

**RESOLUTION No. 23-159**

**A RESOLUTION OF THE MAYOR AND THE CITY COUNCIL OF THE CITY OF DORAL, FLORIDA, APPROVING A FIRST AMENDMENT TO THE AGREEMENT WITH INSITE STREET MEDIA TO PROVIDE FOR A SIX (6) MONTH EXTENSION; AUTHORIZING THE CITY MANAGER EXECUTE THE FIRST AMENDMENT TO THE AGREEMENT AND EXERCISE THE ONE-TIME OPTIONAL SIX-MONTH EXTENSION, FOR THE DESIGN, CONSTRUCTION, INSTALLATION, AND MAINTENANCE OF THE CITY'S BUS BENCHES; AND PROVIDING FOR AN EFFECTIVE DATE**

**WHEREAS**, on September 22, 2009, the City of Doral ("City") entered into a five (5) year contract with Martin Outdoor Media for the design, construction, installation, and maintenance of the City's bus benches ("Services"); and

**WHEREAS**, on October 20, 2014, the City exercised a five (5) year renewal option with Martin Outdoor Media, which term expired on October 31, 2019; and

**WHEREAS**, on September 11, 2019, the City Council approved an extension to the contract with Martin Outdoor Media, which was now operating as InSite Street Media, on a month-to-month basis for a term not to exceed one (1) year; and

**WHEREAS**, on October 14, 2020, pursuant to Resolution No. 20-228, the City Council waived competitive bidding, and approved a new agreement with InSite Street Media for an initial term of two (2) years, with a one (1) year option to renew, which is set to expire October 29, 2023; and

**WHEREAS**, the Public Works Department respectfully recommends that the City Council approve a First Amendment to the Agreement with InSite Street Media to provide for a six (6) month extension, and authorize the City Manager to exercise said renewal term.

**NOW, THEREFORE, BE IT RESOLVED BY THE MAYOR AND THE CITY COUNCIL OF THE CITY OF DORAL AS FOLLOWS:**

**Section 1. Recitals.** The above recitals are confirmed, adopted, and incorporated herein and made part hereof by this reference.

**Section 2. Approval.** The First Amendment to the Agreement between the City of Doral and Insite Street Media Inc, attached hereto as Exhibit "A", is hereby approved.

**Section 3. Authorization.** The City Manager is authorized to execute the First Amendment to the Agreement between the City of Doral and Insite Street Media Inc, attached hereto as Exhibit "A", and to exercise said renewal term under the same terms and conditions of the current contract with InSite Street Media.

**Section 4. Implementation.** The City Manager and the City Attorney are hereby authorized to take such further action as may be necessary to implement the purpose and the provisions of this Resolution.

**Section 5. Effective Date.** This Resolution shall take effect immediately upon adoption.

The foregoing Resolution was offered by Vice Mayor Pineyro who moved its adoption. The motion was seconded by Councilmember Puig-Corve and upon being put to a vote, the vote was as follows:

Mayor Christi Fraga	Yes
Vice Mayor Rafael Pineyro	Yes
Councilwoman Digna Cabral	Yes
Councilwoman Maureen Porras	Yes
Councilman Oscar Puig-Corve	Yes

PASSED AND ADOPTED this 13 day of September, 2023.

  
\_\_\_\_\_  
CHRISTI FRAGA, MAYOR

ATTEST:

  
\_\_\_\_\_  
CONNIE DIAZ, MMC  
CITY CLERK

APPROVED AS TO FORM AND LEGAL SUFFICIENCY  
FOR THE USE AND RELIANCE OF THE CITY OF DORAL ONLY:

  
\_\_\_\_\_  
VALERIE VICENTE, ESQ. for  
NABORS, GIBLIN & NICKERSON, P.A.  
CITY ATTORNEY

# EXHIBIT “A”

AGREEMENT BETWEEN THE  
CITY OF DORAL AND  
INSITE STREET MEDIA, INC.

THIS AGREEMENT is made and entered into this 30<sup>th</sup> day of OCTOBER 2020, by and between the City of Doral, a municipal corporation with principal offices located at 8300 N.W. 53<sup>rd</sup> Street, Doral, Florida 33166 (the "CITY") and InSite Martin Outdoor, LLC, DBA InSite Street Media, a Florida corporation with principal offices located at 1835 NW 112<sup>th</sup> Ave., Ste.161, Miami, FL 33172 (the "CONTRACTOR") to provide for Bus Bench Design, Construction, Installation and Maintenance.

Now therefore, in consideration of the mutual covenants hereinafter set forth, the CITY and CONTRACTOR agree as follows:

**1. THE CONTRACT DOCUMENTS**

The contract documents consist of this Agreement, drawings submitted to the City, specifications provided by the City, and all modifications issued after execution of this Agreement. These contract documents form the Agreement, and all are as fully a part of the Agreement as if attached to this Agreement or repeated therein.

**2. TERM**

The initial term of this Agreement shall be for a two (2) year period and one (1) option to renew.

CITY shall have the sole option to renew this Agreement for one (1) term. Written notice of the CITY's intent to renew shall be provided to CONTRACTOR sixty (60) days prior to the expiration of this Agreement.

**3. TERMINATION**

This Agreement may be terminated by CITY or CONTRACTOR for cause or by the CITY for convenience, upon thirty (30) days of written notice by the terminating party to the other party for such termination. In the event that the CONTRACTOR abandons this Agreement or causes it to be terminated, CONTRACTOR shall indemnify the CITY against loss pertaining to this termination.

Default by CONTRACTOR: In addition to all other remedies available to the CITY, this Agreement shall be subject to cancellation by the CITY should the CONTRACTOR neglect or fail to perform or observe any of the terms, provisions, conditions, or requirements herein contained, if such neglect or failure shall continue for a period of thirty (30) days after receipt by CONTRACTOR of written notice of such neglect or failure.

At termination of this Agreement for cause or any reason after the initial five years term of this Agreement, all bus benches installed during the term of this Agreement shall be removed

by the new contractor and stored at a location to be advised by the new contractor and removed from said location by the CONTRACTOR within thirty days (30) of written notice.

