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3 **A RESOLUTION OF THE MAYOR AND VILLAGE COUNCIL OF**
4 **THE VILLAGE OF PALMETTO BAY, FLORIDA, RELATING TO**
5 **PARKS AND RECREATION; ENTERING INTO A FIVE YEAR**
6 **AGREEMENT WITH FLORIDA COCA-COLA BOTTLING**
7 **COMPANY AND GRANTING THE BOTTLER THE EXCLUSIVE**
8 **RIGHT TO SELL OR DISTRIBUTE BEVERAGES AT PALMETTO**
9 **BAY PARK; AND PROVIDING FOR AN EFFECTIVE DATE.**

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13 WHEREAS, the Village of Palmetto Bay parks are thriving with attendance; and
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15 WHEREAS, the individuals participating in park activities have expressed a desire to
16 consume food and beverages; and
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18 WHEREAS, the Florida Coca-Cola Bottling Company is a world wide company that
19 provides outstanding products and services; and
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21 WHEREAS, the Village wishes to enter into a (5) five year agreement with Coca-Cola;
22 and
23

24 WHEREAS, the Florida Coca-Cola Bottling Company will not only provide revenue
25 generating products, but as part of the agreement Coca-Cola will donate six (6) scoreboards
26 with a value of \$24,000. including delivery; and
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28 WHEREAS, entering into this agreement with Coca-Cola will be extremely beneficial to
29 the continued success of the concession operation at Palmetto Bay Park; and
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31
32 NOW, THEREFORE, BE IT RESOLVED BY THE MAYOR AND VILLAGE
33 COUNCIL OF THE VILLAGE OF PALMETTO BAY, FLORIDA, AS FOLLOWS:
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35
36 Section 1. Authorizes the Village Manager to enter into agreement with Florida
37 Coca-Cola Bottling Company.
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39 Section 2. This resolution shall take effect immediately upon adoption
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41
42 PASSED and ADOPTED this 7th day of , April 2008.
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2 Attest:


Meighan Rader
Village Clerk


Eugene P. Flinn, Jr.
Mayor

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12 APPROVED AS TO FORM:

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17 Eve Boutsis
18 Village Attorney
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21 FINAL VOTE AT ADOPTION:

22
23 Mayor Eugene P. Flinn, Jr. YES
24
25 Vice Mayor Linda Robinson YES
26
27 Council Member Ed Feller YES
28
29 Council Member Paul Neidhart YES
30
31 Council Member Shelley Stanczyk YES

Attachment A

BEVERAGE AGREEMENT

Date: _____, 2008 [signing date]

Parties: **BOTTLER:** Coca-Cola Enterprises Inc. d/b/a Florida Coca-Cola Bottling Company, a Delaware corporation
16569 SW 177th Avenue
Miami, Florida 33177

ACCOUNT: Village of Palmetto Bay, Florida, a Florida municipal corporation
8950 SW 152nd Street
Palmetto Bay, Florida 33157

1. Definitions

(a) "Beverage" or "Beverages" shall mean all nonalcoholic beverages of any kind, but shall not include fresh-brewed unbranded coffee and fresh-brewed unbranded tea products, water drawn from the public water supply or unbranded juice squeezed fresh at the Facility.

(b) "Products" shall mean Beverage products purchased directly from Bottler or sold through vending machines owned and stocked exclusively by Bottler.

(c) "Competitive Products" shall mean all Beverages which are not Products.

(d) "Approved Cups" means disposable cups approved by Bottler from time to time as its standard trademark cups and/or vessels and/or other (disposable and nondisposable) containers approved by Bottler from time to time, all of which shall prominently bear the trademark(s) of Coca-Cola and/or other Products on all of the cup surface.

(e) "Facility" shall mean the entire premises of Palmetto Bay Park, located at 17535 95th Avenue SW, Palmetto Bay, Florida and includes, without limitation, the grounds, all vending and concession areas, athletic facilities, playing fields, sidelines, benches and locker rooms, branded and unbranded food service outlets, and dining facilities.

