



The Crossroads of South Florida,
We envision a sustainable economy, Let Us Grow Together

CITY OF SOUTH BAY

CITY COMMISSION AGENDA

CITY HALL CHAMBER

TUESDAY, NOVEMBER 26, 2024

335 SW 2ND Avenue

South Bay, FL 33493

www.southbaycity.com

Phone: 561-996-6751 Fax: 561-996-7950

Mayor:

Joe Kyles Sr.

Vice Mayor:

Taranza McKelvin

Commissioner:

Esther Berry

Commissioner:

Albert L. Polk

Commissioner:

Barbara King

City Manager:

Leondrae D. Camel

City Attorney:

Burnadette Norris-Weeks

RULES OF PROCEDURE

WHO MAY SPEAK

Meetings of the City Commission are open to the public. They are not; however, public forums. Any resident who wishes to address the commission on any subject within the scope of the Commission's authority may do so, providing it is accomplished in an orderly manner and in accordance with the procedures outlined below.

SPEAKING ON AGENDA ITEM

- I. **Consent Agenda Item** – These are items, which the Commission does not need to discuss individually, and which are voted on as a group. Any Commissioner who wishes to discuss any individual item on the consent agenda may request the Mayor to pull such item from the consent agenda. Those items pulled will be discussed and voted upon individually.
- II. **Regular Agenda Items** – These are items, which the Commission will discuss individually in the order listed on the agenda. By majority vote, the City Commission may permit any person to be heard on an item at a non-public hearing.
- III. **Public Hearing Items** – This portion of the agenda is to obtain input from the public on some ordinances, resolutions and zoning applications. The chair will permit any person to be heard on the item during formal public hearings.

SPEAKING ON SUBJECTS NOT ON THE AGENDA

Any resident may address the Commission on any items pertaining to City business during the Opportunity for the Public to Address the Commission portion of the agenda. Persons wishing to speak must sign in with the City Clerk before the start of the meeting.

ADDRESSING THE COMMISSION: MANNER AND TIME

By majority vote the City Commission may invite citizen discussion on any agenda item. In every case where a citizen is recognized by the Mayor to discuss an agenda item, the citizen shall step to the podium/microphone, state his or her name and address for the benefit of the city clerk, identify any group or organization he or she represents and shall then succinctly state his or her position regarding the item before the city commission. Any question, shall be related to the business of the City and deemed appropriate by the Mayor, shall be directed to the Mayor and the Mayor shall

then re-direct the question to the appropriate Commissioner or City Staff to answer the citizen question which shall be related to the business of the City.

All comments or questions of the public are to be directed to the Mayor as presiding officer only. There shall be no cross conversations or questions of any other persons. The length of time each individual may speak should be limited in the interest or order and conduct of the business at hand. Comments to the Commission by individual citizens shall be limited to three (3) minutes during the citizens request period. The City clerk shall be charged with the responsibility of notifying each citizen thirty (30) seconds before said time shall elapse and when said time limit has expired.

APPEALS

If a person decides to appeal any decision made by the board, agency, or commission with respect to any matter considered at such hearing, he or she will need a record of the proceedings, and that, for such purpose, he or she may need to ensure that a verbatim record of the proceedings is made, which record includes the testimony and evidence upon which the appeal is to be based.

DECORUM

If a member of the audience becomes unruly, the Mayor has the right to require the person to leave the room. If a crowd becomes unruly, the Mayor may recess or adjourn the meeting.

PLEASE SILENCE ALL CELL PHONES AND PAGERS

CONTACT INFORMATION

If anyone has questions or comments about anything on the meeting agenda, please contact the City Manager at 561-996-6751.

AMERICANS WITH DISABILITY ACT

In accordance with the Americans with Disability Act and Florida Statute 286.26, persons with disabilities needing special accommodations to participate in this proceeding should contact the city clerk no later than three (3) days prior to the meeting at 561-996-6751 for assistance.

CITY OF SOUTH BAY

CITY COMMISSION WORKSHOP

CITY HALL CHAMBER
TUESDAY, NOVEMBER 26, 2024
5:00 PM

NOTICE: If any person decides to appeal any decision of the City Commission at this meeting, he/she will need a record of the proceedings and for that purpose, he/she may need to ensure that a verbatim record of the proceedings is made, which record includes the testimony and evidence upon which the appeal is to be based, pursuant to F.S. 286.01055. The City of South Bay does not prepare or provide such records.

1. **CALL TO ORDER**
2. **ROLL CALL**
3. **DISCUSSION**
 - a. **RESOLUTION 49-2024**
A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF SOUTH BAY, FLORIDA AUTHORIZING THE CITY MANAGER TO EXECUTE A CARNIVAL AGREEMENT BETWEEN THE CITY OF SOUTH BAY AND CARR CARNIVAL, LLC D/B/A CARR EXPOSITIONS FOR THE PROVISION OF CARNIVAL RELATED SERVICES; PROVIDING FOR AN EFFECTIVE DATE.
4. **ADJOURNMENT**

RESOLUTION 49-2024

A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF SOUTH BAY, FLORIDA AUTHORIZING THE CITY MANAGER TO EXECUTE A CARNIVAL AGREEMENT BETWEEN THE CITY OF SOUTH BAY AND CARR CARNIVAL, LLC D/B/A CARR EXPOSITIONS FOR THE PROVISION OF CARNIVAL RELATED SERVICES; PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the City of South Bay ("City") is in need of a qualified firm to provide carnival related services and concessions; and

WHEREAS, the City desires to enter into a carnival agreement ("Agreement") for the provision of said services with Carr Carnival, LLC d/b/a Carr Expositions ("Carnival Operator"), attached hereto as Exhibit "A"; and

WHEREAS, the term of the Agreement shall begin on November 26, 2024 and end on December 2, 2024; and

WHEREAS, the parties have agreed that the Carnival Operator shall pay the City twenty percent of the gross revenues from ticket sales for amusement rides and concessions on the day of departure; and

WHEREAS, the execution of the Agreement is in the best interests of the residents of the City.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COMMISSION OF THE CITY OF SOUTH BAY, FLORIDA AS FOLLOWS:

Section 1. Adoption of Representations. The foregoing "Whereas" clauses are hereby ratified and confirmed as being true and the same are hereby made a specific part of this Resolution.

Section 2. Authorization of City Manager. The City Commission of the City of South Bay hereby authorizes the City Manager to execute a Carnival Agreement between the City of South Bay and Carr Carnival, LLC d/b/a Carr Expositions, attached hereto as Exhibit "A" for the provision of carnival related services. The City Manager is further authorized to take all necessary and expedient action to effectuate the intent of this Resolution.

Section 3. Effective Date. This Resolution shall be effective immediately upon its passage and adoption.

PASSED and **ADOPTED** this 26th day of November 2024.

Joe Kyles, Mayor

Attested

By: _____
Vicenta DelBosquez, City Clerk

**APPROVED AS TO FORM AND
LEGAL SUFFICIENCY:**

Burnadette Norris-Week, P. A.
City Attorney

Moved by: _____

Seconded by: _____

VOTE:

Commissioner Berry	_____ (Yes)	_____ (No)
Commissioner King	_____ (Yes)	_____ (No)
Commissioner Polk	_____ (Yes)	_____ (No)
Vice-Mayor McKelvin	_____ (Yes)	_____ (No)
Mayor Kyles	_____ (Yes)	_____ (No)

CARNIVAL AGREEMENT

This Agreement to provide amusement rides and concessions (hereinafter the “Agreement”) is made this 26th, day of November 2024, between City of South Bay (hereinafter the “City”) and Carr Carnival LLC. (hereinafter the “Carnival Operator”).

The purpose of this Agreement is for Carnival Operator to provide rides and a carnival environment and atmosphere at Woodham Subdivision Lts 32 to 36 Inclusive according to the Plat thereof (hereinafter the “Event”).

NOW THEREFORE, in consideration of the monies received pursuant to this Agreement and the mutual covenants hereinafter described, City and Carnival Operator agree as follows:

Section 1. Premises. City hereby grants to Carnival Operator, on a non-exclusive basis, the revocable privilege to use Woodham Subdivision Lts 32 to 36 Inclusive according to the Plat thereof (hereinafter the “Premises”) located in the City of South Bay, State of Florida, more particularly described as follows:

Woodham Subdivision Lts 32 to 36 Inclusive according to the Plat thereof

Section 2. Term. The term of this Agreement shall begin on November 26, 2024, and end on December 2, 2024.

FOR THE PURPOSE OF PRE-EVENT MOVE-IN, Carnival Operator’s use of the aforementioned premises shall commence on November 26, 2024, at 6:00 p.m.

2.1 **MOVE-IN AND MOVE-OUT** must take place during the designated times stipulated in this Agreement.

Section 3. Amusement Rides and Concessions. Carnival Operator hereby agrees to furnish the following amusement rides and concessions:

Amusement rides, professional games and food concessions.

Carnival Operator may not furnish any other rides or concessions without the prior consent of the City.

Section 4. Ticket Sale Revenue. City and Carnival Operator hereby agree that revenues from ticket sales for amusement rides and concessions will be divided as follows:

Twenty percent of gross revenues shall be paid to the City on the day of departure.

City reserves the right to review any and all financial documents necessary to validate the revenues

Section 5. Carnival Operator Representative. At all times Carnival Operator or any of Carnival Operator's personnel are present on the premises, there shall also be present a "Representative" of Carnival Operator who shall be responsible for Carnival Operator's operations under this Agreement and the conduct of its personnel.

Section 6. Shows. Absolutely no shows of any type shall be permitted.

Section 7. No Interest in Property. Carnival Operator's use of the Premises shall not constitute a tenancy of any kind, and this Agreement is not a lease. The parties further agree that Carnival Operator's rights hereunder shall not be construed as an easement, or any other interest in real property.

Section 8. Operation of Amusement Rides and Concessions. During the term of this Agreement, Carnival Operator shall erect and operate the aforementioned amusement rides and concessions. Carnival Operator will operate such rides as are provided for this Agreement on a daily basis for the period each day as set by City.

Section 9. Ownership of Premises. City covenants that it is authorized to enter into this agreement and that said Premises. Thereby, Carnival Operator agrees to restrict its use to the furnishing of the aforementioned amusement rides and concessions, and not to use, or permit the use of, the Premises for any other purpose without first obtaining the express written consent of the City.

Section 10. Status of Name, Address, and Guaranty. The Carnival Operator represents and warrants that the legal name as contained in this Agreement along with all other information in this Agreement are accurate and correct in all respects and makes this warranty as of the date of this Agreement and continuing through its duration. Carnival Operator further represents and warrants that the representative who has signed the Agreement has full, complete and absolute authority to bind the Carnival Operator. If the Carnival Operator is a corporation, it warrants and represents that it is in good standing and active, and if it is not a Florida Corporation, it warrants and represents that it is authorized to do business in the State of Florida. Furthermore, the individual executing this Agreement on behalf of the Carnival Operator absolutely, personally, unconditionally, and continually warrants and guarantees Carnival Operator's full and faithful performance and payment of all obligations under this License.

Section 11. Condition of Premises. Carnival Operator agrees to quit and surrender the Premises and all equipment therein to City at the end of the term of this Agreement in the same condition as the date of the commencement of this Agreement, ordinary use and wear thereof only excepted.

Section 12. Rules and Regulations. Carnival Operator agrees to abide by and conform to all rules and regulations from time to time adopted or prescribed by City, for the governance and management of Premises.

Section 13. Alcoholic Beverages. Carnival Operator agrees to not cause or allow alcoholic beverages of any kind to be sold, given away, or used upon Premises.

Section 14. Improvements. Carnival Operator agrees to make only those alterations, additions, or improvements, in, to, or about Premises which have been approved in advance and in writing by City.

Section 15. Damage to Premises. Carnival Operator agrees to not injure, nor mar, nor in any manner deface Premises or any equipment contained therein, and to not cause or permit anything to be done whereby Premises or equipment therein shall be in any manner injured, marred or defaced; and to not drive or permit to be driven nails, hooks, tacks or screws into any part of said building or equipment contained therein and to not make nor allow to be made any alterations of any kind to said building or equipment contained therein; that if said premises or any portion of said building or any equipment contained therein during the term of this Agreement shall be altered in any manner and/or damaged by the act, default or negligence of Carnival Operator, or of the Carnival Operator's agents, employees, patrons, guests or of any person admitted to premises, Carnival Operator shall cause Premises and/or equipment to be returned to their condition as existed upon the execution hereof. The Carnival Operator hereby assumes full responsibility for the character, acts and conduct of all persons admitted to said premises or to any portion of said building by the consent of the said Carnival Operator or by or with the consent of any person acting for or in behalf of said Carnival Operator.

Section 16. Ride Operators. Carnival Operator agrees to furnish competent, qualified ride operators on each ride.

Section 17. Dogs and other animals. Carnival Operator shall not allow any of its employees, agents or any person associated with Carnival Operator to bring, or keep on the City's premises, any dogs or other animals.

Section 18. Tickets. Carnival Operator agrees to provide ticket sellers and change for ride ticket booths as well as the actual tickets for amusement rides and concessions.

Section 19. Removal of Amusement Rides and Concessions. Carnival Operator shall furnish at its own expense all personnel required to erect, operate, dismantle and remove all amusement rides and concessions and other equipment on the premises.

Section 20. Ordinances and Statutes. Carnival Operator shall comply and shall require its employees to comply with all laws, ordinances and regulations adopted or established by Federal, State or Local Governmental agencies or bodies, with the terms of this Agreement, all relevant health and fire codes and all trademark, copyright and other intellectual property laws. Carnival Operator agrees that at all times it will conduct its activities with full regard for public safety. Carnival Operator also shall not use, store or permit to be used or stored in or on any part of Premises covered by this Agreement any substance or item prohibited by law, ordinance or standard policies of fire insurance companies operating or insuring in the State of Florida.

Section 21. Licenses and Permits. It shall be the full and sole responsibility of Carnival Operator to obtain and pay for all Federal, State, County, local and other licenses, permits and inspections that may be required to operate their amusement rides and concessions and, furthermore, Carnival Operator shall provide proof to the City that all appropriate licenses, permits and inspections have been obtained and the City shall thereafter, forward a copy to the City Manager for the City.

Section 22. Assignment and Sublicensing. This Agreement is personal between City and Carnival Operator. Carnival Operator shall not assign any portion of this Agreement or sublicense any portion of Premises or assign responsibility for provision of amusement rides and concessions without the express written consent of City.

Section 23. Lien. City shall have the first lien against all property of Carnival Operator for all unpaid fees, expenses, damages to property and any taxes due to the Agreement. City is empowered to impound any and all property of License. City shall have the right to sell said property at public auction and to apply the proceeds from such auction to the unpaid fees or charges due City. Carnival Operator agrees to waive any and all claims for damages against City or its agents for the seizure, prevention, or removal of the Carnival Operator or Carnival Operator's property from being removed from premises.

Section 24. Entry and Inspection. Carnival Operator's use of Premises is non-exclusive, and City may enter at any time and for any purpose while Carnival Operator is utilizing Premises or at any other time.