Nothing in this Agreement shall be construed as waiving any rights that the CITY may have against the CONTRACTOR under this Agreement.

#### **4. THE WORK**

The CONTRACTOR shall perform all work for the CITY as set forth in CONTRACTOR's proposal and as required by the contract documents as set forth below:

a) CONTRACTOR shall furnish all labor, materials, and equipment necessary to install and maintain bus benches at public transit stops within the CITY limits.

b) CONTRACTOR shall have the exclusive right to construct, erect, install, repair and maintain public bus benches at no cost to the CITY, and to place such benches at locations on public property or within the public right-of-way approved by the CITY. The benches shall remain the sole property of the CONTRACTOR and must be removed within sixty (60) days of termination of this Agreement. Upon termination of this Agreement, the CONTRACTOR shall no longer possess the right to maintain, operate or install benches within the CITY. The CITY has approved placing and/or replacing benches at the locations set forth in **Exhibit "A"** to this Agreement. Placement of benches at additional locations is subject to the approval and/or direction of the CITY. All locations shall be public transit stops. All locations and bench installations must conform to federal, state, county and municipal laws, ordinances and rules and regulations, including but not limited to the American's With Disabilities Act, and have the approval of the CITY prior to installation of the benches in accordance with the provisions of this Agreement. CONTRACTOR shall have the sole responsibility, at its sole cost expense, to obtain all necessary local, county, state and federal permits. All benches shall be located within twenty-five (25) feet of a bus stop. Only one (1) bench is permitted at a bus stop, unless agreed by CITY and CONTRACTOR that is necessary to have more than one bench at a location. There shall not be an additional advertising bus bench allowed at the same transit location as a permitted bus bench. It is not the intent of the CITY to allow unrestricted advertising.

c) The CITY retains the right to require modification in the design of bench and to approve the design and materials to be used in constructing bus benches. The CITY must approve any subsequent changes in design and/or materials. The color(s) of the bus benches, excluding advertising, must be approved by the CITY prior to installation. All benches shall be constructed of materials that are safe, attractive and appropriate for outdoor use in South Florida subtropical climate and conform to the Florida Building Code as well as all applicable state, county and municipal codes, as described in the specifications and model as set forth in **Exhibit "B"** to this Agreement, attached hereto and incorporated herein as if set forth in full. The CONTRACTOR shall obtain all necessary permits for all bench construction. However, the CITY shall cooperate with the CONTRACTOR on permitting to the fullest extent possible and in accordance with the Florida Building Code and State Statutes.

d) The CONTRACTOR has installed new benches at all locations, as specified in **Exhibit "A"**. Bench locations and order of replacement to be agreed upon between the CITY and CONTRACTOR.

e) The CONTRACTOR shall at its sole cost and expense maintain all such benches in good and serviceable condition during the entire term of this Agreement. Each bench shall be routinely visited for maintenance a minimum of every three (3) days. Each bench and associated pad shall be pressure washed with no more than 3,500 psi as needed however at a minimum of one (1) time per year. The CITY reserves the right to periodically inspect such benches to determine their condition. The CONTRACTOR shall remove, replace or recondition, to the satisfaction of the CITY, any benches, which the CITY determines, are not at an approved location or no longer in good or serviceable condition. The style and construction of any replacement benches shall be the same as the bench replaced, unless prior written CITY approval is received. In the event CITY inspects and determines that bench is in need of cleaning or maintenance, CITY shall notify CONTRACTOR who shall perform maintenance within two (2) business days.

f) The CONTRACTOR shall supervise the work force to ensure that all workers conduct themselves and perform their work in a safe and professional manner. CONTRACTOR shall comply with all OSHA safety rules and regulations in the operation of equipment and in the performance of the work. CONTRACTOR shall at all times have a competent field supervisor on the job site to enforce these policies and procedures at the CONTRACTOR'S expense.

g) The CONTRACTOR shall provide the CITY with ninety-six (96) hours written notice prior to the beginning of work under this Agreement and prior to any schedule change with the exception of changes caused by inclement weather.

h) The CONTRACTOR shall comply with any and all Federal, State, and local laws and regulations now in effect, or hereinafter enacted during the term of this Agreement, which are applicable to the CONTRACTOR, its employees, agents or subcontractors, if any, with respect to the work and services described herein.

i) The CONTRACTOR shall place benches at designated Miami-Dade Transit Stops and Doral Transit Stops designated on the bus stop inventory and at approved locations within the CITY. No bus passenger benches shall be installed at any location unless such location is specifically authorized by the CITY in writing. The CITY in its sole and absolute discretion shall have the right to refuse approval of a location, or to require the removal of bus passenger bench(es) from and location(s) at any time. The decision of the CITY in respect to the installation, maintenance, or removal of a bus passenger bench(es) at any location in the CITY shall be final.

j) The CONTRACTOR, by virtue of signing of the Agreement, acknowledges that he has satisfied himself as to the nature and location of the stops, the general and local conditions including, but not limited to, access to the proposed bus passenger bench, storage and handling of materials, conditions of the site(s), all permitting and approval requirements

and the character of the character of equipment and facilities needed primarily to and during the work required to institute and maintain a bus passenger bench program as described in this contract. Failure on the part of the CONTRACTOR(s) to completely or properly evaluate any factors or costs shall not form a basis for any changes or reduction in the goods and services or revenues to be provided to the CITY as stated in the Agreement. Any preparation of a bus passenger bench site required to meet federal, state and local requirements and to meet conditions for permits and approvals from any jurisdiction or agency shall be performed solely at the CONTRACTOR's expense.

Any work required at a site shall be submitted in writing to the City of Doral Public Works Director. The submittal shall include a detailed description of the work required.

k) The CONTRACTOR shall be responsible for obtaining all required permits and approvals from the appropriate jurisdiction(s). Doral PWD requires a permit prior to installation or construction of any structure or device, including bus benches, in public right-of-way. The permit application must include a drawing clearly showing the location of the passenger bus bench. This drawing must clearly show the position of the bus bench within the right-of-way, offsets, elevations and sight triangle assessment. The bench design must be signed and sealed by a registered Florida engineer.

All work or activities performed under this Agreement must comply with all applicable federal, state and local laws, regulations, ordinances, policies and standards, including but not limited to, Miami-Dade County Code, the Florida Administrative Code, the Americans with Disabilities Act, the Miami-Dade County Public Works Manual, the Florida Department of Transportation Manual of Uniform Minimum Standards for Design, Construction and Maintenance for Streets and Highways also known as the Florida Green Book. In specific cases, there may be other agencies such as the Miami-Dade Department of Environmental and Resource Management and the South Florida Water Management District that also require issuance of a permit or approval prior to installation of a bus passenger bench. These agencies may be involved if the site is located close to a canal or other water body or in cases requiring the removal, trimming or transplantation of tree in right-of-way.

1) Significant restrictions on bus passenger bench placement include, but are not limited to, the following:

i) Bus passenger benches may not be placed at bus stops where bus passenger shelters are installed or proposed to be installed. Bus passenger benches may be installed at locations where shelters are located only upon express, written authorization by the CITY. The CITY reserves the right to rescind such authorization at any time upon written notification to the CONTRACTOR. Further, the CONTRACTOR shall be required to remove benches within the time specified by the City of Doral Public Works Director. If, at any time, the CONTRACTOR fails to remove a bench within the period of time specified by the City of Doral Public Works Director in written notification, the CITY shall remove the bench at the expense of the CONTRACTOR.

ii) Bus passenger bench are prohibited on medians.

iii) Bus passenger bench must meet clearances in accordance with the Florida Green Book.



- iv) Bus passenger bench shall not cause obstruction to sidewalks and driveways.
- v) Bus passenger benched must be placed such that there is a clear path as required by the Americans with Disabilities Act.
- vi) Bus passenger benches may not be placed on bicycle path and comply with clearances for fixed objects specified in the Florida Green Book.
- vii) Bus passenger benches may not be placed within 15 feet of a fire hydrant, a disabled on-street parking space or curb cuts.
- viii) The CONTRACTOR is responsible for obtaining all required permits and approvals from all jurisdictional agencies for bus passenger benches and for all fee related to permits and approvals.
- ix) All bus benches must be anchored in such a manner that would not permit them to be readily moved by unauthorized persons. Methods used to secure bus passenger benches located on the ground, grass or paved surfaces must be effective and reliable. Anchors must be designed so as to break away at ground level upon impact. The CITY must approve method(s) of anchoring bus passenger benches.
- x) Bus passenger benches must be located entirely within public right-of-way. Benches may not encroach on private property, unless easements are obtained from property owner(s).
- xi) No more than one bus passenger bench may be placed at bus stops within residential areas without the express written consent from the City of Doral Public Works Director. When more than one bench is installed, they shall be separated by a minimum of two feet to minimize impact on errant vehicles. Such consent shall be considered on a case by case basis.
- xii) The bus passenger bus benches installed within the residential areas shall be for the exclusive use of the CITY to promote City events, campaigns, and/or programs and are not to be sold to a third party for advertising. The CITY shall provide the backboards for these passenger bus benches for installation by the CONTRACTOR. The number of non-advertising passenger bus benches shall not exceed 20% of the total number of bus passenger bus benches within the City. In the event, the number of benches surpasses 20%, the CITY will provide written notice of new potential passenger bus benches locations for adverting or request the removal of CITY advertisements on passenger bus benches to allow the sale of advertisement to a third party.
- xiii) Bus passenger benches must not interfere or obstruct vehicular, bicyclist or pedestrian access to private property.
- xiv) Bus passenger benches must not interfere or obstruct clear line of sight at roadway intersections and driveways.
- xv) Bus passenger benches must be maintained in a safe, level, and clean condition, with advertisement in good, clean, readable condition. All bus bench parts must be kept in good repair and components kept free of rust.

## **5. REPAIR/REPLACEMENT/REMOVAL**

a) In the event the CITY shall determine that a bench should be repaired or replaced, or constitutes disallowed advertising in the CITY's sole opinion, or that a bench does not comply with this Agreement, it shall give the CONTRACTOR notice, identifying the exact location of the bench and corrective measure to be taken, and the CONTRACTOR shall repair, replace, remove the bench or take corrective measures specified by CITY within two (2) business days of receipt of such notice.

b) In the event the CITY determines that a bench or advertisement on a bench, poses a risk to the health, safety and welfare of persons, pedestrians, property or vehicular traffic or seriously disrupts the public right-of-way, the CITY shall notify CONTRACTOR who shall remove the bench or advertisement immediately upon receipt of - notice, but no longer than two (2) business days from receipt of verbal or written notification, whichever occurs first.

c) In the event the CONTRACTOR fails to repair, replace or remove the bench within the above-specified periods, the CITY shall have the right to repair, replace or remove and store the bench at the expense of the CONTRACTOR.

d) Upon termination CONTRACTOR shall have sixty (60) days to remove benches. Upon expiration of sixty (60) days CITY shall have the option to remove and store benches at CONTRACTORS expense. After sixty (60) days storage, CITY shall have the option to dispose of benches at CONTRACTOR's expense.

e) If the CITY approves the installation of a new bus bench at a specific stop and later requires the removal of the bench within one year as a result of actions taken by the CITY, the CITY will participate in the cost of the removal at a rate of \$250 per bench. The CITY will not participate in the cost of removals if the removal is caused by a third party. If the bench has been installed for more than one year, the CITY will not participate in removal costs. Participation by the CITY in bench removal applies only to new benches installed under this Agreement. It does not apply to the benches that existed at the inception of this Agreement.

## **6. MAINTENANCE**

It will be the CONTRACTOR's responsibility, at CONTRACTOR's expense, to maintain the bench site and surrounding area for a minimum distance of ten (10) feet from the bench to ensure that the site is free of trash, high grass, weeds or other rubbish, fumigating the bench as needed. Trash receptacles shall be located at bench sites as designated by the CITY. The CONTRACTOR will provide trash pickup at no cost to CITY for disposal at a location to be specified by the CITY. Collection and disposal service to be provided by CONTRACTOR on at a minimum one time per week or on a more frequent basis as determined by the CITY.

## **7. REPAIR/REPLACEMENT OF PUBLIC/PRIVATE PROPERTY**

The CONTRACTOR shall repair or replace all structures or facilities on public or private property, which may have been damaged during construction, operation or removal of bus benches owned by the CONTRACTOR. The work shall include but not be limited to sidewalks, driveways, posts, poles, walls, fences, gates, footing, trees, shrubs, lawn sprinklers, curbs, gutters, utilities (both overhead and underground), manholes, catch basins, inlets, parkways, parkway drains, street surfaces, and landscaping in the parkway areas. The work shall include furnishing and replacing planting soil, trees, shrubs, grass sod and other ground cover planting

as required to conform to the original surface condition and cross-section as specified, and cleanup and removal of all surplus materials, rubbish and trash of every nature remaining after the construction has been completed. The CONTRACTOR further agrees to repair or replace public or private property in a manner acceptable to the CITY. All repairs and replacements shall incorporate materials and methods similar to those used in the original structure, unless otherwise specified. Construction and maintenance operations which interfere with traffic flow during peak hours must be avoided. This section shall survive termination of the agreement.

## **8. RELOCATION OF BENCHES**

In the event of a change in transit stops or other transportation system designations, changes in street design or rights-of-way or changes the CITY deems necessary for the public health, safety, welfare and convenience, or changes in demographics which materially affect the pedestrian and vehicular traffic flow at or near bench established in connection herewith, the CONTRACTOR, at the CITY's written request, shall relocate a designated bench to another location mutually agreed to by the CITY and the CONTRACTOR. The expense in connection with such relocation shall be borne by the CONTRACTOR, and the CONTRACTOR shall act expeditiously in order to relocate such benches, and in the event that a change of street design or right-of-way location shall require the relocation of a bench, the CONTRACTOR shall coordinate its work with the CONTRACTORS or other personnel performing labor in connection with the change of street design or right-of way location in order to accomplish the relocation expeditiously and without interference to the work in connection with the relocation of streets or right-of-way. CONTRACTOR shall not place, remove or relocate benches unless directed to do so in writing by the CITY.

## **9. ADVERTISING**

The CONTRACTOR shall be authorized to sell and install professionally designed, commercial advertising to be placed upon specified benches as set forth in Exhibit "A". Provided, however, that advertising of tobacco, firearms, massage parlors, adult bookstores, adult theaters, adult clubs, adult escort services and pornographic or obscene matters are prohibited. The determination of objectionable, obscene or pornographic advertising shall be the right of the CITY whose decisions on these matters shall be final. The CONTRACTOR shall agree to locate and maintain (one out of ten) approved bus passenger benches that carry advertising (10% of the total bus bench locations). Such passenger benches carrying no advertising shall be placed at locations designated by the CITY. A bus passenger bench without advertising shall meet all bus passenger bench standards and requirements as those with advertising as set forth in this Agreement. CONTRACTOR shall not be obligated to pay CITY for these non-advertising benches.

Advertising displays may not be back-lit and shall not exceed 48 inches in height from the ground.

No advertising shall be displayed that contains material that is immoral, lascivious or obscene as defined in 847.011 (10), Florida Statutes. Moreover, the CONTRACTOR may not pay any commission(s) to any employee, outside advertising agency, or anyone else for the sale of advertising under this Agreement for businesses engaged in any activity that requires the exclusion of minors pursuant to Chapter 847, Florida Statutes.

No advertising will be allowed, under this Agreement, for alcoholic beverages as defined in 561.01, Florida Statutes within 1,500 feet of one of the following:

- Any type of public or private school including but not limited to pre-schools, elementary schools, middle schools, high schools, colleges and universities.
- Houses of worship including, but not limited to, churches, synagogues, temples and mosques.
- Hospitals or addiction treatment centers.

No advertising material will be allowed under this Agreement to contain libelous material or detrimental material to the goals, objectives and operation of the CITY. All advertising materials, contents, advertisements and manner of presentation shall be subject to approval by the CITY, which may disapprove any such items at its sole absolute discretion. should the CITY disapprove any such items, the CONTRACTOR shall immediately remove from the bus passenger bench(es), at its sole cost and expense, upon written demand, any item which is disapproved by the CITY within the time frame specified in the written demand. Any item previously approved, which may subsequently be considered objectionable by the CITY shall likewise be removed. In the event that such disapproved item is not removed within the time period specified in the written demand, the CITY may cause said material or device to be removed and all costs will be reimbursed to the CITY by the CONTRACTOR. The CITY shall not be liable for any damages in connection therewith. Refusal or failure by the CONTRACTOR to remove said material shall be considered a default on this Agreement. Such default may be waived by the corrective action on the part of the CITY.

The CONTRACTOR shall adhere to generally accepted principles of advertising in relation to good taste and truth in advertising. No advertising material which is irritating in its content or method of presentation shall be displayed.

The CONTRACTOR shall be permitted to sell advertising space related to political issues and candidates, provided that such advertisers are charged consistently with applicable rate card. All copy for political advertisements shall contain a statement that reflects that it is a paid political advertisement.

## **10. BENCH IDENTIFICATION**

Each bench shall be identified with a bench number, the name of the CONTRACTOR and an 800 or local telephone number.

## **11. TELEPHONE SERVICE**

CONTRACTOR shall have, during working hours, personnel to answer the phone when citizens call concerning benches. A log of complaints about benches, including the subject of the complaint and the action taken, shall be kept and made available upon CITY request.

## **12. AVAILABILITY**

CONTRACTOR shall maintain an office in Miami-Dade County and shall within 10 days of award of contract provide CITY with the name, address, phone and fax number of local supervising employee whom CITY may contact on a 24-hour basis.

## **13. REPORTS/INSTALLATION/MAINTENANCE**

The CONTRACTOR shall maintain during the term of this Agreement all books of account of records of gross revenues (hereinafter referred to as "Records"), customarily used in advertising programs, in conformity with generally accepted accounting principles, and for such period of time thereafter as provided unless otherwise approved by the CITY. All such Records shall be kept at all times at the main office of the CONTRACTOR in Florida or Miami-Dade County. If the CITY desires to audit the financial Records of the CONTRACTOR, the CONTRACTOR, upon request of the CITY, shall make any and all such Records available at a mutually agreeable location within Miami-Dade County within ten (10) calendar days after receipt of such request. The CITY, the external auditing firm of the CITY and all appropriate State and Federal auditing personnel shall have the right, without limitation, at any time during the normal working hours, to enter into any location that the CONTRACTOR uses for administrative, maintenance or operational purposes, to audit and examine all such Records relating to the Agreement.

The CONTRACTOR as its sole expense shall submit to the CITY as audited report within 120 calendar days of the end of each calendar year for which the Agreement is in effect an audited report, including an opinion, prepared and attested to by an independent certified public accounting firm licensed in the State of Florida. The audited report shall include:

- A schedule of gross revenue month by month
- Payments made to the CITY under the terms of the Agreement
- Any other such related data as the CITY may require.

The audited report shall be in conformance with the United States Generally Accepted Accounting Principles (GAAP) requirements for special reports. The first such report shall contain twelve full calendar months of operation and submitted within one hundred and twenty calendar days of the anniversary of the Contract.

The audited report shall be accompanied by a management letter containing findings discovered during the course of the examination, such as recommendations to improve accounting procedures and internal controls, as well as significant matters under the Agreement. In addition, the audit shall also include comprehensive compliance procedures to determine whether the books of accounts, records and reports, were kept in accordance with the terms of this Agreement for the period of examination and submit each such report in a separate letter. There shall be no changes in the scope of the reports and letters required hereunder without the specific written approval of the CITY.

If the CONTRACTOR fails to submit the annual report as required above, the CITY shall provide Notice to the CONTRACTOR and the CONTRACTOR will be given 30 calendar days within which to submit the required reports and further, if delay is out of the control of the CONTRACTOR may be granted opportunity to cure. After the time for an opportunity to cure has passed, the CITY may hire an Independent Certified Public Accountant to prepare the annual audit. All costs and expenses incurred to complete said audit will be covered at the expense of the CONTRACTOR.

The CONTRACTOR shall submit to the CITY a quarterly report within fifteen (15) days of the end of each contract quarter. Each report shall contain the following:

- a) The location and date of installation of benches installed during the prior quarter.
- b) The location and date of removal of benches removed during the prior quarter.
- c) A listing of all benches located within the CITY and their locations, at the end of the prior quarter.
- d) A record of all maintenance performed including date, bench location(s) and type of work performed.
- e) Gross billings.
- f) Net billings.
- g) Total spaces available/total sold/unsold spaces.
- h) A complete inventory of the bus benches including total number of benches and locations in a format that is mutually agreed by the CONTRACTOR and the CITY.
- i) Year-to-date (contract year) information for the abovementioned items.

This report shall be signed by the CONTRACTOR certifying the accuracy of the report. The parties may agree on changes to the reporting requirements as may be reasonably necessary based on existing operations by the CONTRACTOR.

All reports shall be sent to the CITY's Building Official. The form of the report to be developed by the CONTRACTOR is subject to the approval of the CITY. The CITY's approval shall not be unreasonably withheld.

**14. CONSENT OF PROPERTY OWNER**

In the event the proposed location or removal of the bench is on private property or on property owned by a governmental agency other than the CITY, the CONTRACTOR shall provide written consent from the property owner or governmental agency for the location or removal of the bench on the property. Such written consent shall be submitted with the CONTRACTOR'S application for permission to install or remove the bench. The CITY agrees to cooperate with the CONTRACTOR to help secure said written consent. In the event that a State Bench Permit is required the CITY shall submit all necessary paperwork for said permitted on CONTRACTOR's behalf. All costs associated with securing the state permit shall be borne by the CONTRACTOR. Further, the CONTRACTOR shall be responsible for preparing all necessary paperwork submitted by the CITY.

**15. PAYMENT**

The CONTRACTOR shall pay the CITY on an annual basis during the term of this Agreement either the Annual Minimum Guarantee, or the per advertising face per bench or percentage of the advertising revenue whichever is greater as shown below:

Year	Annual Minimum Guarantee (based on 100 benches)	Per advertising face per bench per year	Percentage of the advertising revenue per year
1-3	12,500.00	125.00	20%

The entire Annual Minimum Guarantee for the first year of this Agreement is to be paid to the CITY, in advance and without billing, prior to issuance of the Notice to Proceed. The Annual Minimum Guarantee for the succeeding years shall be paid to the CITY on or before the 10<sup>th</sup> calendar day prior to each anniversary date of the issuance of Notice to Proceed during the term of the Agreement and any extension thereof.

**16. DELINQUENCY**

In the event CONTRACTOR fails to make the payment within 10 days of date due as hereinabove provided, CONTRACTOR shall pay an interest charge for each day, or a fraction thereof, that payment is late. An Interest Factor shall be based on the prime rate for the Chase Manhattan Bank, N.A. plus one percent (1%). Calculation will be illustrated as follows:

$$\text{Prime rate} + 1\% / 365 \text{ days} = \text{Daily Interest Rate,}$$

$$\text{DIR} \times \text{Days Payment Late} = \text{Interest Charge (DIR)}$$

Note: Regardless of the foregoing, the interest rate referred to in this section will comply with all applicable state laws.

**17. INSURANCE**

The CONTRACTOR shall not commence work under this Agreement until it has obtained all insurance under this Paragraph and evidence of such insurance coverage has been approved by the CITY. CONTRACTOR shall obtain at CONTRACTOR'S expense all necessary insurance in such form and amount as required by the CITY's Risk and Safety Officer before beginning work under this Agreement including, but not limited to, Workers' Compensation, Commercial General Liability, and all other insurance as required by the CITY, including Professional Liability when appropriate. CONTRACTOR shall maintain such insurance in full force and effect during the life of this Agreement. CONTRACTOR shall provide to the CITY's Risk and Safety Officer certificates of all insurances required under this section prior to beginning any work under this Agreement. The CONTRACTOR will ensure that all subcontractors comply with the above guidelines and will retain all necessary insurance in force throughout the term of this agreement.

CONTRACTOR shall indemnify and hold the CITY harmless for any damages resulting from failure of the CONTRACTOR to take out and maintain such insurance. CONTRACTOR's Liability Insurance policies shall be endorsed to add the CITY as an additional insured. CONTRACTOR shall be responsible for payment of all deductibles and self-insurance retentions on CONTRACTOR's Liability Insurance policies.

a) COMMERCIAL GENERAL LIABILITY:

The minimum limits of liability shall be as follows:

General Aggregate	\$1,000,000
Each Occurrence	\$1,000,000
Personal & Advertising	\$1,000,000 aggregate
Injury	\$1,000,000 each occurrence

The CITY shall be named as an additional insured on each policy.

b) COMPREHENSIVE AUTOMOBILE LIABILITY: The CONTRACTOR shall also carry comprehensive Automobile Liability Insurance, which shall include coverage for "any auto" within minimum combined single limit of \$1,000,000.

c) WORKERS' COMPENSATION: The CONTRACTOR and its subcontractors shall annually furnish proof of Workers' Compensation and Employer's Liability insurance to the CITY in no less than the minimum limits required by the State of Florida.



d) **CERTIFICATE OF INSURANCE:** The CONTRACTOR and subcontractors shall annually furnish the CITY proof of the insurance required. The COMPANY has provided proof of existing insurance and the certificate is attached as Exhibit "C" to this Agreement. To be acceptable to the CITY each insurance certificate shall name the CITY as an additional insured and should contain a clause substantially as follows:

Should any of the above-described policies be canceled or undergo material change before the expiration date, the issuing insurance CONTRACTOR will mail thirty (30) days' written notice to the Risk Manager of the CITY.

#### **18. AMENDMENTS/ ASSIGNMENT OF AGREEMENT**

a) The Agreement, or any portion of the Agreement, shall not be assigned by CONTRACTOR without prior written consent of CITY.

b) Amendments which are consistent with the purposes of this Agreement may be made with the mutual consent of the parties which consent shall be contained in a written document executed with the same formality as the Agreement.

#### **19. NO CONTINGENT FEE**

CONTRACTOR warrants that it has not unlawfully employed or retained any company or person, other than bona fide employees, consultants or advisors to solicit or secure this Agreement and that it has not unlawfully paid or agreed to pay any company or person any fee, commission, percentage, gift or other consideration contingent upon or resulting from the award or making of this Agreement. This language is not intended to prevent the CONTRACTOR from retaining bona fide consultants and advisors. For the breach or violation of this provision, CITY shall have the right to terminate the Agreement without liability at its discretion and to otherwise recover damages it incurs as a result of the termination.

#### **20. RECORDS RETENTION**

CONTRACTOR shall keep at a location within Miami-Dade or Broward County, accurate and complete records and accounts of all advertising sales, expenses and other business being transacted under this Agreement throughout the term of this Agreement, including any options, terms, and for two (2) years following its expiration or cancellation including all extensions. The CONTRACTOR agrees to allow duly authorized agents of the CITY to access any books, documents, papers or records which are directly pertinent to the Agreement for the purposes of making audit examinations, excerpts, and transactions and to maintain all required records for one (1) year after the CITY's final payment and all other pending matters are closed.

**21. BANKRUPTCY**

This agreement shall terminate in the case of bankruptcy (voluntary or involuntary) or insolvency of CONTRACTOR. In the case of bankruptcy, such termination shall take effect on the day and at the time that the bankruptcy action is filed.

**22. HEADINGS**

Headings hereon are for convenience of reference only and shall not be considered on any interpretation of this Agreement.

**23. COMPLIANCE**

CONTRACTOR shall promptly comply with all statutes, ordinances, rules, orders, regulations and requirements of all local, state and federal agencies that are applicable to the services rendered under the terms of this Agreement. Furthermore, CONTRACTOR shall secure all applicable permits necessary for the fulfillment of CONTRACTOR's obligations under the terms and conditions of this Agreement.

**24. CONSTRUCTION**

The parties to this Agreement hereby acknowledge that they have fully reviewed this Agreement and have had the opportunity to consult with legal counsel of their choice, have participated in the negotiation and drafting of this Agreement, and therefore, this Agreement is not to be construed against either party as if they were the drafter of this Agreement.

**25. LIQUIDATED DAMAGES**

The CONTRACTOR shall pay to the CITY \$75.00 per day in liquidated damages for any non-monetary breach not incurred within the required time frames set forth this Agreement. This liquidated damage provision shall not apply to the CONTRACTOR's failure to pay fees as required in Section 15 herein. The liquidated damages shall accrue and be payable on a per diem basis until the breach is corrected. The imposition of liquidated damages is based on the inability of the parties to ascertain the losses the CITY will suffer because of this non-monetary breach.

**26. TIME OF COMMENCEMENT AND SUBSTANTIAL COMPLETION**

The work to be performed under this Agreement shall be commenced within 30 days after execution of Agreement by the CITY.

**27. INDEMNIFICATION**

The CONTRACTOR shall indemnify and hold harmless the CITY, its elected and appointed officials, employees, and agents from any and all claims, suits, actions, damages, liability, and expenses (including attorneys' fees) in connection with loss of life, bodily or personal injury, or property damage, including loss of use thereof, directly or indirectly caused by, resulting from, arising out of or occurring in connection with the operations of the CONTRACTOR or its officers, employees, agents, subcontractors, or independent contractors, excepting only such loss of life, bodily or personal injury, or property damage solely attributable to the gross negligence or willful misconduct of the CITY or its elected or appointed officials and employees. The above provisions shall survive the termination of this Agreement and shall pertain to any occurrence

during the term of this Agreement, even though the claim may be made after the termination hereof.

Nothing contained herein is intended nor shall be construed to waive CITY's rights and immunities under the common law or Florida Statutes 768.28, as amended from time to time.

## 28. NON-DISCRIMINATION

The CONTRACTOR agrees that it shall not discriminate against any of its employees or applicants for employment because of their age, handicap, race, color, religion, sex, or national origin, and to abide by all federal and State laws regarding nondiscrimination. The CONTRACTOR further agrees to insert the foregoing provisions in all subcontracts hereunder except subcontracts for standard commercial supplies or raw materials. Any violation of such provisions shall constitute a material breach of this Agreement.

## 29. INDEPENDENT CONTRACTOR

CONTRACTOR is an independent CONTRACTOR under this Agreement. Personal services provided by the CONTRACTOR shall be by employees of the CONTRACTOR and subject to supervision by the CONTRACTOR, and not as officers, employees, or agents of the CITY. Personnel policies, tax responsibilities, social security and health insurance, employee benefits, purchasing policies and other similar administrative procedures applicable to services rendered under this Agreement shall be those of the CONTRACTOR.

## 30. ASSIGNMENT AND SUBCONTRACTING

CONTRACTOR shall not transfer or assign the performance required by this Agreement without the prior consent of the CITY. This Agreement, or any portion thereof, shall not be subcontracted without the prior written consent of the CITY.

## 31. NOTICE

Whenever either party desires or is required under this Agreement 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 following addresses.

CITY  
City Manager  
City of Doral  
8401 NW 53<sup>rd</sup> Street  
Doral, Florida 33166

\*With a copy to CITY Attorney at the same address.

CONTRACTOR  
*INSITE MARTHO OUTDOOR, LLC DBA (S)*  
InSite Street Media, Inc.  
1835 NW 112<sup>th</sup> Avenue, Ste.161  
Miami, FL 33172  
Attn: Randall Smith, Chief Executive Officer

With a Copy to:

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**32. VENUE**

This Agreement shall be governed by the laws of the State of Florida as now and hereafter in force. The venue for actions arising out of this agreement is fixed in Miami-Dade County, Florida.

**33. SIGNATORY AUTHORITY**

The CONTRACTOR shall provide the CITY with copies of requisite documentation evidencing that the signatory for CONTRACTOR has the authority to enter into this Agreement.

**34. SEVERABILITY; WAIVER OF PROVISIONS**

Any provision in this Agreement that is prohibited or unenforceable in any jurisdiction shall, as to such jurisdiction, be ineffective to the extent of such prohibition or unenforceability without invalidating the remaining provisions hereof or affecting the validity or enforceability of such provisions in any other jurisdiction. The non-enforcement of any provision by either party shall not constitute a waiver of that provision nor shall it affect the enforceability of that provision or of the remainder of this Agreement.

**35. MERGER; AMENDMENT**

This Agreement constitutes the entire Agreement between the CONTRACTOR and the CITY, and negotiations and oral understandings between the parties are merged herein. This Agreement can be supplemented and/or amended only by a written document executed by both the CONTRACTOR and the CITY.

[REMAINDER OF PAGE INTENTIONALLY LEFT BLANK]

Approved as to form and legal sufficiency  
for the sole use of the City of Doral.

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*[Signature]*  
City Attorney

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*Luis Figueredo*  
Print Name

IN WITNESS WHEREOF, the parties have made and executed this Agreement on the respective dates under each signature. CITY OF DORAL, through its Mayor and \_\_\_\_\_, signing by and through its \_\_\_\_\_ duly authorized to execute same.

**CITY OF DORAL**

*[Handwritten Signature]*

Name, Title

Nov. 2, 2020  
Date

Abbas P. Childress, City Manager  
Name, Title

Nov 2, 2020  
Date

ATTEST:

*[Handwritten Signature]*

Connie Diaz, city clerk  
Name, Title

11/3/2020  
Date

**CONTRACTOR**

INSITE MEDIA OUTDOOR, LLC DBA INSITE STREET MEDIA  
Contractor Name

*[Handwritten Signature]*  
Signature of President/Owner

ATTEST:

\_\_\_\_\_  
(Corporate Secretary)

\_\_\_\_\_  
Type/Print Name of Corporate Secretary

RANDALL N. SMITH  
Type/Print Name of President/Owner

Oct. 30, 2020  
Date

(CORPORATE SEAL)

# CALIFORNIA ALL- PURPOSE CERTIFICATE OF ACKNOWLEDGMENT

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

State of California }

County of Los Angeles }

On 10/30/2020 before me, Lilian Pudjowibowo, a Notary Public  
(Here insert name and title of the officer)

personally appeared RANDALL N. SMITH  
who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.



Lilian Pudjowibowo  
Notary Public Signature

(Notary Public Seal)

**ADDITIONAL OPTIONAL INFORMATION**      **INSTRUCTIONS FOR COMPLETING THIS FORM**

**DESCRIPTION OF THE ATTACHED DOCUMENT**  
Agreement with City  
(Title or description of attached document)  
of DORA  
(Title or description of attached document continued)  
Number of Pages 17 Document Date 10/30/2020

*This form complies with current California statutes regarding notary wording and, if needed, should be completed and attached to the document. Acknowledgments from other states may be completed for documents being sent to that state so long as the wording does not require the California notary to violate California notary law.*

**CAPACITY CLAIMED BY THE SIGNER**

Individual (s)  
 Corporate Officer  
\_\_\_\_\_  
(Title)  
 Partner(s)  
 Attorney-in-Fact  
 Trustee(s)  
 Other Manager

- State and County information must be the State and County where the document signer(s) personally appeared before the notary public for acknowledgment.
- Date of notarization must be the date that the signer(s) personally appeared which must also be the same date the acknowledgment is completed.
- The notary public must print his or her name as it appears within his or her commission followed by a comma and then your title (notary public).
- Print the name(s) of document signer(s) who personally appear at the time of notarization.
- Indicate the correct singular or plural forms by crossing off incorrect forms (i.e. ~~he~~/she/~~they~~, is /are ) or circling the correct forms. Failure to correctly indicate this information may lead to rejection of document recording.
- The notary seal impression must be clear and photographically reproducible. Impression must not cover text or lines. If seal impression smudges, re-seal if a sufficient area permits, otherwise complete a different acknowledgment form.
- Signature of the notary public must match the signature on file with the office of the county clerk.
  - ❖ Additional information is not required but could help to ensure this acknowledgment is not misused or attached to a different document.
  - ❖ Indicate title or type of attached document, number of pages and date.
  - ❖ Indicate the capacity claimed by the signer. If the claimed capacity is a corporate officer, indicate the title (i.e. CEO, CFO, Secretary).
- Securely attach this document to the signed document with a staple.

**RESOLUTION No. 20-228**

**A RESOLUTION OF THE MAYOR AND THE CITY COUNCIL OF THE CITY OF DORAL, FLORIDA, AUTHORIZING THE CITY MANAGER TO ENTER INTO AN AGREEMENT WITH IN SITE MEDIA FOR A TWO (2) YEAR PERIOD WITH A ONE-YEAR (1) OPTION TO RENEW FOR THE DESIGN, CONSTRUCTION, INSTALLATION, AND MAINTENANCE OF THE CITY'S BUS BENCHES; AUTHORIZING THE CITY MANAGER TO EXECUTE THE AGREEMENT; AND PROVIDING FOR AN EFFECTIVE DATE**

**WHEREAS**, on September 22, 2009 the City entered into a five (5) year contract with a one-time optional renewal of five (5) years for with Martin Outdoor Media commencing on November 1, 2009 and ending on October 31, 2014 the design, construction, installation, and maintenance of the City's bus benches; and

**WHEREAS**, on October 20, 2014, the City of Doral executed the final option-to-extend of the Bus Bench Contract which expired on October 31, 2019; and

**WHEREAS**, on September 11, 2019, the Mayor and City Council Members approved to extend the current Contract Agreement with In Site Street Media, formerly known as Martin Outdoor Media, on a month-to-month basis with a not to exceed one-year (1) period under the same terms and conditions of the original Contract; and

**WHEREAS**, the current contract extension will expire in October 31, 2020; and

**WHEREAS**, the City's Public Works Department (PWD) had been coordinating with Miami-Dade County's Department of Transportation and Public Works (DTPW) on the timing of their awarding of a Bus Passenger Bench Program contract to In Site Media which was anticipated to be awarded at the September 2019 Board of County Commissioner's (BCC) meeting; and

**WHEREAS**, the PWD was interested in the possibility of adopting the competitively bid contract by Miami-Dade County; and

**WHEREAS**, after reviewing the terms and conditions of the Miami-Dade County Contract with In Site Media, it was determined that it was not in the City's best interest to adopt the contract primary based on the design and aesthetics of the Miami-Dade County bus benches and the contract clauses; and

**WHEREAS**, COVID-19 Pandemic has led to an immediate drop in advertising spending throughout the country, which has greatly affected the advertising and marketing industry which has resulted In Site Media an actual revenue decrease of 25.4% for the four (4) month period of April through July 2020, a reduction of approximately \$300,000 from 2019; and

**WHEREAS**, Financial experts have forecasted a recovery period of 2-5 years due to the COVID-19 Pandemic; and

**WHEREAS**, the PWD respectfully recommends to waive the competitive bid process for a Bus Bench Contract and enter into a new contract with In Site Media for a two (2) year period with a one-year (1) option to renew under the same terms and conditions of the current contract with minor amendments.

**NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF DORAL AS FOLLOWS:**



**Section 1. Recitals.** The above recitals are confirmed, adopted, and incorporated herein and made part hereof by this reference.

**Section 2. Approval.** The contract agreement between the City of Doral and In Site Media for the design, construction, installation, and maintenance of the City's bus benches is hereby approved.

**Section 3. Authorization.** The City Manager is authorized to negotiate and execute a contract agreement two (2) year period with a one-year (1) option to renew under the same terms and conditions of the current contract with minor amendments with In Site Media on the behalf of the City.

**Section 4. Implementation.** The City Manager and City Attorney are hereby authorized to take such action as may be necessary to implement the purpose and the provisions of this resolution.

**Section 5. Effective Date.** This Resolution shall take effect immediately upon adoption.

The foregoing Resolution was offered by Councilmember Mariaca who moved its adoption. The motion was seconded by Councilmember Cabrera and upon being put to a vote, the vote was as follows:

Mayor Juan Carlos Bermudez	Yes
Vice Mayor Christi Fraga	Yes
Councilwoman Digna Cabral	Yes
Councilman Pete Cabrera	Yes
Councilwoman Claudia Mariaca	Yes

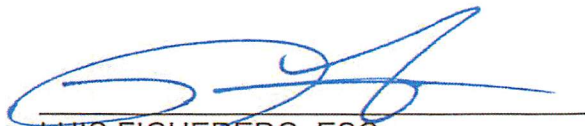
PASSED AND ADOPTED this 14 day of October, 2020.

  
\_\_\_\_\_  
JUAN CARLOS BERMUDEZ, MAYOR

ATTEST:

  
\_\_\_\_\_  
CONNIE DIAZ, MMC  
CITY CLERK

APPROVED AS TO FORM AND LEGAL SUFFICIENCY  
FOR THE USE AND RELIANCE OF THE CITY OF DORAL ONLY:

  
\_\_\_\_\_  
LUIS FIGUEREDO, ESQ.  
CITY ATTORNEY