2. Term: February 1, 2008 ("Effective Date") through January 31, 2013.

3. Advertising Rights

(a) Account hereby grants to Bottler the exclusive right to advertise Beverages and specifically Products at the Facility and in connection with the Facility. No permanent or temporary advertising, signage or trademark visibility for Competitive Products will be displayed or permitted anywhere at the Facility.

(b) Account agrees that Bottler's advertising shall be positioned at all times in such a manner that the advertising message is in no way obscured (electronically or otherwise) and is clearly visible to the general public. The Products shall be prominently listed on any menu boards located at the Facility and all equipment dispensing Products shall be prominently identified with the appropriate trademarks/logos.

(c) Account further agrees that all Products will be dispensed in Approved Cups and that no other trademarked cups, coolers or containers will be permitted to be disbursed by the Account or its designee.

4. Sponsorship Rights

(a) Bottler will have the exclusive right to advertise the Products as the "Official" or "Exclusive" soft drink, sports drink, water, tea, energy drink and/or juice or juice drink, etc. of the Facility.

(b) Account hereby grants to Bottler a royalty-free license, exclusive for Beverages, to use the trademarks, logos and other intellectual property of the Account and Facility ("Account Marks") in connection with the promotion of Products. Such promotion may occur in advertising (TV, radio, and print), packaging, vessels, promotional materials, and point of sale materials for Products and may be in connection with the marks and logos of Bottler's customers.

(c) Account will not enter into any agreement or relationship whereby any Competitive Products are associated in any manner with Account, the Facility, or any of the Account Marks in any advertising or promotional activity of any kind.

5. Product Rights

(a) Account hereby grants to Bottler the exclusive right to sell or distribute Beverages at the Facility. Account and its concessionaires shall purchase all Products, Approved Cups, lids and carbon dioxide directly from Bottler. No Competitive Products may be sold, dispensed, sampled or served anywhere at the Facility.

(b) Account hereby grants to Bottler the exclusive Beverage vending rights at the Facility. Account agrees that Bottler shall have the right to place a minimum of one (1) Beverage vending machine in a mutually agreed upon location at the Facility.

(c) During the Term, Bottler will loan to Account, pursuant to the terms of Bottler's equipment placement agreement, at no cost, that Beverage dispensing equipment reasonably required and as mutually agreed upon to dispense Beverages at the Facility ("Equipment"). Account represents and warrants that electrical service at the Facility is proper and adequate for the installation of Equipment, and Account agrees to indemnify and hold Bottler harmless from any damages arising out of defective electrical services.

6. Permitted Exceptions. Notwithstanding anything in this Agreement to the contrary, the following exceptions to the exclusivity requirements contained herein shall be permitted during the Term:

(a) If Bottler is unable to supply any of its water Products to the Facility during a natural disaster or other emergency condition ("Emergency Event"), and the parties mutually agree that the water Products supply may be exhausted before Bottler replenishment, then Account may purchase water products from an alternative Beverage supplier during the period of non-supply only. For example, if the Facility is used as a distribution point for ice and water after an Emergency Event, Account shall first attempt to purchase all of its requirements for water from Bottler; however, if Bottler is unable to satisfy

the purchase order, then Account may purchase water from another source during the period of non-supply only.

(b) Bottler and Account acknowledge that athletic teams participating in tournaments at the Facility may be sponsored by or associated with manufacturers or distributors of Competitive Products. Such teams may make available Competitive Products for team players' personal consumption only, provided that: (i) such Competitive Products are made available only in non-public areas temporarily occupied by the team(s) during any such tournaments (e.g., sidelines, dugouts, locker rooms); (ii) no signage for any such Competitive Products is placed anywhere in public view at the Facility; and (iii) such Competitive Products are made available only for the duration of the tournament.

