

IN THE CIRCUIT COURT OF THE
17TH JUDICIAL CIRCUIT OF
FLORIDA IN AND FOR
BROWARD COUNTY, FLORIDA

GENERAL JURISDICTION
DIVISION

CASE NO: _____

FXE FUTBOL, LLC,
a Florida limited liability company

Plaintiff,

v.

CITY OF FORT LAUDERDALE, a
Florida Municipal Corporation

and

MIAMI BECKHAM UNITED, LLC,
a Delaware limited liability company

Defendants.

EMERGENCY COMPLAINT AND PETITION

This is an action challenging the validity and effect of the frantic and, ultimately, statutorily inadequate, Public-Private Partnership Process undertaken pursuant to Fla. Stat. Sec. 255.065 by Defendant CITY OF FORT LAUDERDALE in connection with the re-development of historic Lockhart Stadium.

This action also seeks general and specific damages from Defendant MIAMI BECKHAM UNITED LLC for false statements regarding the presence of a “tremendous amount” of asbestos at historic Lockhart Stadium, when there is in fact almost no asbestos present at the Stadium. These false statements subverted the selection process and caused the

CITY to unfairly determine that the competing proposal of PLAINTIFF was not a valid and viable bid.

Jurisdiction, Venue and Request for Expedited Relief

1. This is a petition for a writ of mandamus and civil action seeking expedited declaratory and injunctive relief pursuant to Florida Statutes Sections 86.011 and 86.111; as well as an action for general and specific damages for acts of tortious interference and injurious falsehood.
2. This action involves damages in excess of \$15,000, exclusive of interest, costs and attorneys' fees.
3. Venue is proper in Broward County because Defendant CITY OF FORT LAUDERDALE is located in Broward County, and the property at issue in this litigation is located in Broward County.
4. All conditions precedent to the bringing of this action have either been performed by PLAINTIFF or have otherwise occurred.
5. Pursuant to Florida Statute Section 86.111, and based upon the facts set forth below, PLAINTIFF requests an accelerated hearing on this matter, with this action being given priority over other pending actions.

Parties

6. PLAINTIFF EXE FUTBOL, LLC is a Florida limited liability company.
7. Defendant CITY OF FORT LAUDERDALE (the "CITY") is a Florida municipal corporation in Broward County, Florida, where venue resides.

8. Defendant MIAMI BECKHAM UNITED, LLC (“INTERMIAMI”) is a Delaware limited liability company authorized to transact business in Florida.

General Allegations

9. The CITY owns real property described as Parcels 19B, 25, 26, and 27 located at the Fort Lauderdale Executive Airport in the City of Fort Lauderdale, home of historic Lockhart Stadium.

10. On January 28, 2019, the CITY received an unsolicited proposal from INTERMIAMI to demolish historic Lockhart Stadium and build a modular stadium to be used as a soccer training facility and stadium.

11. That unsolicited proposal triggered the provisions of Fla. Stat. Sec. 255.065, commonly referred to as the Public-Private Partnership or P3 process, which provides a statutory method for municipalities like CITY to accept and assess unsolicited proposals regarding private development of public land.

12. PLAINTIFF timely submitted a competing proposal anchored by a \$35 Million restoration of historic Lockhart Stadium pursuant to the CITY’s P3 process under Fla. Stat. Sec. 255.065.

13. Throughout the vetting process, INTERMIAMI repeatedly and on numerous occasions falsely stated to the CITY that PLAINTIFF’s plan to renovate historic Lockhart Stadium was not valid and viable because there was a “tremendous amount” of asbestos present at the stadium, when there is in fact almost no asbestos present at the stadium.

14. On April 2, 2019 the City of Fort Lauderdale Commission held a general meeting to consider Resolution 19-0365 titled “Motion to Enter into an Interim Agreement with Miami

Beckham United LLC, Pursuant to Florida Statute 255.065(6).” At the meeting the City Commission discussed entering into an Interim Agreement with INTERMIAMI allowing the demolition of historic Lockhart Stadium.