Section 25. Liability Indemnification of the City. It is expressly understood and agreed by and between the parties hereto that in no case shall the City be liable to the Carnival Operator, or any other person or persons, for any injury, loss and/or damage to any person or property on the Premises or on the amusement rides provided by the Carnival Operator or by virtue of any act, error, or omission of Carnival Operator, whether same is caused by or results from the carelessness, negligence, or improper conduct of the Carnival Operator, its agents or employees or otherwise, said Carnival Operator hereby taking all risk and indemnifying City for any such damage or injury. Carnival Operator agrees to hold City harmless from any claims for damages, caused by the act, error, or omission of Carnival Operator, its agents, employees, assigns, invitees or otherwise regardless of whether the claim for damages arises out of an occurrence occurring before, during, or after the time set forth in this Agreement for providing amusement rides and concessions. This provision shall survive the termination of the Agreement.

Section 26. Independence of Carnival Operator. It is expressly understood and agreed by and between the parties hereto that Carnival Operator is not owned, operated, sponsored, affiliated, or otherwise under the direction or control of City. City has no authority or control

over any aspect of Carnival Operator's operations, except as provided in this Agreement. Carnival Operator is an entity entirely independent of City related only by the independent contractual terms of this Agreement.

Section 27. Warranties by the City. It is further expressly understood and agreed by and between the parties hereto that this Agreement does not contain or embody, and shall not be construed to contain or embody any implied covenant, warranty or agreement on the part of the City, and there are no verbal agreements whatsoever between the City and Carnival Operator, and no agreements nor covenants exist between them except those representations, warranties and agreements expressed in writing in this instrument.

Section 28. Insurance. The Carnival Operator, at its cost, shall provide to the City the following forms of insurance, to be provided.

Commercial General Liability including coverage for Bodily Injury, Property Damage, Contractual Liability, Personal Injury - encompassing libel, slander, false arrest, malicious prosecution, wrongful entry or eviction, advertisers' liability, including violation of Trademark or copyright and discrimination.

Such policy will contain the provision that the City is named as additional insured and that "coverage provided herewith shall be primary over any other insurance or self-insurance program available to the City for any liabilities arising in connection with this Agreement.

The minimum limits acceptable for General Liability are \$1,000,000 per occurrence and \$3,000,000 annual aggregate.

In addition, the Carnival Operator shall have an Automobile Insurance policy providing coverage of not less than \$1,000,000 combined single limit for bodily injury and property damage for at least all owned, non-owned and hired vehicles.

Carnival Operator shall also have Statutory Worker's Compensation Insurance as well as Employer's liability with limits of not less than \$500,000 per occurrence and shall indemnify and hold harmless the Owner/City for any and all claims arising from the Carnival Operator's employees.

All insurance shall be placed with companies approved to do business in the State of Florida which shall have an AM Best rating at least an "A", and Financial Category of at least

“VII”. The Carnival Operator shall furnish the City with an originally signed Certificate of Insurance clearly demonstrating the above coverage requirements. Such certificate shall indicate not less than 30 days advance notice shall be provided to the City prior to cancellation, expiration or material alteration of any policy of insurance. The City is entitled to receive a copy of any policy of insurance covered by this Agreement within 30 days of such policy being issued. The City shall then provide a copy of all such coverages to the City Manager for the City.

Should said insurance fail to provide a defense to City within ten (10) days of receiving Notice of Claim, irrespective of any rights of City hereunder, Carnival Operator agrees to pay all of City’s attorneys’ fees and costs together with liquidated damages of One Hundred and No Cents (\$100.00) Dollars, per day.

Section 29. Water fees. Carnival Operator shall pay Water Fee of \$ 382.15 on the day of opening. The City will open an account with Palm Beach County Utilities and cover \$ 1,000.00 deposit.

Section 30. Underground Utilities. Carnival Operator shall not, nor will Carnival Operator allow any of its agents or employees to drive any stake, instrument or object of any kind into the asphalt or grassy area of Premises without the written consent of City. It shall be the sole responsibility of the Carnival Operator to enforce this provision and should any damages occur City will look to Carnival Operator for reimbursement.

Section 31. Storage. Carnival Operator assumes all responsibility for all goods, materials, exhibits, displays, articles and other tangible personal property in or on the Premises before, during or after the event and City assumes no responsibility for said items. Carnival Operator agrees to assume all risk or loss of said property and will defend, indemnify and hold Owner/City harmless from any and all loss.

Section 32. Safety Standards. Carnival Operator agrees to comply with any safety standards expressed in Florida Statutes or the rules promulgated thereby or required by the Commissioner of Agriculture and to operate all rides and amusement devices according to the safety standards, rules and regulations therein prescribed and any other safety standards

including the County's in which the premises are located which may be applicable and to furnish City with all safety inspection forms and reports as may be required.

Section 33. Personnel.

- A. It shall be the obligation of Carnival Operator that all personnel employed by Carnival Operator will be appropriately uniformed, will keep themselves in a neat and clean condition, will deal courteously with patrons of City, and will not use rough or profane language, drink alcoholic beverages or use non-prescription drugs at any time while on the Premises. Carnival Operator, upon request from the City Manager for the City, will furnish a list, including names, date of birth and social security number of all personnel who will assemble, disassemble or operate the rides, whether such request occurs before, during or after the event.
- B. Carnival Operator acknowledges and agrees that City is committed to providing for the safety and well-being of its youth, its elderly and aged, and its disabled. Carnival Operator represents and warrants that all persons affiliated or associated with the Carnival Operator who have access to the Premises by virtue of this Agreement, shall meet the minimum level 2 screening requirements of Section 435.04, Florida Statutes, and Carnival Operator shall perform all necessary background investigations to assure such compliance and provide copies upon request by the City Manager for the City. If City is not satisfied that this requirement has been met, Licensor may request that Carnival Operator or any person affiliated with Carnival Operator be prohibited from accessing the Premises, and Carnival Operator shall immediately prohibit such person in violation from accessing the Premises; or in the alternative, City may immediately terminate this Agreement and require Carnival Operator to vacate the Premises. Carnival Operator shall be strictly liable for any injury, loss and/or damage to any person, and shall indemnify and hold City and its entities, employees and agents harmless from any claims, resulting from Carnival Operator's failure to comply with these requirements.

Section 34. Cancellation. City reserves the unilateral right to cancel this Agreement for the public good in the Event of an act of God, inclement weather, natural disaster, bomb or threat or for other reasons as determined in the sole and arbitrary opinion of City, or in the event of any request by any Federal, State or County agency for use of the Premises under such

circumstances, it being understood and agreed by Carnival Operator that its rights hereunder are subordinate and inferior to the right of use by any Federal, State or County agency or department. Should the City exercise its rights to cancel this License, Carnival Operator agrees to forego any and all claims for damages against the Carnival Operator and further agrees to waive any and all rights which might arise by reason of the terms of this License and the Carnival Operator shall have no recourse of any kind against City.

Section 35. Carnival Operator Failure to Appear. Should the Carnival Operator fail to timely appear and set up for the event or fail to perform the conditions and requirements set forth in the Agreement, this Agreement shall be canceled and shall in all respects be deemed null and

void, and City shall be entitled to Seventy-Five Thousand and No Cents (\$75,000.00) Dollars from Carnival Operator as agreed upon liquidated damages and not as penalty, it being understood and agreed by all parties that actual damages would be extremely difficult to ascertain. Furthermore, should the Carnival Operator default in the performance of any of the terms and conditions of this Agreement, City, at its option, may cancel this Agreement and the relation of the parties shall be in all respects as if said terms had fully expired. Should City exercise its right to cancel this Agreement, Carnival Operator agrees to forego any and all claims for damages against City and further agrees to waive any and all rights which might arise by reason of this Agreement and the Carnival Operator shall have no recourse of any kind against City and the relation of the parties shall be in all respects as if said terms had fully expired. Additionally, Carnival Operator hereby waives any and all claims for compensation for any and all loss or damage sustained by reasons or any defect, deficiency or impairment of the premises including, but not limited to electrical, telephone, plumbing, sewer and water or any part thereof furnished by City.

Section 36. Toxic Waste. Carnival Operator agrees, at all material times Carnival Operator is on the Premises, not to have in its possession, collect, distribute, dispose, release or otherwise discharge any toxic or hazardous waste as defined by Florida and Federal law.

Section 37. Electrical Equipment. Carnival Operator shall furnish sufficient electrical generating equipment for all rides at no charge to the City. Carnival Operator agrees to reimburse City for such direct electrical use cost, at the conclusion of the Event.

Section 38. Nuisance. Carnival Operator shall not use the Premises for any unlawful purpose or in any way which will constitute a nuisance or interfere with City's use of the Premises.

Section 39. Removal of Objectionable Amusement Rides. City shall have complete discretion to remove from the Premises, or not permit within Premises, any and all rides, persons or events under the employ of or under contract with Carnival Operator or any other activity of Carnival Operator which in his opinion are detrimental to the public morals or which would adversely reflect on City. Should City exercise its rights thereof, Carnival Operator agrees to forego, any and all claims for damages against City as a result of City's actions.

Section 40. Default. If Carnival Operator fails to abide by and perform all covenants, stipulations and conditions of this Agreement, City may, at its option, immediately terminate and end this Agreement and the license hereby granted, and all rights and interest of the Carnival Operator thereunder forthwith.

Section 41. Notices. Any notice which either party may or is required to give, shall be given in writing and shall be given by mailing the same, postage prepaid, to Carnival Operator at the address shown below and City at the address shown below.

Carnival Operator:
Carr Carnival LLC.
1040 Winter Springs Blvd.
Winter Springs, FL 32708

City:
Leondrae Camel, City Manager
City of South Bay
335 SW 2nd Avenue
South Bay, FL 33493

City Attorney:
Burnadette Norris-Weeks, Esquire
Burnadette Norris-Weeks, PA
401 North Avenue of the Arts (NW 7th Avenue)
Fort Lauderdale, Florida 33311

Section 42. Method of Giving Notice. All notices or other communications permitted or required to be given under this License shall be given in writing, and delivered to City or to the Carnival Operator in one of the following ways: (i) by hand delivery; (ii) by certified or registered mail, return receipt requested and proper postage prepaid; (iii) by a nationally recognized overnight courier service such as Federal Express; or (iv) by telecopy.

Section 43. Effective Date of Notices. Notices delivered by hand delivery or by a nationally recognized overnight courier service such as Federal Express shall be effective on the date delivered to the recipient. Notices delivered by certified or registered mail shall be effective upon receipt. Notices sent by telecopy shall be effective on the date transmitted and received, provided that the receipt occurs prior to 5:00 p.m. eastern standard time.

Section 44. Venue. The venue of any legal proceeding brought in connection with this Agreement shall be in the county in which the City is situated.

Section 45. Applicable Law. This Agreement shall be governed, interpreted, construed and enforced in accordance with the laws of Florida and no other.

Section 46. Time. Time is of the essence of all of the provisions and terms of this Agreement.

Section 47. Waive of Trial by Jury. City and Carnival Operator hereby mutually, knowingly, willingly and voluntarily waive their right to a trial by jury and no party nor any assignee, successor, heir, or legal representative of the parties (all of who are collectively referred to below as the "parties") shall seek a jury trial in any suit, proceeding, counterclaim, or any other litigation or proceeding based upon or arising out of this Agreement or any related agreement or instrument, or any course of action, course of dealing, statements, (whether verbal or written) or actions relating to this Agreement, including any tort claim or claims for fraud,

misrepresentation, breach of fiduciary, antitrust, etc. The parties also waive any rights to consolidate any action in which a jury trial has not been waived. The provisions of this paragraph have been fully negotiated by the parties, and the parties acknowledge that the inclusion of this provision is a material inducement for entering into this Agreement. The waiver contained in this paragraph is irrevocable, constitutes a knowing and voluntary waiver, and shall be subject to no exceptions.

