

C7 AC A RESOLUTION OF THE MAYOR AND CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA, APPROVING AND AUTHORIZING THE MAYOR AND CITY CLERK TO EXECUTE AMENDMENT NO.6 TO THE AGREEMENT BETWEEN THE CITY OF MIAMI BEACH, FLORIDA AND A NATIONAL SALUTE TO AMERICA'S HEROES, LLC, FOR THE HYUNDAI AIR AND SEA SHOW EVENT SCHEDULED TO TAKE PLACE ON MEMORIAL DAY WEEKEND OF 2025, 2026, AND 2027 (EACH AND "ANNUAL SHOW"); WHICH AMENDMENT NO.7 SPECIFIES THE TERMS AND CONDITIONS FOR THE ACTIVATION OF EACH ANNUAL SHOW, INCLUDING THE CITY'S PAYMENT OF A MAXIMUM CONTRIBUTION OF \$350,000 FOR EVENT RELATED CITY SERVICES FOR EACH ANNUAL SHOW, AND CITY'S WAIVER OF SPECIAL EVENT FEES, LUMMUS PARK USER FEES, AND SQUARE FOOTAGE FEES FOR EACH ANNUAL SHOW.

MIAMI BEACH

COMMISSION MEMORANDUM

TO: Honorable Mayor and Member of the City Council

FROM: Interim City Manager Rickelle Williams

DATE: June 26, 2024

TITLE: A RESOLUTION OF THE MAYOR AND CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA, APPROVING, IN SUBSTANTIAL FORM, AMENDMENT NO. 6 TO THE AGREEMENT BETWEEN THE CITY AND A NATIONAL SALUTE TO AMERICA'S HEROES, LLC DATED FEBRUARY 1, 2016, SAID AMENDMENT EXTENDING THE TERM OF THE AGREEMENT TO INCLUDE THE HYUNDAI AIR AND SEA SHOW EVENTS SCHEDULED TO TAKE PLACE DURING MEMORIAL DAY WEEKEND IN 2025, 2026, AND 2027 (EACH AN "ANNUAL SHOW"), INCLUDING THE CITY'S MAXIMUM CONTRIBUTION OF \$350,000 IN EVENT-RELATED CITY SERVICES FOR EACH ANNUAL SHOW AND CITY'S WAIVER OF SPECIAL EVENT FEES, LUMMUS PARK USER FEES, AND SQUARE FOOTAGE FEES FOR EACH ANNUAL SHOW AS ESTABLISHED BY THE CITY FROM TIME TO TIME; AND FURTHER, AUTHORIZING THE CITY MANAGER AND CITY CLERK TO EXECUTE THE AMENDMENT.

RECOMMENDATION

The Administration recommends the adoption of the Resolution.

BACKGROUND/HISTORY

On February 1, 2016, the City and A National Salute to America's Heroes, LLC, a Florida limited liability company ("Producer"), executed an Agreement with respect to the production of an annual Air & Sea show event (each, an "Event" or "Annual Show").

On April 26, 2017, the Mayor and City Commission discussed agenda item R9 AL, entitled "Discussion Regarding Memorial Day Air & Sea Show" and adopted Resolution No. 2017-29848, approving the waiver of special event permitting fees for the 2017 Annual Show, (Amendment No. 1 to the Agreement).

On July 26, 2017, the Mayor and City Commission discussed agenda item R9 J, entitled "Discussion Regarding whether to Continue the Air & Sea Show for the 2018 Memorial Day Weekend (May 26, 2018 through May 27, 2018), and if so, Whether the City Commission Should Terminate the City's Existing Agreement with the Event Organizer for Convenience, and Authorize the Administration to Renegotiate and Clarify terms (Such as those relating to City's Financial Contribution for Certain Event-Related Expenses)" and declined to exercise the City's right pursuant to Section 20(a) of the Agreement to discontinue the Event, and agreed to permit the 2018 Annual Show, based upon the same scope as the 2017 Annual Show.

Resolutions – C7 AC

On October 18, 2017, the Mayor and City Commission discussed agenda item R9 J, entitled “Discussion of an Amendment to the Air & Sea Show Agreement which would allow the Event Producer to Expand the Show to Run from 10:00 AM – 9:30 PM, including Two Major Televised Concert Performances and a Fireworks Display on both Saturday and Sunday Evenings; and to Discuss a Potential Increase in City Resources to Support the Larger Production” and approved the terms and conditions for the 2018 Annual Show activation and the City's waiver of special event permit fees, in the amount of approximately \$154,000, and contribution for Event-related Public Services (Police, Fire, Ocean Rescue and Sanitation, in the maximum amount not-to-exceed \$350,000, memorialized in Amendment No. 2 to the Agreement.

On February 14, 2018, the Mayor and City Commission authorized additional funding to the Producer, in the maximum not-to-exceed amount of \$250,000, to produce a concert to take place during the 2018 Annual Show. This was subsequently memorialized in Amendment No. 3 to the Agreement.

On July 2, 2018, the Mayor and City Commission discussed agenda item R9 A, entitled “Discussion Regarding the 2018 National Salute to America’s Heroes Air & Sea Show and City-Funded Concert” and directed the Administration to negotiate revisions to the Agreement for the 2019 Annual Show activation, and further specified that no City funding would be provided for any concert that may be produced in conjunction with the 2019 Annual Show.

Resolutions - C7 AC

On September 21, 2018, the Mayor and City Commission adopted Resolution No. 2018-30509, approving the terms and conditions for the activation, and City's sponsorship of, the 2019 Annual Show (and each annual show for the remainder of the Agreement's term), to take place May 25-26, 2019, including City's payment of a maximum not-to-exceed amount of \$350,000 for Event-related public services, as well as City's waiver of special event permit fees estimated totaling \$154,062. This was memorialized in Amendment No. 4.

Due to the COVID-19 pandemic, on or about April 6, 2020, in consultation with the Producer, the City exercised the force majeure provision of the Agreement and cancelled the 2020 Annual Show.

On April 22, 2020, the Mayor and City Commission adopted Resolution No. 2020-31231, approving Amendment No. 5 to the Agreement with A National Salute to America's Heroes, LLC, for the Annual Shows, scheduled to take place on the Memorial Day Weekends of 2021, 2022, and 2023. The Amendment specified the terms and conditions for the activation of each Annual Show, including City's payment of a maximum contribution of \$350,000 for Event-related public services (for each Annual Show), plus City's waiver of special event permit fees, user fees, and square footage fees (for each Annual Show).

Thereafter, the Producer advised the City that, due to the cancellation of the 2020 Air & Sea Show, it understood that the Amendment No. 5 extension would include the 2024 Annual Show. However, Resolution No. 2020-31231 only specifically approved the 2021- 2023 Annual Shows. On April 29, 2021, the Mayor and City Commission adopted Resolution No. 2021-31673, authorizing an amendment to the Agreement, permitting the Producer to have the Air & Sea Show during Memorial Day 2024, based upon the same terms and conditions as applicable to the 2021-2023 Annual Shows.

ANALYSIS

Since the inaugural 2017 Annual Show, the Air and Sea Show, whose slogan is "The Greatest Show Above the Earth," has been a significant event in the Art Deco Cultural District during Memorial Day Weekend. For the last eight years, the Annual Show has provided a safe and enjoyable environment for families, showing our appreciation for the men and women of our military and first responders, and has been a highlight for both Miami Beach residents and visitors.

The two-day event takes place in the heart of Miami Beach, specifically in Lummus Park and the beachfront between 10 and 14 Streets. It features offshore activations, including Cigarette offshore powerboat racing on the sea and awe-inspiring displays of cutting-edge military technology in the sky, such as jet demonstrations and parachute teams. In Lummus Park, the Florida Power & Light Patriot Display Village, located between 10 -14 Streets, includes motocross performances, military equipment displays, food vendors, and the Nicklaus Children's Hospital Kids Zone.

For the 2024 Annual Show, the Producer partnered with the Ocean Drive Association and the Miami Beach Classical Music Festival to present the "Music Explosion," a patriotic 3D projection mapping display with musical performances along 14 Street and Ocean Drive culminating with a fireworks display.

At the Annual Show's Media Event on Friday, May 24, 2024, Hyundai announced it was extending its sponsorship for three (3) years until May 2027. The 2024 Annual Show was the last activation approved through Amendment No. 5 of the Agreement with the City via Resolution No. 2021-31673.

The Annual Shows have proven to be a positive activation for the City in the last eight (8) years, and the Producer has demonstrated to be a good partner in good standing; the Administration is supportive of amending the Agreement to run concurrently with the Hyundai sponsorship for an additional three (3) years to include 2025, 2026, and 2027. The Annual Shows have proven to be

Resolutions – C7 AC

a positive activation for the City in the last eight (8) years, and the Producer has demonstrated to be a good partner in good standing; the Administration is supportive of amending the Agreement to run concurrently with the Hyundai sponsorship for an additional three (3) years to include, 2025, 2026, and 2027.

FISCAL IMPACT STATEMENT

The fiscal impact is a maximum of \$350,000 in City services, and waiver of special event fees, Lummus Park user fees, and square footage fees.

Does this Ordinance require a Business Impact Estimate? (FOR ORDINANCES ONLY)

The Business Impact Estimate (BIE) was published on . See BIE at:
<https://www.miamibeachfl.gov/city-hall/city-clerk/meeting-notices/>

FINANCIAL INFORMATION

Funding is allocated in the Resort Tax Fund 160-0380-000349-25-406-548-00-00-00-

CONCLUSION

The Administration recommends approving, in substantial for, Amendment No. 6 to the Agreement, a draft copy of which is attached hereto; said amendment extending the term of the Agreement to include the Hyundai Air and Sea Show event, scheduled to take place on Memorial Day Weekend of 2025, 2026, and 2027 (each an "Annual Show"), including the City's payment of a maximum contribution of \$350,000 for Event-related City services for each Annual Show, and the City's waiver of special event fees, Lummus Park user fees, and square footage fees for each Annual Show, as determined by the City from time to time; and further authorizing the Mayor and City Clerk to execute the Amendment.

Applicable Area

South Beach

Is this a "Residents Right to Know" item, pursuant to City Code Section 2-17?