15. During the discussion of the Resolution, CITY Mayor Dean Trantalis expressed concern about allowing the demolition of historic Lockhart Stadium pursuant to an Interim Agreement in the absence of a Comprehensive Agreement as required by Fla. Stat. Sec. 255.065(7). The Mayor’s concerns were twofold. First, he expressed concern that allowing INTERMIAMI to demolish the Stadium pursuant to the Interim Agreement could result in a situation where the CITY and INTERMIAMI were unable to agree to terms on a Comprehensive Agreement and be left in a position where historic Lockhart Stadium was needlessly demolished without anything replacing it. The second concern expressed by Mayor Trantalis was that in the event that happened, the second-ranked bid of PLAINTIFF would be rendered moot because its plan involved the \$35 Million renovation of historic Lockhart Stadium.

16. In response to this concern at the Commission Meeting, INTERMIAMI’s lobbyist Stephanie Toothaker, Esq. repeated the falsehood that the INTERMIAMI team had consistently promulgated throughout the P3 process: that historic Lockhart Stadium has “a tremendous amount of asbestos” and that renovation of the stadium is therefore unfeasible.¹ In fact, this was referenced in a statement by City Attorney Alain E. Boileau, Esq. to Mayor Trantalis:

Mr. Boileau: You are probably in the best position now with regards to the stadium... because the alternative is it doesn’t get demolished and it stays there as-is.”²

¹ Undersigned counsel has requested a transcript of the April 2, 2019 Commission Meeting, but same is not yet available. The referenced statement by Ms. Toothaker is at 2:31:13 of the video of the Commission Meeting available at http://fortlauderdale.granicus.com/MediaPlayer.php?view_id=2&clip_id=1044. Ms. Toothaker says again at 2:33:45 that there is “significant asbestos” at the stadium.

² At 2:37:00 of the video of the Commission Meeting.

Ms. Toothaker: Right.

17. The City Commission passed Resolution 19-0365 and approved the Interim Agreement. Copies of Resolution 19-0365 and the Draft Interim Agreement (the “Interim Agreement”) are attached hereto as Exhibit A.

The CITY’s failure to comply with the procedural review requirements of Fla. Stat. Sec. 255.065

18. Fla. Stat. Sec. 255.065, commonly referred to as the Public-Private Partnership or P3 process, provides a statutory method for municipalities like CITY to accept and assess unsolicited proposals regarding private development of public land.

19. Fla. Stat. Sec. 255.065 “provides an alternative method” to “other statutory” authority (such as the City Charter) that could allow CITY to develop its public land. Fla. Stat. Sec. 255.065(14).

20. As such, the CITY must strictly comply with the requirements of Fla. Stat. Sec. 255.065 in order to avail itself of the process set forth therein. In the absence of such compliance, the CITY cannot avail itself of the P3 Process, and is required to comply with other statutory authorities such as its Charter to enter into a lease of its public lands to private entities.

21. As a result of short deadlines imposed by INTERMIAMI, the CITY engaged in a frantic and, ultimately, inadequate process that violated the express requirements of Fla. Stat. Sec. 255.065.

22. Fla. Stat. Sec. 255.065(3)(a)(5) provides that

If the responsible public entity chooses to evaluate an unsolicited proposal involving architecture, engineering, or landscape architecture, it must ensure a professional review and evaluation of the design and construction proposed by the initial or subsequent proposers to assure material quality standards, interior space utilization, budget estimates, design and construction schedules, and sustainable design and construction standards consistent with public projects. Such review shall be performed by an architect, a landscape architect, or an engineer licensed in this state qualified to perform the review, and such professional shall advise the responsible public entity through completion of the design and construction of the project. (Emphasis Added)

23. The CITY chose to evaluate the unsolicited proposal from INTERMIAMI and rank the two competing bids, but failed to engage “an architect, a landscape architect, or an engineer” in contravention of the express requirements of Fla. Stat. Sec. 255.065(3)(a)(5).

24. Fla. Stat. Sec. 255.065(5)(d) provides that

The responsible public entity shall perform an independent analysis of the proposed public-private partnership which demonstrates the cost-effectiveness and overall public benefit before the procurement process is initiated or before the contract is awarded.

25. The CITY failed to perform the “independent analysis” required by Fla. Stat. Sec. 255.065(5)(d). In fact, in a Memo dated March 19, 2019 (attached hereto as Exhibit B) the City of Fort Lauderdale Auditor John Herbst stated that his office was “unable to provide an opinion on the financial merits of the two proposals,” was “unable to obtain sufficient audit evidence to provide a basis for an opinion as to the reasonableness of the plans,” and was “unable to obtain sufficient audit evidence to provide a basis for an opinion as to the financial impact to the CITY.”