7. Consideration

(a) Scoreboards. Bottler shall pay the cost of purchasing six (6) LED wireless baseball scoreboards (the "Scoreboards"), up to a total amount of Twenty-four Thousand Dollars (\$24,000), including the freight and delivery charges. Bottler shall not be responsible for any costs incurred for installation of the Scoreboards (e.g., electrical costs). Account shall be responsible for the installation, maintenance and operating costs (including but not limited to utility charges) of the Scoreboards. The Scoreboards shall be the property of the Account, and Account shall pay all taxes and permit and license fees associated with the erection, use or ownership of the Scoreboards. **THE PROVISION OF THE SCOREBOARDS IS ON AN "AS IS" BASIS. BOTTLER HEREBY DISCLAIMS ANY AND ALL EXPRESS AND IMPLIED WARRANTIES, INCLUDING WITHOUT LIMITATION THOSE OF MERCHANTABILITY AND FITNESS FOR INTENDED USE, AND BOTTLER SHALL NOT BE LIABLE FOR CONSEQUENTIAL, INCIDENTAL OR INDIRECT DAMAGES.**

(b) Commissions. Bottler agrees to pay Account commissions on vending sales of Products at the Facility based on the commission rates and initial vend prices set forth in Exhibit A.

(c) Pricing. Account shall be entitled to purchase bottle/can Products from Bottler in accordance with the initial price schedule set forth in Exhibit B. Any changes in pricing due to market-wide increases shall be submitted in writing to Account thirty (30) days prior to such price changes taking effect. Bottler may offer tiered pricing that requires Account to order certain quantities to get the contractual price or may charge a delivery fee if such minimums are not met.

(d) Additional Consideration. Bottler agrees to provide Account with those items listed on Exhibit C.

(e) If, during the Term, Account elects to contract with a third party concessionaire or food service operator that has entered into a separate agreement with Bottler and/or The Coca-Cola Company, the parties acknowledge that there will be no duplication of allowances, funding or benefits (including pricing) to Account and/or such third party. Therefore, in such event, Bottler is not obligated to pay any further consideration to Account or such third party pursuant to any terms of the pre-existing agreement for Products purchased and/or sold under this Agreement.

8. Termination

(a) If Account breaches any of its obligations set forth in this Agreement, then at its option and not as its sole remedy, Bottler may terminate this Agreement, and Account shall (i) return any Equipment,

(ii) pay to Bottler a pro rata portion of the costs of refurbishing and installing the Equipment, and (iii) pay to Bottler a pro rata portion of the amount Bottler has invested in the purchase of the Scoreboards.

(b) Notwithstanding the other provisions of this Agreement, if any federal, state or local law, rule, regulation or order prohibits, restricts or in any manner interferes with the sale or advertising of Beverages at any time during the Term of this Agreement or if for any reason the use of the Facility declines, then at its option and not as its sole remedy, Bottler may terminate this Agreement and Account shall (i) return any Equipment, (ii) pay to Bottler a pro rata portion of the costs of refurbishing and installing the Equipment, and (iii) pay to Bottler a pro rata portion of the amount Bottler has invested in the purchase of the Scoreboards.

(c) Account represents and warrants that it has full right and authority to enter into this Agreement and to grant and convey to Bottler the rights set forth herein. Upon expiration or revocation of such authority, then at its option and not as its sole remedy, Bottler may terminate this Agreement, and Account shall (i) return any Equipment, (ii) pay to Bottler a pro rata portion of the costs of refurbishing and installing the Equipment, and (iii) pay to Bottler a pro rata portion of the amount Bottler has invested in the purchase of the Scoreboards.

(d) Bottler shall have the right to withhold and not pay further any amounts which may become payable to Account pursuant to this Agreement if: (i) Account has failed to perform its obligations hereunder, (ii) Bottler's rights hereunder have been lost, limited or restricted, or (iii) there exists a bona fide dispute between the parties.