Yes

Is this item related to a G.O. Bond Project?

No

Was this Agenda Item initially requested by a lobbyist which, as defined in Code Sec. 2-481, includes a principal engaged in lobbying? No

If so, specify the name of lobbyist(s) and principal(s):

Department

Tourism and Culture

Sponsor(s)

Resolutions – C7 AC

Co-sponsor(s)

AGREEMENT

THIS AGREEMENT is entered into on this 1 day of February, 2016,
between

THE CITY OF MIAMI BEACH, a municipal corporation of the State of Florida,
hereinafter referred to as "City",

and

A National Salute to America's Heroes, LLC, a Florida Limited Liability Company
hereinafter referred to as "Applicant".

WHEREAS, Applicant has requested approval from the City to conduct its aircraft flight demonstration and aquatic show, with ancillary activities such as entertainment, exhibits, souvenir sales, and refreshment sales (hereinafter referred to collectively as the "Air and Sea Show" or the "Event").

WHEREAS, City has been advised that, due to the scope and magnitude of the proposed Air and Sea Show, Applicant desires a contract with City for an initial term of five (5) years, so that Applicant can appropriately plan the commitment of resources, sponsors, subcontractors and finances.

WHEREAS, City recognizes that the Event is a unique branded event requiring significant capital and time investment and, as such, is willing to enter into this agreement with Applicant, subject to the terms and conditions contained herein.

NOW, THEREFORE, in consideration of the mutual promises and covenants contained in this Agreement, and other good and valuable consideration, the receipt and adequacy of which are acknowledged, the parties agree as follows:

1. RECITALS INCORPORATED. The foregoing recitals are incorporated herein by reference.
2. DEFINITIONS. For the purposes of this Agreement, the Definitions set forth below are agreed upon by the parties:
 - a. "Agreement*" means this Agreement between the City and Applicant, including all of the attached and/or referenced Exhibits, as the same may be amended from time to time, in writing, signed by both parties, and with any such amendment, as to the City, further subject to the approval of the Mayor and City Commission.
 - b. "Applicant" means A National Salute to America's Heroes, LLC, a Florida Limited Liability Company authorized to do business in the State of Florida.
 - c. "City" means the City of Miami Beach, Florida, a municipal corporation of the State of Florida.

- d. "Contract Administrator" means, as to City, the City Manager or his designee and, as to Applicant, the Manager of A National Salute to America's Heroes, LLC, or his/her designee. In the day to day oversight and administration of this Agreement, and except where otherwise provided herein, the parties may rely upon instructions or determinations made by the respective Contract Administrators. The Contract Administrators may not make any change to this Agreement without the approval of a written amendment to this Agreement, executed by City and Applicant and, as to City, further subject to the prior approval of the Mayor and City Commission.
- e. "City Manager" means the City of Miami Beach's City Manager.
- f. "City Commission" means the City of Miami Beach City Commission.
- g. "Event Impact Areas" means the areas outside of the Event Site that are directly impacted by the Event. The Event Impact Areas shall be determined by the City Manager, in his sole discretion; provided, however, that the City Manager may (but shall not be obligated to) consult with Applicant prior to making his determination. In the event of a disagreement between Applicant and the City regarding the Event Impact Areas, the City Manager's decision shall be final and binding upon the parties as to the determined Event Impact Areas.
- h. "Event Period" means the dates of Memorial Day Weekend annually and throughout the Term of this Agreement. The Air and Sea Show shall take place on Memorial Day Weekend over a three-day period beginning on a Friday and ending on a Sunday. The Applicant may utilize the Thursday immediately preceding the Event Period as a practice day for performers and equipment utilized during the Event. No concessions or hospitality tents shall be operating or open during the practice day. The Event Period may be revised upon the mutual consent of the City and the Applicant, and, if revised, any new Event Period shall be memorialized as a formal written amendment to this Agreement, which shall be further subject to approval by the City Commission.
- i. "Breakdown" shall mean the use of heavy equipment, machinery or vehicles in the deconstruction of the Event structures.
- j. "Event Site" means the area within the City used to hold the Event and shall generally refer to the area east of Ocean Drive, from 5th Street – 15th Street, limited by the waterline and the Maintenance of Traffic ("MOT") Plan. The Event Site is more specifically described in Exhibit "A" hereto.
- k. "Maintenance of Traffic Plan" or "MOT Plan" shall have the meaning given to such term in Section 6.
- l. "Public Safety Plan" shall have the meaning given to such term in Section 5.
- m. "Repair" shall mean any work (including all third party labor, supplies, materials and equipment) reasonably necessary to repair, restore, or replace any property, equipment, building, structure, or any other component within the Event Site, if such work is necessitated by any damage or destruction caused by the acts or omissions of the Applicant and/or its employees, contractors, subcontractors, agents, concessionaires, licensees, or invitees.

- n. "Restricted Event Area" shall mean the restricted area located within the Event Site utilized by Applicant for command and control, landing zone, operations, and hospitality.
- o. "Event Site Plan" shall have the meaning given to such term in Section 4.
- p. "Term" shall have the meaning given to such term in Section 20.

3. **PERMISSION TO USE,** Subject to the terms and conditions in this Agreement, Applicant shall be permitted to use the Event Site in order to conduct the Air and Sea Show. The right to use the Event Site shall not imply that the Applicant is permitted to close streets and transportation corridors that are defined as part of the Event Site, unless such closures are approved, in writing, by the City Manager, in his sole discretion.

The City Manager shall have the right to pre-approve all promotional materials, advertising and signage for the Event, which approval shall not be unreasonably withheld. If, upon review, the City Manager denies the use of certain promotional materials, advertising, or signage, the Applicant shall promptly discontinue the use of, and/or otherwise remove, such promotional materials, advertising or signage.

Applicant agrees to list the City of Miami Beach as a co-sponsor of the Event on all approved promotional materials, advertising and signage for the Event.

The parties agree that alcohol shall only be permitted in the Restricted Event Area. Applicant's alcohol sales, use, and consumption during the Event shall be governed in accordance with all applicable provisions of the City of Miami Beach Code and Florida law, as may be amended from time to time.

4. **CITY SPECIAL EVENT PERMIT APPLICATION:** Not less than one hundred twenty (120) days prior to the first day of each Event Period during the Term, Applicant shall complete and submit a Special Event Application and provide the City with the following:

- a. The Event Site Plan depicting, at a minimum, all locations that will be designated for Applicant's exclusive use (including, without limitation the Restricted Event Area): detailing the locations of any tents, sanitary facilities, parking, stages, booths, concessions, alcoholic beverage service areas, etc.; and the boundary lines, including those down to the waterline (as allowed by law), of any fences, barriers, etc. to be constructed at the Event Site. The Event Site Plan shall be subject to the review and approval by the appropriate City departments. After review by the appropriate City departments, the final proposed Event Site Plan shall be subject to the review and final written approval of the City Manager. A final inspection will be conducted by the City immediately prior to the Event to ensure that the location of all tents, booths, sanitary facilities, parking, stages, etc. are in accordance with the City approved Event Site Plan. The City approved Event Site Plan shall be incorporated into this Agreement as Exhibit "D" hereto.
- b. A description of all activities and events to occur at the Event Site, (including, without limitation, the Restricted Event Area).

- c. The cellular and business phone numbers of the individuals in charge of the various aspects of the Event.
- d. Copies of all appropriate permits and licenses required by the City. These permits include, but are not limited to, permits necessary for tents and other structures, merchandise, food and beverage vendors, and electrical connections.
- e. All sponsors of the Event, and/or all goods and services to be promoted, distributed, sold, or given away must have the prior written approval of the City Manager, which approval, if given at all, shall be at the City Manager's sole discretion.
- f. Applicant shall provide any other deliverable(s) required by the City Manager, whether same is required pursuant to the City's Special Event Rules and Regulations, which are attached and incorporated as Exhibit "___" hereto, or whether required in order to safeguard and ensure the health, safety, and welfare of the City's residents and visitors during the Event Period.
- g. Applicant acknowledges that other events and activities will take place within the City of Miami Beach during the Event Period each year, as the Event Period includes the Memorial Day holiday weekend, a historically busy weekend within the City of Miami Beach. Accordingly, Applicant's Event schedule, program, and activation shall be coordinated with the City, so as to ensure the health, safety and welfare of City's residents and visitors during the Event Period, and minimal disruption or interruption of other activities or events taking place within the City of Miami Beach during the Event Period.

5. **PUBLIC SAFETY PLAN FOR THE EVENT.** Because of the physical size of the Event and the number of people that may attend, City shall arrange for such necessary personnel, at City's expense, and in such type, manner and number, as may be determined by the City Manager, in his sole discretion and judgement, to ensure the appropriate level of public safety at the Event Site and Event Impact Areas, excluding the Restricted Event Area, which shall be provided at Applicant's expense. The parties may consult with each other in regard to the levels of security, including the scaling down of such services for the set up and tear down of the Event.

- a. The Applicant shall provide a Public Safety Plan for the City Manager's review and approval, no later than one hundred and twenty (120) days prior to the date of each Event Period. This Public Safety Plan shall include, but not be limited to, the Applicant's planned actions to respond to and mitigate various potential criminal and/or emergency incidents which may occur during the Event. After receiving the Public Safety Plan from the Applicant, the City Manager shall work with the Applicant in order to properly determine the number of personnel necessary to effectively and efficiently carry out the Public Safety Plan. The City and Applicant shall develop an anticipated budget for the Public Safety Plan. The City Manager shall have the absolute sole right and discretion to approve the Public Safety Plan, including any revisions or adjustments thereto. In the event of a disagreement(s) between Applicant and the City regarding the number of personnel required for the Public Safety Plan, and/or the anticipated budget of the Public Safety Plan, the City Manager's decisions shall be final. The final City-approved Public Safety Plan shall be attached and incorporated as Exhibit "B" to this Agreement.

- b. Applicant shall make arrangements with the appropriate City department(s) to provide Police, Fire, Ocean Rescue protection. These arrangements must be reviewed and approved by the City Manager.
- c. The parties will act in good faith to keep the other party notified of the latest information and any new developments or incidents that might cause additional public safety personnel to be deployed to the Event.
- d. In addition to the City-approved Public Safety Plan, the City's Police and Fire Departments will author separate comprehensive Incident Action/Operational Plans specific to their respective duties. Such plans will take into consideration several factors, to include nationally accepted event planning and management guidelines utilizing the National Incident Management System (NIMS) and the Incident Command System (ICS). These plans will be fluid up until the conclusion of the Event and may change based on real time intelligence, threat information, and other such inputs. Local representatives and agents from the Federal Bureau of Investigation (FBI) Special Events Unit, the Department of Homeland Security (DHS), Navy Criminal Investigative Service (NCIS), and other public safety partners will assist in determining the level and magnitude rating of the Event, advise of any potential national security considerations, and provide intelligence gathering and Event threat assessment assistance. Due to the sensitive security and safety implications of such plans, they will be kept confidential, accessible to City officials, Police/Fire personnel and Applicant only, and shall not be available for public or media distribution.
- e. The cost of any expansion of Event-related activities, boundaries or other Event program changes requested by Applicant, or the costs for additional services requested by Applicant, including, without limitation, public safety-related services that are greater than the services being provided by the City for the Event as established in the Public Safety Plan, shall be at the sole expense of Applicant. City shall be paid or reimbursed for all costs and expenses associated with any such additional or expanded services provided to Applicant, with all such costs being accounted for and paid separately from the provisions of Section 17 of this Agreement, which shall not apply with respect thereto. Expansion of services means enhancements of Event-related activities or programming, any changes in the type of activities approved for the Event, or other changes with respect to the Event that are initiated by or are requested by Applicant, including changes to the physical location and boundaries that result in an increase in the City's cost to provide all necessary services.
- f. Should Applicant request non-critical public safety services, such as a police escort, or if such services are beyond the City's ability to provide, Applicant may make such arrangements and coordinate these services with the City. The cost for these additional services shall be an expense to Applicant, and all such costs and expenses shall be paid to City within the time frame set forth in Section 17.
- g. In the event of an emergency or disaster during the Event, at the Event Site, or as a direct result of Event activities, that requires public safety resources beyond the City approved Public Safety Plan, it shall be the sole responsibility of the Applicant to reimburse the City for its additional cost to respond to such emergency or disaster. This paragraph shall not apply to any natural disaster, act of terrorism, or act of God that may occur at the Event Site during the Event including, without limitation, a hurricane, lightning strike, tornado, or any other such causes whatsoever beyond the control of the parties.

- h. In the event the Applicant wishes to utilize temporary mobile cellular communication service boosting) towers, which can also benefit public safety by increasing the E-911 capabilities of the specific service provider, the Applicant must notify the City Police and Fire Departments and agrees that the contracted equipment provider with whom they procure such equipment, services etc. will work closely with the City Radio Engineers to confirm the temporary towers will not interfere with the City or County public safety radio frequencies.

6. **STREET CLOSINGS:** The City Manager reserves the right, at his sole discretion, to approve all closing of streets, including those streets and transportation corridors within the Event Site.

- a. Not less than one hundred and twenty (120) days prior to the date of each Event, Applicant shall provide to the City a MOT Plan for the City Manager's review and approval. The City approved MOT Plan shall be incorporated into this Agreement as Exhibit "C," and shall contain a construction and automotive and pedestrian traffic flow schedule detailing the opening and closing times for all streets and/or transportation corridors. No street or transportation corridor closures will be permitted unless included in the City approved MOT Plan. Applicant agrees to provide the City with emergency access to all areas included in the Event Site.
- b. Applicant agrees to coordinate and make the appropriate arrangements with any merchants or residents affected by any street or transportation corridor closures to ensure they are provided sufficient and reasonable access to their businesses and residences. Applicant acknowledges that traffic control plans shall accommodate the ingress and egress to businesses or residences during the course of the Event.

7. **PARKING AND TRANSIT SERVICES:** It will be the responsibility of Applicant to arrange, coordinate, and pay for all parking at City facilities and any transit services from these facilities to the Event Site. All proposed shuttle routes and bus stops shall be submitted by Applicant, as part of the MOT Plan. City agrees to invoice Applicant at the approved Special Event Parking Rate for any public metered parking spaces that are removed from public use (as requested by the Applicant and approved by the City Manager). All parking lot requests must be in writing at least ninety (90) days in advance of the Event. An estimate of parking charges will be provided to Applicant no more than fourteen (14) days after receiving written requests. Applicant understands that the approved Special Event Parking Rate is a daily rate and may not be prorated.

8. **MAINTENANCE OF EVENT SITE AND EVENT IMPACT AREAS:**

- a. Applicant shall be responsible for, and shall provide, sufficient temporary public sanitary facilities so as to meet the requirements established by the City Manager. Applicant shall provide daily service of the facilities at all times during the Event Period. The cost of such temporary public sanitary facilities shall be an expense to Applicant, whether such facilities are furnished by Applicant or City. If any such facilities are furnished by City, all costs and expenses shall be paid to City within the time frame as set forth in Section 17. Applicant shall not be responsible to pay for clean-up of City public rest room facilities.
- b. The City shall be responsible for all clean-up costs and expenses associated with the removal of trash and debris that accumulates within the Event Site or in the designated Event Impact Areas, provided, however, that Applicant shall be responsible for all

clean-up costs and expenses associated with the removal of trash and debris that accumulates on any portion of the Restricted Event Area. All trash shall be collected and removed throughout the Event with final clean-up being completed within 24 hours of the Event completion. The requirement to remove trash and debris includes street sweeping.

- c. Applicant shall provide all day access passes to the necessary City staff required to work the Event. Applicant and City will agree to the list of passes that will be distributed for the Event at least ten (10) days prior to the Event. Additionally, Applicant shall provide an operations tent to be utilized by the City Manager during the Event days. Location of this operations tent shall be determined by the City Manager.

9. CONSTRUCTION OF FACILITIES, STRUCTURES, CANOPIES, TENTS AND CONCESSION STANDS;

- a. Applicant shall be permitted to construct and maintain, within the Event Site, such facilities and/or structures that are approved for the Event as part of the Event Site Plan. All such facilities and/or structures shall be erected, and deliveries with respect thereto made, on agreed-upon dates after consultation with the City's Special Event staff.
- b. Applicant shall be permitted to set up no later than the Monday prior to the Event. All such facilities and/or structures must be removed within seventy-two (72) hours following the conclusion of the Event.
- c. Applicant shall obtain approval by the City Fire Department and file with its Special Event Permit application evidence that any facilities and/or structures are of fireproof material and will not constitute a fire hazard. City's Building Department must review and approve the proposed use of any facilities and/or structures, in accordance with the City Code and the Florida Building Code, as same may be amended from time to time.
- d. All construction, installations and services, including electrical hook-ups, shall be made at Applicant's expense and approved in advance by the City's Building Department. If electricity is required, Applicant shall negotiate arrangements for such service with the City or a licensed contractor. This cost shall be an expense to Applicant and, if furnished by City, shall be paid to City within the time frame as set forth in Section 17, Reimbursement of Costs and Expenses.
- e. Unless Applicant receives prior written permission from the City Manager, no construction or installations shall involve the use of stakes or other material that may break the surface or deface any infrastructure such as asphalt, concrete, brick or any plant material.
- f. Applicant is required to provide and install Event-related signage, including directional, general messaging, concession stands, and sponsor-related signage, at locations subject to the City Manager's approval. Applicant will set up and remove such signage, at no cost to the City.

10. MAINTENANCE OF AND PAYMENT FOR DAMAGE TO PROPERTY: Regardless of the cause, Applicant shall be responsible for any damage to any and all property located or situated within the Event Site (including, without limitation, the Restricted Event Area). It is further agreed that City shall inspect the Restricted Event Area and Event Site for damage no later than the Wednesday immediately following the Event and, if as a result of said inspection, damage is found to exist, City shall furnish Applicant with a written report of such damage by the close of business within fourteen (14) days following the Event. The report shall state the cost to be paid by Applicant to remedy the damage. This cost shall be paid by Applicant within fourteen (14) days after Applicant receives the City's report.

11. SECURITY: All construction materials, equipment, goods, signs and any other personal property of Applicant shall be protected and/or secured solely by Applicant. Applicant acknowledges and agrees that City assumes no responsibility whatsoever for any such item(s) and that the security and protection of any such item(s) from theft, vandalism, the elements, acts of God, or any other cause, are strictly the responsibility of Applicant.

12. SUBLEASES ASSIGNMENTS, OR TRANSFERS: Applicant shall not assign, sublease or transfer any of its obligations or rights under this Agreement, in whole or in part, to any person. The foregoing notwithstanding, the City acknowledges that Applicant will have subcontractors providing services to Applicant in order for Applicant to effectuate this Agreement and the hiring of such subcontractors shall not be a violation of this paragraph.

13. LICENSES AND PERMITS; COPYRIGHTS, PATENTS AND TRADEMARKS: At least fifteen (15) days prior to the Event, Applicant agrees to secure and pay for all licenses, permits or other governmental approvals that may be required by any governmental agency having jurisdiction over the Event Site or any aspect of the Event, including, without limitation, any approval required by the City, Miami-Dade County, State of Florida and/or any agency of the U.S. government, and shall also be responsible for obtaining any incidental State permit for the protection of sea turtles issued by the appropriate governmental agency. Additionally, if Applicant intends to use any item which is or may be protected from infringement, such as but without limitation, copyrights, patents and trademarks, if requested by City, Applicant shall provide City fifteen (15) days in advance of the first date of property use, evidence showing that the applicable licenses, permits and/or permission have been secured and, if applicable, all fees have been paid in full by Applicant. The provisions of this paragraph specifically apply to the American Society of Composers, Authors and Publishers ("ASCAP"), Broadcast Music Incorporated ("BMI") and any other similar organization that may require written permission and payment of a fee for use of protected material. Applicant shall ensure that all performance payments required to be made under such licenses are made promptly and directly to the licensing organizations. Copies of all said licenses or reports shall be submitted to City upon request. In the event Applicant fails to submit the licenses or reports as required herein or the documentation is not satisfactory to City, Applicant shall be responsible for payment to City for all license fees incurred by the City in connection with the Event. City shall have no responsibilities to any performing rights licensing organizations for any performance during the Event.