26. It is important to note the review procedures outlined above are contained in section (3) *Procurement Procedures* and section (5) *Project Qualification and Process*, which make clear that these review procedures were required to be undertaken by the City at the time of evaluation, not after a decision has already been made. As such, the failure to comply with the

statutorily required review procedures prior to making the ranking decision is not curable by the CITY doing so at some date in the future.

27. Despite its failure to comply with the requirements of Fla. Stat. Sec. 255.065, the CITY passed Resolution 19-0365 authorizing the CITY to enter into the Interim Agreement with INTERMIAMI.

The Interim Agreement Contains Provisions Beyond those allowed by Fla. Stat. Sec. 255.065(6)

28. Fla. Stat. Sec. 255.065(6) provides that

An interim agreement must be limited to provisions that:

- (a) Authorize the private entity to commence activities for which it may be compensated related to the proposed qualifying project, including, but not limited to, project planning and development, design, environmental analysis and mitigation, survey, other activities concerning any part of the proposed qualifying project, and ascertaining the availability of financing for the proposed facility or facilities.
- (b) Establish the process and timing of the negotiation of the comprehensive agreement.
- (c) Contain such other provisions related to an aspect of the development or operation of a qualifying project that the responsible public entity and the private entity deem appropriate.

As such, Fla. Stat. Sec. 255.065(6) strictly limits the subject matter of the provisions in an Interim Agreement.

29. These limitations are in the statute because the Interim Agreement is intended to be entered into “before or in connection with the negotiation of a comprehensive agreement” in order to allow the parties to undertake activities in anticipation of and in furtherance of negotiation of the comprehensive agreement.

30. In fact, Fla. Stat. Sec. 255.065(5)(c) provides that in the event that “the responsible public entity is not satisfied with the results of negotiation” of the Comprehensive Agreement, the public entity “may terminate negotiations with the proposer and negotiate with the second-ranked or subsequent-ranked firms.”

31. Section 2.4 of the Interim Agreement purports to authorize the “demolition” of historic Lockhart Stadium. Allowing demolition of historic Lockhart Stadium is clearly beyond the scope of the permissible provisions that can be in an interim agreement pursuant to Fla. Stat. Sec. 255.065(6). In fact, Section Fla. Stat. Sec. 255.065(7) provides that “Before developing or operating the qualifying project, the private entity must enter into a comprehensive agreement with the responsible public entity.” (emphasis added).

32. Importantly, the terms “develop” and “operate” are defined in Fla. Stat. Sec. 255.065(1), as follows:

“Develop” means to plan, design, finance, lease, acquire, install, construct, or expand.

“Operate” means to finance, maintain, improve, equip, modify, or repair.

33. Demolition of historic Lockhart Stadium clearly meets the definition of “developing or operating” as such terms are defined in the Statute, because demolition clearly includes “modifying”.

34. This is consistent with the plain meaning and intent of Fla. Stat. Sec. 255.065(7), which sets forth requirements of performance bonds and public liability insurance, and consistent with the concept that permanent changes to public buildings and land should not be made until such time that there is a Comprehensive Agreement in place.

35. “[I]f a part of a statute appears to have a clear meaning if considered alone but when given that meaning is inconsistent with other parts of the same statute or others in pari materia, the Court will examine the entire act and those in pari materia in order to ascertain the overall legislative intent.” Fla. State Racing Comm’n v. McLaughlin, 102 So. 2d 574, 575-76 (Fla. 1958), quoted in E.A.R., 4 So. 3d at 629, and Fla. Dep’t of Env’tl. Prot. v. ContractPoint Fla. Parks, LLC, 986 So.2d 1260, 1265-66 (Fla. 2008). Moreover, “[i]t is axiomatic that all parts of a statute must be read together in order to achieve a consistent whole.” Forsythe, 604 So. 2d at 455. Or, as Sir Edward Coke explained the “whole-text canon” in 1628: “[I]t is the most natural and genuine exposition of a statute to construe one part of the statute by another part of the same statute, for that best expresseth the meaning of the makers.” A. Scalia & Bryan A. Garner, Reading Law: The Interpretation of Legal Texts 167 (2012).

36. Any interpretation that a private party can demolish a public structure pursuant to an Interim Agreement would render Section 7 of Fla. Stat. Sec. 255.065 on Comprehensive Agreements meaningless because the entire project could be done pursuant to the Interim Agreement, and a Comprehensive Agreement (with its mandatory provisions designed to protect the public, such as performance bonds and public liability insurance) would not be necessary. This is clearly not the intent of the statute.

37. The plain language of Fla. Stat. Sec. 255.065 makes it clear that the Interim Agreement only covers activities in anticipation of entering into a Comprehensive Agreement and the demolition of historic Lockhart Stadium is not permitted under an Interim Agreement under Fla. Stat. Sec. 255.065(6).

CITY Charter

38. The CITY operates under its own Charter. The Charter enables the CITY to “conduct municipal government, perform municipal functions and render municipal services” Section 1.01.

39. Section 8.09 of the CITY Charter governs the lease of municipal property “for more than one year and less than fifty years” and sets forth a procedure for competitive bidding.

40. Because the CITY has failed to comply with the provisions of Fla. Stat. Sec. 255.065, any lease of more than one year would have to comply with the competitive bidding provisions of Section 8.09 of the CITY Charter.

COUNT I

Writ of Mandamus as to Fla. Stat. Sec. 255.065 requirements on reviewing proposals

41. PLAINTIFF repeats and realleges the foregoing paragraphs 1 to 40 as if fully set forth herein.

42. There is a clear legal right to require compliance with Fla. Stat. Sec. 255.065 in connection with the review of proposed P3 projects, which is unambiguous in requiring: (i) the professional review by “an architect, a landscape architect, or an engineer” in accordance with Fla. Stat. Sec. 255.065(3)(a)(5); and (ii) the “independent analysis” required by Fla. Stat. Sec. 255.065(5)(d).

43. The CITY has an indisputable legal duty to comply with the foregoing requirements in Fla. Stat. Sec. 255.065 regarding review of the proposal from INTERMIAMI.

44. The CITY failed to comply with the foregoing requirements of Fla. Stat. Sec. 255.065(3)(a)(5) and Sec. 255.065(5)(d).

45. There is no other adequate remedy available to PLAINTIFF.

WHEREFORE, PLAINTIFF requests that this Court grant the writ and order the CITY to not execute the Interim Agreement and halt any and all efforts to allow INTERMIAMI to redevelop historic Lockhart Stadium pursuant to Resolution 19-0365, as the CITY failed to fully comply with the express requirements of Fla. Stat. Sec. 255.065.

COUNT II

Declaratory and Injunctive Relief

46. PLAINTIFF repeats and realleges the foregoing paragraphs 1 to 40 as if fully set forth herein.

47. This is a count for declaratory judgment pursuant to Florida Statute § 86.011.

48. There is an actual, bona fide, practical, and present need for a declaratory relief and a continuing controversy between the parties regarding whether Fla. Stat. Sec. 255.065(6) allows the CITY to grant INTERMIAMI to demolish historic Lockhart Stadium pursuant to the Interim Agreement.

49. PLAINTIFF is in doubt as to their rights, privileges, immunities, and obligations under Fla. Stat. Sec. 255.065.

50. Absent the issuance of declaratory relief, PLAINTIFF will be irreparably injured and has no adequate remedy at law.

WHEREFORE, PLAINTIFF requests that this Court grant a declaration that:

- a. the CITY must comply with the requirements of Fla. Stat. Sec. 255.065(6);

- b. the CITY cannot authorize the demolition of historic Lockhart Stadium pursuant to the Interim Agreement; and
- c. the CITY cannot take any action in furtherance of INTERMIAMI'S demolition of historic Lockhart Stadium, as the Interim Agreement fails to fully comply with Fla. Stat. Sec. 255.065(6).

COUNT III

Violation of Section 8.09 of the CITY Charter

51. PLAINTIFF repeats and realleges the foregoing paragraphs 1 to ___ as if fully set forth herein.

52. This is a count for declaratory judgment pursuant to Florida Statute § 86.011.

53. There is an actual, bona fide, practical, and present need for a declaratory relief and a continuing controversy between the parties regarding the need for the CITY to comply with the requirements of Section 8.09 of the CITY Charter.