(e) Nothing in this section shall operate to restrict any of Bottler's other remedies in the event of a material breach by Account.

9. Governing Law

This Agreement and any dispute arising out of or relating to this Agreement shall be governed by and construed in accordance with the laws of the State of Florida, without reference to its conflict of law rules.

10. Compliance with Law

Each of the parties hereto agrees that it will, in its performance of its obligations hereunder, fully comply with all applicable laws, regulations and ordinances of all relevant authorities and shall obtain all licenses, registrations or other approvals required in order to fully perform its obligations hereunder.

11. Retention of Rights

Account shall not obtain, by this Agreement, any right, title or interest in the trademarks of The Coca-Cola Company or Bottler, nor shall this Agreement give Account the right to use, refer to, or incorporate in marketing or other materials the name, logos, trademarks or copyrights of Bottler or The Coca-Cola Company.

12. Confidentiality

The terms and conditions of this Agreement are acknowledged by the parties hereto to be confidential and the parties agree not to share the contents hereof with any other party without the

express written consent of the other party; provided, however, a party may disclose the relevant terms of this Agreement to the extent required by applicable federal, state or local law, regulation, court order, government investigation or other legal process, provided the disclosing party has given the other party prior notice of such disclosure.

13. Entire Agreement.

This Agreement and its exhibits contains the entire agreement between the parties with respect to the subject matter hereof. This Agreement may not be assigned without the prior written consent of all parties. All amendments to or waivers of this Agreement must be in writing signed by all the parties.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the date first above written.

BOTTLER

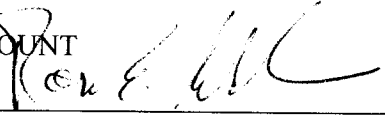
By: _____

Printed Name: _____

Title: _____

Date: _____

ACCOUNT

By:  _____

Printed Name: Ron E Williams

Title: Village Manager

Date: 3-7-08

EXHIBIT A
COMMISSIONS

<u>Product</u>	<u>Vend Price</u>	<u>Commission Rate</u>
20 oz. carbonated/Nestea	\$1.25	10%
16 oz. Energy Drinks	\$2.50	10%
20 oz. Powerade®	\$1.50	10%
20 oz. Dasani® Regular	\$1.25	10%
20 oz. glacéau® vitaminwater	\$1.50	10%

Commissions are paid based upon cash collected, after deducting taxes, deposits, recycling fees, other government-mandated fees, communication charges and debit and credit card fees, if any. Commissions shall not be payable on any sales from vending machines not filled or serviced exclusively by Bottler. Bottler may adjust the vend prices and/or commission rates as necessary to reflect changes in its costs, including cost of goods. Commissions will be paid annually, in arrears, following the year in which they are earned, with an accounting of all sales and monies in a form reasonably satisfactory to the Account, and shall become immediate property of Account.

EXHIBIT B
INITIAL PRICE SCHEDULE

<u>Package</u>	<u>Price per case</u>
12 ounce cans (carbonated, except Enviga)	\$ 8.16
20 ounce bottles (carbonated)	\$18.24
20 ounce bottles (Powerade)	\$17.52
20 ounce bottles (Dasani Regular)	\$ 9.00
16 ounce can (Full Throttle®)	\$32.00
16 ounce can (Rockstar®)	\$32.00
8.4 ounce can (Rockstar)	\$24.00
20 ounce bottle (glaceau vitaminwater)	\$24.96
12 ounce bottle (glaceau vitaminwater)	\$19.68

<u>Post-Mix Syrup</u>	<u>Price per Box</u>
5 gallon Bag-in-Box (BIB)	\$51.20
2.5 gallon BIB	\$26.65

<u>Approved Cups</u>	
12 ounce	\$53.00 per 2,000
16 ounce	\$35.00 per 1,000
24 ounce	\$42.00 per 1,000
32 ounce	\$29.00 per 480
44 ounce	\$37.00 per 480

<u>Lids</u>	
12 ounce	\$32.00 per 2,000
16 ounce	\$32.00 per 2,000
24 ounce	\$32.00 per 2,000
32 ounce	\$24.00 per 480
44 ounce	\$29.00 per 480

C02

20 lb. cylinder	\$20.00 per cylinder (plus deposit)
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EXHIBIT C
ADDITIONAL CONSIDERATION

- A maximum of one hundred fifty (150) standard physical cases of complimentary 500 ml bottled Dasani water each year, with an annual estimated retail value of One Thousand Five Hundred Dollars (\$1,500), as determined in good faith by Bottler, to be used for special events at the Facility. Account must request all available complimentary Product during the course of each calendar year. If Account does not request all available complimentary Product by the end of each calendar year, then any complimentary Product remaining at the end of each calendar year shall be retained by Bottler with no further obligation.
- A maximum of six (6) Coca-Cola® trademarked banners each year of the Agreement to be used at Account's discretion.

Attachment B



1.888.222.7515

ABOUT US

ORDERING

SUPPORT

GET A CATALOG

GET A QUOTE

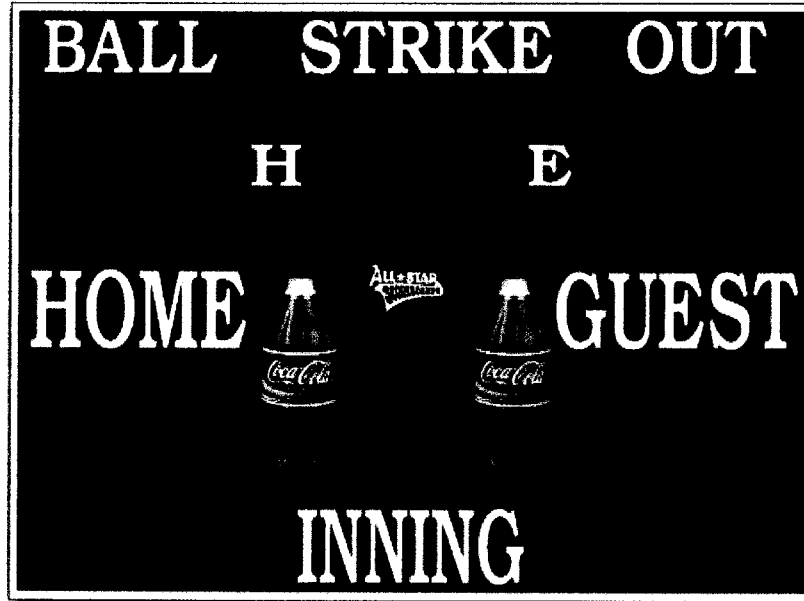
SELECT A SPORT

- BASEBALL/SOFTBALL
- BASKETBALL
- FOOTBALL
- SOCCER
- HOCKEY
- MULTISPORT PORTABLES

BASEBALL/SOFTBALL SCOREBOARDS

ALS-375LED

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Popular baseball/softball model features ALL of the main scoring information in a compact, attractive cabinet. Team Scores, Inning, Ball, Strike and Out are shown in large 20" red superbright 100,000-hour rated LED displays for maximum visibility. Hit and Error features are displayed with bright red LED bullseye indicators. The state-of-the-art powder-coat finish on an 18-gauge galvanized steel cabinet makes this scoreboard unequal in terms of durability and lasting appearance. Our large variety of popular colors ensures that we have the perfect scoreboard for your organization! Scoreboard package includes: operator's keyboard, bottler sponsor logos, digit protective shields, junction box cover (cable models only), mounting rails and a complete operation, installation and service manual. 5-YEAR LIMITED WARRANTY.

Size: 8' x 6' x 8"
Hanging Weight: 350 lbs.

Popular Options: Wireless Remote Control System, Sponsor Panel(s)