14. STANDARDS OF CONDUCT; COMPLIANCE WITH RULES, REGULATIONS, ORDINANCES: Applicant agrees that at all times it will conduct its activities with full regard for public safety and will observe and abide by all Federal, State and local laws, including, without limitation, those relating to noise, building, zoning, gambling, fire protection, liquor regulation, sanitation, food facilities, and hours of operation. Applicant shall further take all precautions and use due care to conduct its operations in a safe and prudent manner with respect to its agents, employees and visitors to the Event.

15. **INSURANCE:** The Applicant shall provide and maintain at all times during the term of any contract, without cost or expense to the City, policies of insurance, with a company or companies authorized to do business in the State of Florida, and which are acceptable to the City. All required insurance will be placed with carriers licensed to do business in the State of Florida, having agents upon whom service of process may be made in the State of Florida, insuring the applicant against any and all claims, demands or causes of action whatsoever, for injuries received or damage to property relating to the performance of duties, services and/or obligations of the applicant under the terms and provisions of the contract. Applicant is responsible for timely provision of certificate(s) of insurance to the City at the certificate holder address evidencing conformance with the contract requirements at all times throughout the term of the contract.

Such policies shall remain in full force and effect during the Event and shall specifically include those times of setup and Breakdown in connection with the Event. Such policies of insurance, and confirming certificates of insurance, shall insure the applicant is in accordance with the following minimum limits:

- a. General Liability insurance on forms no more restrictive than the latest edition of the Occurrence Form Commercial General Liability policy (CG 00 01) of the Insurance Services Office or equivalent without restrictive endorsements, with the following minimum limits and coverage:

Each Occurrence/General Aggregate	\$1,000,000/2,000,000
Products-Completed Operations	\$2,000,000
Personal & Adv. Injury	\$1,000,000
Fire Damage	\$50,000
Medical Expense	\$5,000
Contractual Liability	Included

- b. Liquor Liability with the following minimum limits and coverage:

Each Occurrence	\$1,000,000
Annual Aggregate	\$1,000,000

- c. Automobile liability insurance, including owned, non-owned, and hired autos with the following minimum limits and coverage:

Combined Single Limit	\$1,000,000
-----------------------	-------------

- d. Workers' compensation insurance based on proper reporting of classification codes and payroll amounts in accordance with Chapter 440, Florida Statutes, and/or any other applicable law requiring workers' compensation (Federal, maritime, etc). If not required by law to maintain workers' compensation insurance, the applicant must provide a notarized statement that if he or she is injured; he or she will not hold the City responsible for any payment or compensation.

- e. Employers Liability insurance with the following minimum limits and coverage:

Each Accident	\$1,000,000
Disease-Each Employee	\$1,000,000
Disease-Policy Limit	\$1,000,000

- f. Professional liability and/or specialty insurance (medical malpractice, engineers, architect, consultant, environmental, pollution, errors and omissions, etc.) insurance as applicable, with minimum limits of \$1,000,000 and annual aggregate of \$2,000,000.

The City of Miami Beach shall be named as additional insured as their interest may appear on all applicable liability insurance policies.

The certificate(s) of insurance shall provide for a minimum of thirty (30) days prior written notice to the City of any change, cancellation, or nonrenewal of the provided insurance. It is the applicant's specific responsibility to ensure that any such notice is provided within the stated timeframe to the certificate holder.

If it is not possible for the Applicant to certify compliance, on the certificate of insurance, with all of the above requirements, then the Applicant is required to provide a copy of the actual policy endorsement(s) providing the required coverage and notification provisions.

Certificate holder shall be:

The City of Miami Beach, Florida
1700 Convention Center Drive
Miami Beach, FL 33139

Certificates of insurance shall evidence a waiver of subrogation in favor of the City, that coverage shall be primary and noncontributory, and that each evidenced policy includes a Cross Liability or Severability of Interests provision, with no requirement of premium payment by the City.

Applicant is required to confirm that each vendor of the Applicant carry insurance coverage that meets or exceed the coverages set forth in paragraphs (a)-(f) that apply to each vendor, as applicable to each vendor's work, and that the same limits apply to any and all vendors the Applicant uses for the Event. Applicant further confirms that Applicant's insurance will apply as excess over any other valid and collectible coverage of their vendors. Said limits may be provided by purchase of an umbrella or excess policy.

All self-insured retentions shall appear on the certificate(s) and shall be subject to approval by the City. At the option of the City, the insurer shall reduce or eliminate such self-insured retentions or the applicant or subcontractor shall be required to procure a bond guaranteeing payment of losses and related claims expenses.

The City shall be exempt from, and in no way liable for, any sums of money, which may represent a deductible or self-insured retention in any insurance policy. The payment of such deductible or self-insured retention shall be the sole responsibility of the applicant and/or sub-contractor providing such insurance.

If Applicant fails to deliver an insurance certificate, the City's failure to request delivery shall in no way be construed as a waiver of Applicant's obligation to provide the insurance coverage specified herein. Failure to obtain and maintain such

insurance as set out above will be considered a breach of contract and may result in termination of the contract for default.

Neither approval by the City of any insurance supplied by the, nor a failure to disapprove that insurance, shall relieve the Applicant of full responsibility for liability, damages, and accidents as set forth herein.

16. **INDEMNIFICATION AND HOLD HARMLESS:** Applicant shall indemnify, defend and hold harmless City, its officers, agents, and/or employees, against any and all damages, claims, losses, liabilities and expenses (including, without limitation, reasonable legal fees and disbursements) caused by, in connection with, arising out of, or resulting from the use of the Event Site, or caused by, in connection with, arising out of, or resulting from any act by Applicant, its partners, employees, officers, contractors, and/or agents done in the performance of this Agreement. If called upon by City, Applicant shall defend not only itself, but also City in connection with any such claim, at Applicant's expense, and at no expense whatsoever to City.

Applicant further agrees to defend, indemnify, save and hold harmless the City and the City's officers, agents, and employees from any claim, suit, loss, cost or expense or any damages arising out of or relating to Applicant's failure to obtain all necessary performing rights and licenses for the event (BMI, ASCAP, etc.).

17. **REIMBURSEMENT OF EXPENSES:** The City and Applicant shall be responsible for the costs and expenses associated with Police, Fire, Ocean Rescue, and Sanitation services within the Event Site and Event Impact Area, as provided herein. City shall be responsible for initial expenses up to the amounts associated with Memorial Day Weekend for the immediately preceding calendar year, adjusted annually for either (1) wage increases for personnel for the foregoing City departments or (2) inflation utilizing the United States Bureau of Labor Statistics, Consumer Price Index for All Urban Consumers; U.S. City average (1982-84=100), whichever is lower (the "City's Initial Contribution"). Applicant shall be responsible for all of City's costs and expenses in excess of the City's Initial Contribution, up to the maximum amount of \$200,000 ("Applicant's Initial Contribution"). City and Applicant to each be responsible for 50 percent (50%) of all costs in excess of Applicant's Initial Contribution. Applicant shall reimburse City for any amounts due under this Agreement within fourteen (14) days of receipt of any invoice from City. Applicant shall have the right to request all supporting documentation with respect to charges being billed to Applicant under this Agreement. City's invoices shall include a breakdown of charges.

18. **BOND:**

- a. Applicant agrees to secure a bond in an amount equal to one hundred and ten percent (110%) of the estimated cost of services for the Applicant requested additional services or expansion of services requested by Applicant, for the Event including, without limitation, public safety, maintenance, cleanup, utility connections, Breakdown and removal, storage and repair or replacement of property. City reserves the right to approve the bonding company or institution issuing the bond and the instrument shall be kept in full force and effect for the period of the Agreement.
- b. No later than thirty (30) days prior to the date of permission from City to first use the Event Site, Applicant shall provide the City with a valid payment bond in the amount specified above. The bond shall be written by a corporate surety company holding a Certificate of Authority from the Secretary of Treasury of the United States, executed

and issued by a resident agent licensed by and having an office in the State of Florida, representing such corporate surety, providing that if Applicant fails to duly pay for any labor, materials, or other supplies used by Applicant, the surety will pay the same in the amount not exceeding the sum provided in such bond. Applicant shall also have the option to escrow the funds in an amount equal to one hundred and ten percent (110%) of the cost of reimbursement for City services ("Obligated Amount") in which case a bond would not be required by the City. The Obligated Amount shall be placed into the City to be held in escrow under the terms and conditions hereinafter set forth ("Escrow Deposit").

- c. The City's Chief Financial Officer shall be the Escrow Agent, the Escrow Agent shall promptly deposit, retain and disburse the Escrow Deposit in accordance with the terms hereof or as may be directed in writing by both the Applicant and City Manager on behalf of the City or as may be directed by a court of competent jurisdiction.
- d. If the Escrow Agent is in doubt as to his or her duties, the Escrow Agent shall retain the Escrow Deposit until Applicant and City, through its City Manager, collectively agree in writing to the disposition of the funds or until a court of competent jurisdiction has adjudicated the rights of Applicant and the City.
- e. Any suit between Applicant and City where Escrow Agent is made a party because of acting as Escrow Agent, or in any suit where Escrow Agent interpleads the Escrow Deposit, Escrow Agent shall recover reasonable attorney's fees and costs from the Escrow Deposit, as between Applicant and City, and such fees and costs shall be charged and assessed against the non-prevailing party.
- f. The parties agree that the Escrow Agent shall not be liable to any party or person for misdelivery of the Escrow Deposit or any portion thereof to Applicant or City, unless misdelivery is due to willful breach of the terms hereof or gross negligence on the part of Escrow Agent.

19. CITY'S RIGHT TO SUSPEND ACTIVITIES OR REMOVE PERSONS FROM EVENT SITE: The City Manager shall have the authority to suspend all or any part of the activities of Applicant when, in the City Manager's sole judgment and discretion, such activities may be or are detrimental to the public or to the City, or if the City has reason to believe any law or ordinance is being violated by Applicant, its agents or employees, which conduct is not corrected within forty eight (48) hours of written notice to Applicant. City reserves the right through the City Manager, to suspend or terminate use of the Property if visitors become unruly, and to reject any sponsor, presentation, material or item which is or may be, in the sole opinion of the City Manager, hazardous, offensive, immoral or disparaging to the image of the City, or to any person or group of persons. The decision of the City Manager in such regard shall be final, binding and conclusive.

20. TERM AND TERMINATION: The City hereby grants to the Applicant the exclusive right and privilege to conduct the Air and Sea Show annually for an initial period of five (5) years, subject to the following conditions:

- a. The Applicant may conduct the Air and Sea Show annually for the Term of this Agreement, unless the City Commission decides to discontinue the Air and Sea Show with notice to the Applicant, following the conclusion of the first Air and Sea Show. The only method for any such cancellation of the Agreement pursuant to this Section 20(a) is by motion approved by the City Commission. The City shall notify

the Applicant of its intent to cancel the Air and Sea Show prior to July 30 of the year preceding the next scheduled Air and Sea Show. However, in all instances City shall have ninety (90) days from the date the last Air and Sea Show ends to notify Applicant of its intent to cancel. Applicant shall be given fourteen (14) days' notice of the City Commission meeting at which such cancellation shall be determined. If City elects to discontinue, City shall not produce or permit the production of an air and sea show on City's beach for two (2) calendar years after the year the last Event is produced by the Applicant.

- b. The Applicant may elect, during the Term of this Agreement, to terminate this Agreement and no longer conduct the Air and Sea Show. If the Applicant elects to terminate this Agreement, the Applicant shall notify the City in writing of such election prior to the July 15 of the year preceding the next Air and Sea Show Event. If the Applicant elects not to conduct the Air and Sea Show in a particular year or elects not to seek an extension of the terms of this Agreement, this Agreement will automatically terminate.
- c. Termination for Cause: If either party fails to perform in accordance with the requirements of this Agreement or fails to comply with any applicable laws (any such failure to perform or comply with applicable laws hereby constituting a "Default"), the non-defaulting party shall give written notice thereof to the defaulting party, identifying the nature of the default ("Notice of Default").
 - 1. If, after delivery of the Notice of Default, the defaulting party fails to promptly commence and thereafter complete the curing of such Default within a reasonable period of time, not to exceed thirty (30) days after delivery of the Notice of Default or, if such Default is not capable of being cured within such thirty (30) day period, the defaulting party fails to undertake within such period to effect a cure, and diligently and in good faith prosecute the same to conclusion no later than sixty (60) days following delivery of the Notice of Default, then the non-defaulting party may terminate this Agreement for cause at any time following the expiration of the cure period specified in the Notice of Default or as provided in this Section 20(d).
 - 2. If either party commits a Default during the term of this Agreement and cures the Default within the cure period, and subsequently commits a Default of a similar nature, then the non-defaulting party shall have the sole option and discretion to terminate this Agreement for cause effective immediately, without providing the defaulting party with the opportunity to cure the subsequent Default. If the default is of a nature that cannot be cured, such as fraud or a material misrepresentation in connection with either party's performance under this Agreement, or a failure to have met the minimum room block requirements set forth in Section 27 below, the non-defaulting party shall be entitled to immediately terminate this Agreement for cause, and such termination shall be effective upon receipt of the termination notice and no cure period shall apply.
 - 3. Upon termination, the defaulting party shall remain liable for all damages, costs and expenses, including reasonable attorneys fees, arising out of or related to its Defaults under this Agreement, and the non-defaulting party

shall be fully discharged from any and all liabilities, duties, or obligations arising out of, or by virtue of, this Agreement.

21. **GOVERNING LAW AND ATTORNEY'S FEES:** This Agreement shall be governed by the laws of the State of Florida, with venue lying in Miami-Dade County. In the event of any dispute which arises out of this Agreement, the prevailing party shall be entitled to reasonable attorney's fees and costs, including bankruptcy and/or appeal if any.

22. **ASSIGNMENT:** No assignment of the rights, interest or obligation under this Agreement shall be made by either party without the written consent of the other.

23. **AMENDMENT:** No modification amendment or alteration of the terms or conditions contained herein shall be effective unless contained in a written document executed by the parties hereto, with the same formality and of equal dignity herewith.

24. **EXTENT OF AGREEMENT:** This Agreement represents the entire and integrated Agreement between City and Applicant and supersedes all prior negotiations, representations or agreements either written or oral.

25. **NOTICE:** Whenever any party desires to give notice to any other party, it must be given by written notice sent by registered United States mail, with return receipt requested, addressed to the party for whom it is intended at the place designated below and the place so designated shall remain such until they shall have been changed by written notice in compliance with the provisions of this section. For the present, the parties designate the following as the respective places for giving notice:

CITY:

City of Miami Beach
1700 Convention Center Drive
Miami Beach, Florida 33139
Attn: City Manager

APPLICANT:

A National Salute to America's Heroes, LLC,
a Florida Limited Liability Company
c/o Michael I. Kotler, Esquire
54 SW Boca Raton Boulevard
Boca Raton, Florida 33432

26. **CORPORATE STATUS:** This Agreement shall automatically terminate if, within thirty (30) days from execution of this Agreement, Applicant does not provide City with proper certification from the State of Florida that Applicant has registered to do business in the State of Florida.

27. **ROOM BLOCK REQUIREMENT:** For each Event, Applicant shall be responsible for generating event room blocks at hotels located within the City of Miami Beach, in the minimum amount of (a) one thousand (1,000) room nights on the peak night of the Event Period (with such peak night during the Event Period to be selected by Applicant); and (b) thirty-five hundred (3,500) room nights over the course of the Event Period. Within thirty (30) days following the completion of each Event, Applicant shall provide the City all supporting documentation verifying compliance with

the foregoing minimum room block requirements. In the event the Applicant fails to meet the minimum room block requirements set forth herein, the City Manager may terminate this Agreement for cause pursuant to Section 20(c)(2).

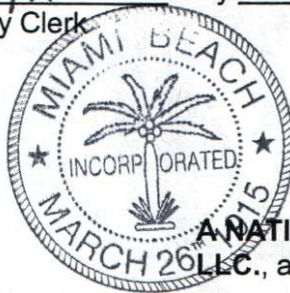
IN WITNESS OF THE FOREGOING, the parties have set their hands and seals the day and year first written above.

ATTEST:

CITY OF MIAMI BEACH, FLORIDA,
a municipal corporation of the State of Florida

By: [Signature] 2/1/16
Rafael E. Granado, City Clerk

By: [Signature]
Philip Levine, Mayor



ATTEST:

A NATIONAL SALUTE TO AMERICA'S HEROES,
LLC., a Florida Limited Liability Company

By: [Signature]
Print Name: Cinche Nodarsi
Its: _____

By: [Signature]
Print Name: MICKEY MARKOFF
Its: PRESIDENT

APPROVED AS TO
FORM & LANGUAGE
& FOR EXECUTION

[Signature] 1-29-16
City Attorney RAP Date

**AMENDMENT NO. 6 TO THE AGREEMENT
BETWEEN THE CITY OF MIAMI BEACH, FLORIDA
AND
A NATIONAL SALUTE TO AMERICA'S HEROES, LLC**

This Amendment No. 6 ("Amendment") to the Agreement dated February 1, 2016, by and between the City of Miami Beach, Florida ("City") and A National Salute to America's Heroes, LLC, a Florida limited liability company (the "Applicant" or "Producer"), is entered into this ____ day of _____, 2024.

RECITALS

WHEREAS, on or about February 1, 2016, the City and the Producer, a for-profit entity of the State of Florida, executed an Agreement with respect to the production of an annual Air & Sea show event (each, an "Event" or "Annual Show") subject to the terms and conditions therein; and

WHEREAS, Amendment No. 1 to the Agreement was approved by the Mayor and City Commission on April 26, 2017, via Resolution No. 2017-29848, and provided for the waiver of special event permit fees for the 2017 Annual Show; and

WHEREAS, on November 3, 2017, the City and Producer executed Amendment No. 2 to the Agreement, delineating the terms of an expanded Annual Show for the 2018 Event activation; and

WHEREAS, Amendment No. 3 to the Agreement, entered into on March 29, 2018, set forth the terms for a concert to take place during the 2018 Annual Show; and

WHEREAS, on July 2, 2018, the Mayor and the City Commission, adopted Resolution No. 2015-29226, directing the Administration to negotiate revisions to the Agreement for the 2019 Annual Show activation, and further specified that no City funding would be provided for any concert that may be produced in conjunction with the Annual Show, if any; and

WHEREAS, on September 21, 2018, the Mayor and City Commission adopted Resolution No. 2018-30509, approving the terms and conditions for the activation and City sponsorship of the 2019 Annual Show, which took place May 25-26, 2019, including the City's payment of a maximum not to exceed amount of \$350,000.00 for Event-related Public Services, as well as a City waiver of special event permit fees estimated to total \$154,062.00, which was memorialized in Amendment No. 4 to the Agreement; and

WHEREAS, due to the COVID-19 pandemic, on or about April 6, 2020, in consultation with the Producer, the City exercised the force majeure provision of the Agreement and cancelled the 2020 Annual Show; and

WHEREAS, on April 22, 2020, the Mayor and City Commission adopted Resolution No. 2020-31231, approving Amendment No. 5 to the Agreement; said Amendment approving a three

(3) year extension of the Agreement, and specifying the terms and conditions for the activation for the 2021-2023 Annual Shows, including the City's payment of a maximum contribution of \$350,000 for Event-related public services for each Annual Show; and

WHEREAS, upon presenting the draft Amendment No. 5 to the Producer, the Producer advised that it was under the impression that the City Commission's extension of the Agreement would include the 2024 Annual Show; and

WHEREAS, on April 29, 2021, the Mayor and City Commission adopted Resolution No. 2021-31673, authorizing an amendment to the Agreement for the sole purpose of including the 2024 Air and Sea Show event to the scope of the Agreement, on the same terms and conditions as applicable to the 2021-2023 Annual Shows, to take place during Memorial Day weekend of each year; and

WHEREAS, on May 4, 2021, the City and Producer executed Amendment No.5, incorporating the 2021-2024 Annual Shows into the Agreement; and

WHEREAS, the term of the Agreement has expired with the 2024 Annual Show and the Producer has requested that the term of the Agreement be extended concurrent with the Producer's renewal of the title Sponsor, Hyundai, for the years 2025, 2026, and 2027; and

WHEREAS, the Annual Shows have proven to be a positive activation for the City in the last five years, and on June 26, 2024, the Mayor and City Commission adopted Resolution No. _____, approving, in substantial form, this Amendment to the Agreement; said Amendment extending the term of the Agreement to run concurrent with the Hyundai sponsorship for an additional three (3) years to include 2025, 2026, and 2027.

NOW THEREFORE, in consideration of the mutual promises and conditions contained herein, and other good and valuable consideration, the sufficiency of which is hereby acknowledged, the City and Producer hereby agree to this Amendment, as follows:

I. ABOVE RECITALS.

The above recitals are true and correct and are incorporated as part of this Amendment.

II. MODIFICATIONS.

A. The City's current Special Event Rules and Regulations, as referenced in Subsection 4(f) of the Agreement are attached hereto as Exhibit "E", subject to amendment by the City from time to time.

B. The first sentence of Section 20 (TERM AND TERMINATION) and Subsection (a) therein is hereby deleted in its entirety and replaced as follows:

20. TERM AND TERMINATION: The City hereby grants to the Producer the exclusive right and privilege to conduct the Air and Sea Show annually, during the Memorial Day weekend, for the years 2016 – 2027, subject to the following conditions:

- a. Prior to the September 15th of each year preceding the next Annual Show, the City Commission, at its sole and absolute discretion, may terminate this Agreement for its convenience upon written notice to the Producer. The only method for any such cancellation of the Agreement for the City's convenience shall be by motion approved by the City Commission, prior to the September 15th of each year preceding the next Annual Show. The Producer shall be given fourteen (14) days advance notice (via email to mickey@mdmgroupp.com) of the City Commission meeting at which such cancellation shall be determined. If the City elects to terminate this Agreement for its convenience prior to the expiration of the Term, the City shall not produce or permit another Air & Sea Show on the City's beach for two (2) calendar years after the last Event is produced by the Producer.

C. Section 30 (NO DISCRIMINATION) is hereby deleted in its entirety and replaced with the following:

30. NO DISCRIMINATION:

- a. In connection with the performance of the Services, Producer shall not exclude from participation in, deny the benefits of, or subject to discrimination anyone on the grounds of race, color, national origin, sex, age, disability, religion, income or family status.
- b. Additionally, Producer shall comply fully with the City of Miami Beach Human Rights Ordinance, codified in Chapter 62 of the City Code, as may be amended from time to time, prohibiting discrimination in employment (including independent contractors), housing, public accommodations, public services, and in connection with its membership or policies because of actual or perceived race, color, national origin, religion, sex, intersexuality, gender identity, sexual orientation, marital and familial status, age, disability, ancestry, height, weight, hair texture and/or hairstyle, domestic partner status, labor organization membership, familial situation, or political affiliation.

IV. RATIFICATION.

Except as amended herein, all other terms and conditions of the Agreement shall remain unchanged and in full force and effect. In the event there is a conflict between the provisions of this Amendment and the Agreement, the provisions of this Amendment shall govern.

IN WITNESS WHEREOF, the parties hereto have caused this Amendment to be executed by their appropriate officials, as of the date first entered above.

FOR CITY: **CITY OF MIAMI BEACH, FLORIDA**

ATTEST:

By: _____
Rafael E. Granado, City Clerk **Steven Meiner, Mayor**

Date

FOR PRODUCER: **A NATIONAL SALUTE TO AMERICA’S
HEROES, LLC**

ATTEST:

By: _____
Rickelle Williams, Interim City Manager

Print Name

Print Name

Date

EXHIBIT E
Special Event Rules and Regulations

DRAFT

EXHIBIT F
Scope of Services for the 2025-2027 Annual Shows

A. Subject to the Producer's compliance with the City's special event permitting requirements, including any approvals, permit conditions or requirements of any regulatory agencies having jurisdiction (including, without limitation, the City's Fire Department, Public Works Department, or Building Department; or any other State, County or City emergency management orders, curfews or other protocols) ("Agencies Having Jurisdiction"), and further subject to the City approval process provided for in the Agreement (including Section 4 thereof) as amended herein, the City agrees to the following programmatic scope of activation related to the 2025-2027 Annual Shows:

1. Notwithstanding any provision to the contrary in the Agreement, the "Event Site" for the Annual Show shall mean the area east of the eastern boundary of the sidewalks along Ocean Drive, from 10th Street to 14th Place, limited by the waterline. For the Annual Shows, the Producer agrees to not activate or use the areas east of the eastern boundary of the sidewalks along Ocean Drive, from 5th Street through the southern end of 10th Street, and the area east of the eastern boundary of the sidewalks along Ocean Drive on 15th Street, as such areas shall not be included as part of the Event Site for the Annual Shows.

2. Notwithstanding any provision to the contrary in the Agreement, the City agrees that it will not hold any other special event east of the eastern boundary of the sidewalks along Ocean Drive, from 5th to 15th Street, during the Event Period for the Annual Shows, with the exception of (a) City of Miami Beach's activation of an event between 6th Street and 7th Street in conjunction with a local radio station, which event may take place from the Friday before Memorial Day through Memorial Day, and which may consist of a booth with a live broadcast of music (between 10:00 a.m. and 5 p.m.); local radio talent, positive beach safety messaging about Memorial Day Weekend; and other "fun" or "upbeat" activities; (b) up to three (3) activations of City-sponsored cultural programming, mutually agreed by the parties, which may take place each day of the Annual Shows, at mutually agreed-upon designated areas between 5th Street and 6th Street; and (c) the City's Parks & Recreation Department programming, mutually agreed by the parties, of activities for children, at a mutually agreed-upon designated area between 10th Street and 14th Street; provided, however, that such City children's programming does not conflict with Producer's sponsorships for the Annual Show. City shall provide Producer with details of the final cultural and children's programming line-up, if any, including a description of the programming, the location and scheduled hours thereof, no later than ninety (90) days prior to the first day of each Annual Show. Producer agrees to provide information highlighting the cultural programming on its website. Except as specified herein, nothing herein shall limit the City's approval of special events taking place anywhere within the City of Miami Beach during Memorial Day Weekend.

3. The Restricted Event Area for each Annual Show, as such Restricted Event Area is defined in Section 2(n) of the Agreement, may include a ticketed area and concert stage

as part of each Annual Show, with live music performances from 4 p.m. to 9 p.m. on Saturday and/or Sunday of each Memorial Day Weekend, and which concert may be followed by a fireworks display on Saturday and/or Sunday of each Memorial Day Weekend, formally concluding at 9:30 p.m. each night. Subject to mutual agreement between the City and Producer, the live performances between 4 p.m. and 6 p.m. may include City-sponsored cultural programming. As any concert produced as part of each Annual Show would be taking place on public property pursuant to a City special event permit, the City Manager shall have the right to approve the elements of any concert activation, including the artist line-up and other concert programming, to ensure any such concert promotes a safe environment and is of high quality, professional, and suitable for as wide an audience as possible (including audiences of all ages). Producer shall submit its proposed concert programming elements, including the proposed artist line-up, to the City for its approval no later than ninety (90) days prior to the Annual Show. The City Manager shall either approve or reject any specific concert programming elements within ten (10) business days of Producer's submission. If the City Manager has not objected to any concert element within ten (10) business days following Producer's written submission of the proposed concert elements, such elements shall be deemed approved.

4. If a concert event is approved by the City Manager as part of the Annual Show, the Producer shall complete its breakdown and load-out of the concert stage and related structures, not later than 120 hours following conclusion of each Annual Show. For each Annual Show where a concert element is approved by the City Manager, the Parties anticipate the concert stage, and related structures will be generally located between 10th Street and 11th Street. All other facilities or structures shall be removed in accordance with Section 9(b) of the Agreement.

5. Subject to any limitations required by any Agencies Having Jurisdiction (including U.S. Coast Guard or Marine Patrol), Producer's proposed powerboat and jetski demonstrations in the ocean shall begin no earlier than 10:00 a.m. and shall end no later than 4:00 p.m. on each Saturday and Sunday of each Annual Show.

6. The Lummus Park portion of the Event Site may include, among other corporate sponsor components to be submitted for approval by the City Manager, along with the Producer's Event Site Plan, an interactive athletic venue, featuring an "extreme sports" exhibition, and athletic/cross-fit style obstacle course.

- a. Producer, as part of its Special Event Permit Application, shall include a safety plan, a risk management plan, and details concerning the qualifications and experience of the third-party vendors that will be involved in the production of any of the foregoing athletic activities.
- b. All persons participating in any "extreme sports" or athletic activity shall be required, as a condition of their participation in such activities, to execute a waiver and release of liability in favor of the Producer and the City of Miami Beach, in a form acceptable to the City.
- c. A "military display village" area, featuring all branches of the U.S. Armed Forces, sponsor tents and related activations, may be located to the east side sidewalk of Ocean Drive, from 10th Street to 14th Street, within the Producer's Event Site Plan.

- d. If the Producer successfully plans with respect to broadcasting any portion of the Annual Show, the City Manager's prior written approval shall be required with respect to any use of the City's name or logo as part of the broadcast.
- e. Upon mutual agreement of the City Manager and the Producer, the programming for each Annual Show may include a designated "children's water zone," for children-focused activities, provided, however, that in the event the City and Producer mutually agree to proceed with any such children's activities, the City, through its Parks and Recreation Department, shall be responsible for activities involving the direct supervision of children.

7. The Producer shall exercise its best efforts to work with veteran's groups, including the Salute 365 Foundation, a 501(c)3 not-for-profit organization, and others, to incorporate, as part of the programming approved pursuant to the Scope of Services for each Annual Show, charitable components to benefit *veteran* groups.

8. Notwithstanding the timelines set forth in Sections 4, 5 and 6 of the Agreement with respect to the submission to the City of its proposed Event Site Plan, Public Safety Plan, and MOT Plan (collectively, the "Event Plans") for each Annual Show, Producer shall provide the City with its preliminary Event Plans, and any other deliverable contemplated in Section 4, 5 and 6 of the Agreement, within 120 days prior to the commencement of the Event Period for each Annual Show, in order to provide the City and Agencies Having Jurisdiction with the opportunity to review and comment on the Producer's preliminary Event Plans. With respect to the MOT Plan, the City shall, no later than December 1 of the year immediately prior to the year of an Event, provide Producer with additional guidance as to specific items the City expects to be included in the preliminary MOT Plan.

9. The Producer shall submit its final Event Plans, and any other deliverables contemplated in Sections 4, 5 and 6 of the Agreement, no later than 60 days prior to the commencement of the Event Period for each Annual Show.

10. As part of its Event Site Plan for the Annual Show, Producer agrees that its placement of Mobi-mats shall, in addition to accommodating ingress/egress to the Restricted Event Area, also accommodate the needs of persons with disabilities at the Event Site (sufficient to permit persons with disabilities to view the activities at each Annual Show).

11. Any changes to the scope of the activation set forth herein, including changes to the footprint of the Annual Show, hours of operation, days of use, or programming uses, shall require the City Commission's prior approval.

B. City's Permit Fee Waivers.

City hereby waives the following City of Miami Beach Special Event Permit fees (collectively, "City's Permit Fee Waivers") for each Annual Show, Application Fee, Permit Fee, Vehicle Beach Access Pass Fee, Lummus Park User Fee, and Square Footage Fees.

*The foregoing waivers do not include, and Producer shall remain responsible for, any applicable Building Department fees (which are not waivable), or the contractual displacement fee due to the City's exclusive beachfront concessionaire, Boucher Brothers, for the Producer's use of beach areas otherwise exclusively assigned to the Boucher Brothers as exclusive concession areas. The City agrees to waive its portion of the Boucher Brothers displacement fee that would be due to the City as a concession fee. Moreover, if prior to each Annual Show, the City Commission amends the City's Special Event Guidelines and approves any adjustment to any of the foregoing fees, the total fees waived above shall be adjusted accordingly.

C. Notwithstanding any provision to the contrary in the Agreement, and except with respect to the City's Permit Fee Waivers, the City's responsibility for the costs and expenses for personnel, staffing or services for public safety, Police, Fire, Ocean Rescue, Sanitation (trash removal, debris clean-up, recycling, and post-event sand sifting outside of the Restricted Event Area), sod, landscaping or irrigation line replacement, emergency management, or any ancillary services related to any of the foregoing for each Annual Show (collectively, the "Event-Related Public Services"), **shall be limited to the not-to-exceed amount of \$350,000 (City's Maximum Contribution), with such annual funding to be subject to and contingent upon a budget appropriation by the City Commission, at its sole discretion.**

D. Producer further acknowledges and agrees that the City's approval of the activation for each Annual Show as provided herein is expressly contingent upon, and in reliance of, the City's contributions being limited to the City's Permit Fee Waivers and the City's Maximum Contribution for Event-Related Public Services, as mutually agreed upon herein for each Annual Show.

E. Except with respect to the City's Permit Fee Waivers and the City's Maximum Contribution, and notwithstanding any provision to the contrary in the Agreement, as amended, the Producer shall be solely responsible for all costs and expenses relating to its activation, operation and production of each Annual Show, including, without limitation, all costs that are the responsibility of the Producer (or "Applicant") as provided in the Agreement (including, without limitation, temporary public sanitary facilities required under Section 8(a) of the Agreement, the clean-up costs attributable to Applicant under Section 8(b) of the Agreement, privately-contracted security to provide public safety within the Restricted Event Area, in accordance with Section 5 of the Agreement, any parking spaces approved for use pursuant to Section 7 of the Agreement, and any other item that is the express responsibility of the Applicant under the Agreement); all fees that are not included in the City's Permit Fee Waivers or that are in excess of the amounts specified for the City's Permit Fee Waivers, and all costs and expenses related to the Event-Related Public Services in excess of the City's Maximum Contribution (each such cost or expense, individually and collectively, hereinafter referred to as the "Producer's Expenses").

F. The City's anticipated Event-Related Public Services for each Annual Show are estimated to be less than \$350,000, based on the costs incurred for Event-Related Public Services for prior Annual Shows. Producer further acknowledges that this amount is merely an estimate and is subject to change, as the Producer has not yet submitted, and the City has not reviewed, the proposed final Event Plans for future Annual Shows.

1. As provided in the Agreement, and as public safety-related matters lie within the sole and absolute discretion of the City, the City Manager's determination as to the level of staffing or personnel required for any of the Event-Related Public Services shall be final and binding upon the Producer. To the extent that the City anticipates, at any time prior to each Annual Show, that due to the City's then-prevailing assessment of general risks or threat levels, additional Police, Fire or Ocean Rescue personnel is required for an Annual Show, such that the expenses for the Event-Related Public Services on account of such Police, Fire, Ocean Rescue, or Emergency Management personnel may exceed the City's Maximum Contribution, then the Producer shall be responsible for the cost of such additional Police, Fire, or Ocean Rescue costs. **In no event shall the City be responsible or have or owe any liability or obligation to the Producer for any of the Producer's Expenses, or for any amount in excess of the City's Maximum Contribution with respect to the costs for Event-Related Public Services.**

2. Following the City's review of the Producer's submission of the preliminary or final Event Plans, to the extent the City anticipates that the expenses for Event-Related Public Services may exceed the City's Maximum Contribution for reasons related to specific proposed items in the Producer's preliminary or final Event Plans (which vary the scope of the Event Plans based upon the Scope of Services set forth herein (including, by way of example, a proposed expansion of the footprint, extended hours, or additional days for the Annual Show), or due to other scope changes outside of the Scope of Services set forth herein which are requested by the Producer, then in such event, the City shall provide the Producer with notice, via email to mickey@mdmgroup.com, of the City's updated estimate for the Event-Related Public Services, and the estimated portion in excess of the City's Maximum Contribution for which the Producer shall be solely responsible for, as part of the Producer's Expenses ("Notice of Estimate").

3. The Producer shall have the option, within fifteen (15) calendar days following the City's delivery to Producer of a Notice of Estimate, to either (i) provide a written response to the City confirming that the Producer accepts the amounts identified as Producer's Expenses as set forth in the Notice of Estimate; or (ii) submit modified Event Plans to the City for its review, with proposed reductions to the scope of the activation of the Annual Show (such as reductions with respect to its footprint, hours of operation, or programmatic plan), as may be necessary for the corresponding Event-Related Public Services for the Annual Show, as modified, to be implemented within the City's Maximum Contribution (thereinafter, the "Modified Event Plan"). If Producer accepts its responsibility for expenses identified as Producer's Expenses pursuant to a Notice of Estimate, Producer shall pay the City, within sixty

(60) days prior to that year's Annual Show, a deposit consisting of fifty percent (50%) of the amounts identified as Producer's Expenses in the Notice of Estimate (the "Deposit").

4. If the Producer submits a proposed Modified Event Plan for the Annual Show pursuant to Subsection F.3 above, and if the City Manager is amenable in principle to the proposed Modified Event Plan (subject to review and approval by any Agencies Having Jurisdiction), then the City shall provide the Producer with an updated Notice of Estimate with respect to the corresponding Event-Related Public Services for the proposed Modified Event Plan, within fourteen (14) days of Producer's submission to the City of the proposed Modified Event Plan, to permit Producer to review the City's updated estimate of expenses related thereto, in accordance with the process set forth in this Subsection F.

5. Within ten (10) business days following the Producer's submission of the preliminary Event Plans, the City shall provide Producer with a Notice of Estimate and shall follow the process set forth in this Section F with respect to expenses for Event-Related Public Services. If, for the reasons specified pursuant to Subsection F.2 hereof, the City provides the Producer with a Notice of Estimate based on the preliminary Event Plan and the Producer fails to respond to any Notice of Estimate within fifteen (15) calendar days following City's delivery to Producer of a Notice of Estimate, or otherwise fails to satisfy any of the requirements in Subsection F.3 above, within the timeframe set forth therein (i.e., by either declining to accept responsibility for the Producer's Expenses in the Notice of Estimate, or submit the Deposit, or by declining to submit a Modified Event Plan within the City's Maximum Contribution), then in such event, the Administration shall report on the foregoing status to the City Commission at the next available City Commission meeting (with email notice to the Producer thereof), and said Annual Show, at the City Commission's sole and absolute discretion, may be cancelled for lack of sufficient funding. In the event the Annual Show is cancelled pursuant to this subsection, then neither the City nor Producer shall have or owe any obligation or liability whatsoever to each other.

6. Within ten (10) days following the Producer's submission of its final Event Plans, as referenced in Section A.9 herein, the City shall provide Producer with an updated Notice of Estimate. If such proposed final Event Plans include any Producer-requested scope changes to the activation approved pursuant to Section A herein; if the Producer fails to respond to any such Notice of Estimate within fifteen (15) calendar days following City's delivery to Producer of the Notice of Estimate; or otherwise fails to satisfy any of the requirements in Section F.3 above with respect to such Notice of Estimate, then the Producer-requested scope changes shall be deemed abandoned, and the proposed modifications shall not be approved. In such event, the Administration shall report on the foregoing status to the City Commission at the next available City Commission meeting (with email notice to the Producer thereof), and said Annual Show, at the City Commission's sole and absolute discretion, may be cancelled for lack of sufficient funding. In the event the Annual Show is cancelled pursuant to this subsection, then neither the City nor Producer shall have or owe any obligation or liability whatsoever to each other.

7. The City shall provide the Producer with the final accounting (settlement) for the actual costs and expenses for the Event-Related Public Services (less the amount of the City's Maximum Contribution and the Deposit, if any) within thirty (30) days after the conclusion of an Annual Show ("Settlement"). Producer shall have the right to request all supporting documentation with respect to charges being billed to Producer under this Agreement. City's invoices shall include a breakdown of charges. The Producer shall pay any amounts in excess of the City's Maximum Contribution (and Deposit, if any) that are the responsibility of the Producer, as provided herein, within thirty (30) days of receipt of the Settlement. Any remaining balance of the Deposit, if any, after crediting all amounts that may be due to the City hereunder, shall be refunded to the Producer within thirty (30) days of Producer's receipt of the Settlement. If the Producer fails to pay any undisputed amounts due to the City hereunder within sixty (60) days following City's delivery to Producer of the Settlement charges, then the Agreement, as amended, shall be automatically terminated.

G. For the avoidance of doubt, the provisions of this Amendment No. 5, and all of the subsections thereof, are expressly intended to replace, and supersede the provisions of Section 17 of the Agreement with respect to the reimbursement of expenses. Accordingly, the City and the Producer agree that the provisions as outlined in this Scope of Services shall govern the parties' obligations with respect to expenses for each Annual Show. In addition, subject to and contingent upon a funding appropriation by the City Commission, at its sole and absolute discretion, and provided the City does not exercise its right of termination pursuant to Subsection 20(a) of the Agreement, the provisions of this Scope of Services shall apply to any subsequent Annual Show, if any.

H.

H. Sponsorship Recognition. In consideration for the City's contribution to each Annual Show, with a contract value, subject to CPI increase, estimated in an amount of \$533, 022 each year, and subject to the approval requirements and other terms and conditions of the Agreement including, without limitation, Sections 3 and 13 of the Agreement, the City shall receive sponsorship and media recognition on all media or promotional platforms related to the Annual Show, and other sponsorship benefits, similar to the sponsorship package offered to other sponsors providing financial or other support comparable to the City's contribution herein. Such sponsorship will include Protocol Credentials (Pins) to include fourteen (14) for Mayor and City Commission, five (5) City Manager and Executive Team and twenty (20) VIP tickets for all events for the Mayor, Commissioners, and appointed officials, in addition to the following:

1. Print and Media Recognition. The City will receive the following sponsorship recognition in any and all print and media purchased by the Producer to promote the Event including:

- a. City logo or line listing (as appropriate, as determined by Producer) will appear with logos or line listings of all major sponsors in one full-page advertisement running the weekend of the Annual Show in a newspaper publication of major circulation such as The Miami Herald.
- b. City will receive recognition (logo or line-listing as appropriate, as determined by Producer) in select print advertising in local and national publications. City will receive recognition (logo or line-listing as appropriate, as determined by Producer) in select print promotional materials distributed to local, national and international media.
- c. City will have the opportunity to produce press releases promoting its participation in the Event. All approved press releases shall be housed on the Producer's website in the press room.
- d. City will receive sponsorship recognition on any billboards promoting the Event.
- e. City will receive sponsorship recognition on Event staging, should the Producer produce a concert as part of the Event.
- f. City will receive sponsorship during live commentaries where sponsors are recognized at the Event.

2. Electronic Recognition. The City shall receive the following electronic sponsorship recognition:

- a. City logo (or line listing, as appropriate, as determined by the Producer) will appear on the Producer's website, with a link to the City's website.

1.

DRAFT

- b. City will receive the following recognition on the Producer's Mobile App, if any is created for the Event.
- c. Recognition (logo or line listing, as appropriate, as determined by the Producer) on the sponsor acknowledgement page.
- d. Ads or other mobile packages may be purchased separately.
- e. Any logo recognition and link will remain on the Producer website from the EffectiveDate of this Agreement until July 31, 2027.

3. Concert Tickets. If Producer produces a paid ticketed concert as part of the Annual Show, City shall receive a minimum of twenty-five (25) complimentary tickets. In addition, Producer shall offer a 10% discount to members of the military, veterans, and City of Miami Beach residents.

RESOLUTION NO. _____

A RESOLUTION OF THE MAYOR AND CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA, APPROVING, IN SUBSTANTIAL FORM, AMENDMENT NO. 6 TO THE AGREEMENT BETWEEN THE CITY AND A NATIONAL SALUTE TO AMERICA'S HEROES, LLC DATED FEBRUARY 1, 2016, SAID AMENDMENT EXTENDING THE TERM OF THE AGREEMENT TO INCLUDE THE HYUNDAI AIR AND SEA SHOW EVENTS SCHEDULED TO TAKE PLACE DURING MEMORIAL DAY WEEKEND IN 2025, 2026, AND 2027 (EACH AN "ANNUAL SHOW"), INCLUDING THE CITY'S MAXIMUM CONTRIBUTION OF \$350,000 IN EVENT-RELATED CITY SERVICES FOR EACH ANNUAL SHOW AND CITY'S WAIVER OF SPECIAL EVENT FEES, LUMMUS PARK USER FEES, AND SQUARE FOOTAGE FEES FOR EACH ANNUAL SHOW AS ESTABLISHED BY THE CITY FROM TIME TO TIME; AND FURTHER, AUTHORIZING THE CITY MANAGER AND CITY CLERK TO EXECUTE THE AMENDMENT.

WHEREAS, on or about February 1, 2016, the City and A National Salute to America's Heroes, LLC, a Florida limited liability company ("Producer") executed an Agreement with respect to the production of an annual Air & Sea show event (each, an "Event" or "Annual Show"); and

WHEREAS, on April 26, 2017, the Mayor and City Commission discussed agenda item R9 AL, entitled "Discussion Regarding Memorial Day Air & Sea Show" and adopted Resolution No. 2017-29848, approving the waiver of special event permitting fees for the 2017 Annual Show (Amendment No. 1); and

WHEREAS, on October 18, 2017, the Mayor and City Commission discussed agenda item R9 J, entitled "Discussion of an Amendment to the Air & Sea Show Agreement which would allow the Event Producer to Expand the Show to Run from 10:00 AM – 9:30 PM, including Two Major Televised Concert Performances and a Fireworks Display on both Saturday and Sunday Evenings; and to Discuss a Potential Increase in City Resources to Support the Larger Production" and approved the terms and conditions for the 2018 larger Annual Show activation, including the City's waiver of special event permit fees, in the amount of approximately \$154,000.00, and the contribution for Event-related Public Services (Police, Fire, Ocean Rescue and Sanitation, in the maximum amount not-to-exceed \$350,000.00, as memorialized in Amendment No. 2 to the Agreement; and

WHEREAS, on February 14, 2018, the Mayor and City Commission authorized additional funding to the Producer, in the maximum not-to-exceed amount of \$250,000, to produce a concert to take place during the 2018 Annual Show, as memorialized in Amendment No. 3 to the Agreement; and

WHEREAS, on July 2, 2018, the Mayor and the City Commission discussed agenda item R9 A, entitled "Discussion Regarding the 2018 National Salute to America's Heroes Air & Sea Show and City-Funded Concert" and directed the Administration to negotiate revisions to the

Agreement for the 2019 Annual Show activation, and further specified that no City funding would be provided for any concert that may be produced in conjunction with the Annual Show; and

WHEREAS, on September 21, 2018, the Mayor and City Commission adopted Resolution No. 2018-30509, approving the terms and conditions for the activation and City sponsorship of the 2019 Annual Show, which took place May 25-26, 2019, including the City's payment of a maximum not to exceed amount of \$350,000.00 for Event-related public services, as well as a City waiver of special event permit fees estimated to total \$154,062.00, which was memorialized in Amendment No. 4 to the Agreement; and

WHEREAS, due to the COVID-19 pandemic, on or about April 6, 2020, in consultation with the Producer, the City exercised the force majeure provision of the Agreement and cancelled the 2020 Annual Show; and

WHEREAS, on April 22, 2020, the Mayor and City Commission adopted Resolution No. 2020-31231, approving Amendment No. 5 to the Agreement; said Amendment approving a three (3) year extension of the Agreement and specifying the terms and conditions for the activation for the 2021-2023 Annual Shows, including the City's payment of a maximum contribution of \$350,000 for Event-related public services for each Annual Show; and

WHEREAS, upon presenting the draft Amendment No. 5 to the Producer, the Producer advised that it was under the impression that the City Commission's extension of the Agreement would include the 2024 Annual Show in light of the cancellation of the 2020 Annual Show; and

WHEREAS, on April 29, 2021, the Mayor and City Commission adopted Resolution No. 2021-31673, authorizing an amendment to the Agreement for the sole purpose of including the 2024 Air and Sea Show event to the scope of the Agreement, based upon the same terms and conditions as applicable to the 2021-2023 Annual Shows; and

WHEREAS, on May 4, 2021, the City and Producer executed Amendment No. 5, incorporating the 2021-2024 Annual Shows into the Agreement; and

WHEREAS, the term of the Agreement has expired with the 2024 Annual Show and the Producer has requested that the term of the Agreement be extended concurrent with the Producer's renewal of the title Sponsor, Hyundai, for the years 2025, 2026, and 2027; and

WHEREAS, the Annual Shows have proven to be a positive activation for the City; and

WHEREAS, the Administration recommends approving, in substantial form, Amendment No. 6 to the Agreement, a draft copy of which is attached to the City Commission Memorandum accompanying this Resolution, said Amendment extending the term of the Agreement to include the Hyundai Air and Sea Show Events, scheduled to take place during Memorial Day weekend in 2025, 2026, and 2027, including the City's maximum contribution of \$350,000 for Event-related City services for each Annual Show and City's waiver of special event fees, Lummus Park user fees, and square footage fees for each Annual Show, as established by the City from time to time.

NOW, THEREFORE, BE IT DULY RESOLVED BY THE MAYOR AND CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA, that the Mayor and City Commission hereby approve, in substantial form, Amendment No. 6 to the Agreement between the City and A National Salute to America's Heroes, LLC dated February 1, 2016; said Amendment extending the term of the Agreement to include the Hyundai Air and Sea Show event scheduled to take place on Memorial Day weekend of 2025, 2026, and 2027 (each an "Annual Show"), including the City's payment of a maximum contribution of \$350,000 in Event-related City services for each Annual Show and City's waiver of special event fees, Lummus Park user fees, and square footage fees for each Annual Show as established by the City from time to time; and further, authorize the City Manager and City Clerk to execute the Amendment.

PASSED AND ADOPTED this 26th day of June 2024.

ATTEST:

Rafael E. Granado, City Clerk

Steven Meiner, Mayor

APPROVED AS TO
FORM & LANGUAGE
& FOR EXECUTION

City Attorney

Date

6/17/2024