54. PLAINTIFFS are in doubt as to their rights, privileges, immunities, and obligations under Section 8.09 of the CITY Charter.

55. Section 8.09 of the CITY Charter provides that whenever the CITY desires to lease or sell CITY property, it is required to comply with the competitive bidding and other processes set forth therein.

56. The CITY failed to comply with the requirements of Fla. Stat. Sec. 255.065 and therefore must therefore comply with the competitive bidding and other processes set forth therein.

WHEREFORE, PLAINTIFF requests that this Court grant a declaration that:

- a. because the CITY failed to comply with the requirements of Fla. Stat. Sec. 255.065, the CITY must comply with the requirements of Section 8.09 of the CITY Charter; and
- b. enjoins the CITY from taking any action in furtherance of the demolition and/or redevelopment of historic Lockhart Stadium by INTERMIAMI in contravention of Section 8.09 of the CITY Charter.

COUNT IV

TORTIOUS INTERFERENCE

57. PLAINTIFF repeats and realleges the foregoing paragraphs 1 to 40 as if fully set forth herein.

58. PLAINTIFF sues INTERMIAMI for tortious interference with PLAINTIFF's prospective economic relationship with the CITY.

59. PLAINTIFF had an actual prospective advantageous business relationships with the CITY.

60. INTERMIAMI was aware of the existence of PLAINTIFF's prospective advantageous business relationship with the CITY.

61. As a direct and proximate result of MIAMI BU falsely stating to CITY that PLAINTIFF's \$35 Million proposal to refurbish historic Lockhart Stadium was not valid and viable because there was a "tremendous amount" of asbestos present at the stadium, the reputation of PLAINTIFF was damaged and this caused the CITY to not fairly consider PLAINTIFF's bid.

62. These false statements by INTERMIAMI constituted an intentional and unjustified interference with PLAINTIFF's prospective advantageous business relationships with the CITY in order to gain an unfair advantage to have its competing bid selected by the CITY.

63. INTERMIAMI was not authorized, nor did it have any legal justification or right to claim privilege for its actions.

64. As a direct and proximate cause of the INTERMIAMI's intentional and unjustified tortious interference, PLAINTIFF has suffered non-monetary and monetary damages.

WHEREFORE, PLAINTIFF respectfully requests that this Court:

- a. Enter judgment in favor of PLAINTIFF and against INTERMIAMI;
- b. Award PLAINTIFF damages;
- c. Award PLAINTIFF its costs incurred in prosecuting this action;
- d. Award PLAINTIFF prejudgment interest; and
- e. Grant such other and further relief as this Court deems just and proper.

COUNT V

INJURIOUS FALSEHOOD

65. PLAINTIFF repeats and realleges the foregoing paragraphs 1 to 40 as if fully set forth herein.

66. PLAINTIFF sues INTERMIAMI for Injurious Falsehood.

67. Lobbyist Stephanie Toothaker, Esq. and other agents, owners and employees of INTERMIAMI falsely stated to CITY that PLAINTIFF's \$35 Million proposal to refurbish historic Lockhart Stadium was not valid and viable because there was a "tremendous amount" of

asbestos present at the stadium.

68. INTERMIAMI knew that these false statements would harm PLAINTIFF's reputation and cause the CITY to not fairly consider PLAINTIFF's proposal.

69. As a direct and proximate cause of the INTERMIAMI's false statements, PLAINTIFF has suffered monetary damages.

WHEREFORE, PLAINTIFF respectfully requests that this Court:

- a. Enter judgment in favor of PLAINTIFF and against INTERMIAMI for injurious falsehood;
- b. Award PLAINTIFF damages;
- c. Award PLAINTIFF its costs incurred in prosecuting this action;
- d. Award PLAINTIFF prejudgment interest; and
- e. Grant such other and further relief as this Court deems just and proper.

RELIEF REQUESTED

WHEREFORE, PLAINTIFF request this Court enter judgment against Defendants, awarding PLAINTIFF all appropriate relief, including the following:

1. Grant the writ and order the CITY to halt all efforts to allow INTERMIAMI to redevelop historic Lockhart Stadium pursuant to Resolution 19-0365, as the CITY failed to fully comply with the express requirements of Fla. