pertaining to safety established by OSHA and other safety regulatory agencies as applicable.

Article 33: Public and Employee Safety

Whenever the Proposer's operations create a condition hazardous to the public or Village employees, it shall, at its expense and without cost to the Village, furnish, erect and maintain such fences, temporary railings, barricades, lights, signs and other devices and take such other protective measures as are necessary to prevent accidents or damage or injury to the public and employees.

Article 34: Preservation of Village Property

Village   
Proposer 

The Proposer shall provide and install suitable safeguards, approved by the Village, to protect Village property from injury or damage. If Village property is injured or damaged resulting from the Proposer's operations, it shall be replaced or restored at the Proposer's expense. The facilities shall be replaced or restored to a condition as good as when the Proposer began work.

Article 35: Immigration Act of 1986

The Proposer warrants on behalf of itself and all sub-Proposers engaged for the performance of this work that only persons authorized to work in the United States pursuant to the Immigration Reform and Control Act of 1986 and other applicable laws shall be employed in the performance of the work hereunder.

Article 36: Proposer Non-Discrimination

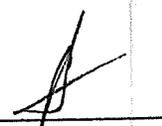
In the award of subcontracts or in performance of this work, the Proposer agrees that it will not engage in, nor permit such sub-Vendors as it may employ, to engage in discrimination in employment of persons on any basis prohibited by State or Federal law.

Article 37 Accuracy of Specifications

The specifications for this project are believed by the Village to be accurate and to contain no affirmative misrepresentation or any concealment of fact. Proposers are cautioned to undertake an independent analysis of any test results in the specifications, as Village does not guaranty the accuracy of its interpretation of test results contained in the specifications package. In preparing its proposal, the Proposer and all sub-vendors named in its proposal shall bear sole responsibility for proposal preparation errors resulting from any misstatements or omissions in the specifications that could easily have been ascertained by examining either the project site or accurate test data in the Village's possession. Although the effect of ambiguities or defects in the specifications will be as determined by law, any patent ambiguity or defect shall give rise to a duty of Proposer to inquire prior to proposal submittal. Failure to so inquire shall cause any such ambiguity or defect to be construed against the Proposer. An ambiguity or defect shall be considered patent if it is of such a nature that the Proposer, assuming reasonable skill, ability and diligence on its part, knew or should have known of the existence of the ambiguity or defect. Furthermore, failure of the Proposer or sub-vendors to notify Village in writing of specification defects or ambiguities prior to proposal submittal shall waive any right to assert said defects or ambiguities subsequent to submittal of the proposal.

To the extent that these specifications constitute performance specifications, the Village shall not be liable for costs incurred by the successful Proposer to achieve the project's objective or standard beyond the amounts provided therefore in the proposal.

Village



Proposer



In the event that, after awarding the contract, any dispute arises as a result of any actual or alleged ambiguity or defect in the specifications, or any other matter whatsoever, Proposer shall immediately notify the Village in writing, and the Proposer and all sub-vendors shall continue to perform, irrespective of whether or not the ambiguity or defect is major, material, minor or trivial, and irrespective of whether or not a change order, time extension, or additional compensation has been granted by Village. Failure to provide the hereinbefore described written notice within one (1) working day of Proposer's becoming aware of the facts giving rise to the dispute shall constitute a waiver of the right to assert the causative role of the defect or ambiguity in the plans or specifications concerning the dispute.

Article 38      Warranty Of Authority

The signatories to this contract warrant that they are duly authorized by action of their respective commission, board of directors or other to execute this Agreement and to bind the parties to the promises, terms, conditions and warranties contained in this Agreement.

Article 39      Miscellaneous Provision

In the event a court must interpret any word or provision of this agreement, the word or provision shall not be construed against either party by reason of drafting or negotiating this agreement.

[THIS SECTION INTENTIONALLY LEFT BLANK]

Village



Proposer



IN WITNESS WHEREOF the undersigned parties have executed this Agreement on the date indicated above.

OWNER

Village of Palmetto Bay

ADDRESS

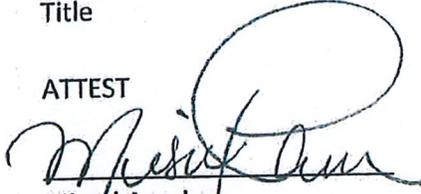
9705 E. Hibiscus Street  
Palmetto Bay, FL 33157

BY

  
Edward Silva  
Print Name

Village Manager  
Title

ATTEST

  
Missel Arocha  
Village Clerk

APPROVED AS TO FORM BY

  
Dexter Lehtinen  
Village Attorney

PROPOSER

Bird Road Home in the Wall, LLC

ADDRESS

8002 SW 81st Drive  
Miami, FL 33143

BY

  
Craig Erickson  
Print Name

Manager  
Title

Witness

  
Olga Cadaval  
Print Name

Village 

Proposer 

**VILLAGE OF PALMETTO BAY**  
**Coral Reef Park "Parkview Café" Operations and Management**  
**AGREEMENT**  
**Exhibit 1**

Scope of Services

1. Proposer Shall:

- a. Operate and maintain a complete restaurant business at Coral Reef Park, within the facility commonly known as the Parkview Café, including the service of alcoholic beverages in compliance with the Beverage Laws of the State of Florida and the applicable Village Ordinances. Further, Proposer will be permitted to provide commissary services and delivery services at the Coral Reef Park facility on behalf of or to Proposer's affiliated companies.
- b. Hours of operation will coincide with the Parks hours of operation which is Monday through Sunday from 8:00am to 10:00 pm local time. If the Proposer requests an extension as to the times of operation, Proposer shall submit such request to the Director of Parks and Recreation, whom shall forward to the Village Manager for his/her consideration for approval. Proposer may open for operation less than the hours the park is open, in Proposer's sole discretion.
- c. Maintain Coral Reef Concession stand equipment owned by the Village of Palmetto Bay in the same condition as it was presented when proposer took occupancy.
- d. All hood cleaning, repairs and maintenance of equipment both Village and Proposer owned shall be maintained by Proposer; including any annual and/or periodic inspections required. Said maintenance shall also include cleaning/clearing of any disposal lines and grease traps.
- e. The Proposer will pay the Village of Palmetto Bay Eight (8%) Percent of its gross revenues collected from the sales of the concession stand.
- f. Janitorial services, Pest control around and inside the kitchen and eating areas will be maintained by the Proposer.
- g. Garbage will be dumped at the Coral Reef Park dumpster and garbage surrounding the area of the restaurant will need to be picked up by the Proposers staff.
- h. The Proposer shall have exclusive use the storage area, mini office, and adjoining maintenance garage. .
- i. The Proposer **will not** be able to utilize any Styrofoam products to include any carry-out packaging based on the Village of Palmetto Bay Ordinance No. 2016-10
- j. The Proposer shall have full exclusivity to sell at Coral Reef Park with the exceptions of the Farmers Market that is held every Sunday. Proposer's exclusivity rights do not extend to birthday parties or, to park rentals, including private special events, in which users choose to select/use a vendor other than the Proposer, or supply their own food

Village  \_\_\_\_\_

Proposer \_\_\_\_\_

unless attendees are purchasing the food and beverages at the event or paying an admission/cover charge to attend. In addition, at any Village Hosted Special Events, the Proposer may choose to have a "signature dish" for example: wings or tacos which the outside vendors will not be allowed to provide.

- k. When the Proposer sponsors a special event at the Park as that term is defined in Ordinance 30-40.1, it will need to fill out the special events permit and abide by the rules and regulations pertaining to special events pursuant to Ordinance 30-60.18.
- l. Proposer shall have access to the movie screen owned by the Village of Palmetto Bay, and if the movie screen is damaged during Proposer's use due to negligence, the Village of Palmetto Bay will bill the proposer for the cost of the repair and the Proposer agrees to remit payment within thirty (30) days of notice. The Proposer will be responsible for the pick-up, set-up, breakdown and delivery back to the Village.
- m. Once the contract has expired or by option not to extend or by completing the allotted 15 consecutive years allowable by this agreement, the proposer will retrieve their equipment and will place back the Village owned equipment in the same form as originally accepted; and shall repair any facility components modified to accommodate such Proposer owned equipment. Further, any such addition considered to create a "fixed" addition, shall become property of the Village and remain as is.
- n. Should the Proposer wish to make subsequent improvements to the leased area, Proposer agrees to obtain prior written approval from the Village, perform all work in accordance to industry standards and in a workmanship like manner, and shall obtain all necessary permits required.
- o. The Proposer will submit an FDLE background check and Proposer agrees not to hire/assign any individuals whose background is not suitable for a public park setting.
- p. All signage to the concession stand will need to be approved by the Village Manager beforehand.

2. The Village of Palmetto Bay Shall:

- a. Allow (6) months free revenue sharing to help the Proposer complete their setup and market the concession stand. The Village will be responsible for dumpster pick up.
- b. The Village' Public Service Department staff will be responsible for cleaning the restroom at the concession stand once per day Monday through Friday. Weekend and subsequent daily cleaning/touchup shall be performed by the Parks staff on an asneeded basis. All cleaning and paper supplies will be provided by the Village.
- c. The Public Service department will be responsible for the fumigation around the outside area of the concession stand at a frequency as per industry standards for food and beverage facilities.

Village \_\_\_\_\_

Proposer \_\_\_\_\_

- d. The Village of Palmetto Bay will provide the space for the operations of the concession stand as described in "Proposer Shall" portion of Exhibit 1. The Village will be responsible for the utilities (gas, water and electricity).
- e. Village will permit Proposer to place a Series 2COP Florida Alcoholic Beverage License at the Coral Reef Park Concession Stand, if permitted by the Beverage Laws of the State of Florida.

Village

  
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Proposer

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