Section 48. Pre-suit Mediation. Prior to bring any lawsuit under this Agreement, the parties hereto agree to submit any and all disputes to pre-suit mediation under the Florida Rules of Civil Procedure. Accordingly, the parties agree to strictly follow said rules and abide by any agreement made as the result of mediation. Good faith compliance with this provision shall be a condition precedent to the right of any party hereto to bring a lawsuit under this Agreement. This provision is a material inducement to the City entering into this Agreement. This provision shall survive termination of this Agreement.

Section 49. Severability and Enforceability. The terms of this Agreement are severable, and in the event that any specific term herein is determined to be unenforceable the remainder of the Agreement shall remain in full force and effect.

Section 50. Waiver. The failure of City to insist on the strict performance of any one or more of the covenants, terms and conditions of this Agreement, shall not be construed as a waiver of such covenants, terms or conditions, but the same shall continue in full force and effect, and that no waiver by City of any of the provisions hereof shall in any event be deemed to have been made unless the same be expressed in writing by City.

Section 51. Singular and Plural. Whenever used in this Agreement, the singular number shall include the plural, the plural number shall include the singular, and the use of any gender shall include all genders where the context permits.

Section 52. Attorney's Fees. Any reference to attorney's fees in this Agreement applies only to the indemnity given by Carnival Operator to City and not to any other term, provision and condition thereof.

Section 53. Matters That Survive Terminations. Unless otherwise provided in this Agreement, all of the terms provisions, representations and warranties, all remedies available to any party, shall survive termination of the Agreement.

Section 54. Entire Agreement. The foregoing constitutes the entire agreement between the parties and may be modified only by a writing signed by both parties. Any and all prior agreements, understandings, and representation are hereby terminated and canceled in their entirety and are of no further force or effect.

Section 55. Termination. City reserves the right to cancel this Agreement at any time without cause upon thirty (30) days advance notice or immediately if for cause as determined by City in its sole discretion.

Section 56. Construction of Agreement. This Agreement was negotiated at arm's length. Carnival Operator and City agree to the terms of the Agreement and have executed this Agreement freely and voluntarily. Thus, this Agreement shall not be construed more strictly against the City. Furthermore, the money, property, insurance or services which are the subject of this Agreement are for commercial purposes and not for personal, family or household purposes.

Section 57. Paragraph Headings. The paragraph headings used in this Agreement are for convenience only, and shall not be used in interpreting or construing any provision of this Agreement.

Section 58. Other Conditions. It is mutually agreed that any and all matters not expressly provided for in this License will be at the sole discretion of the City.

IT WITNESS WHEREOF, the parties hereto have hereunto set their hands and seals the day and year first above written.

WITNESSES

CITY:

Leondrae D. Camel, City Manager,
City of South Bay, Florida

Carnival Operator:

Print name and title: _____

ATTEST:

CITY CLERK

STATE OF FLORIDA)

)SS:

COUNTY OF PALM BEACH)

BEFORE ME, an officer duly authorized by law to administer oaths and take acknowledgments, personally appeared _____ as _____, of _____, a Florida corporation, and acknowledged executed the foregoing Agreement as the proper official of _____, for the use and purposes mentioned in it and affixed the official seal of the corporation, and that the instrument is the act and deed of that corporation.

IN WITNESS OF THE FOREGOING, I have set my hand and official seal at in the State and County aforesaid on this __ day of _____, 2024.

NOTARY PUBLIC

My Commission Expires: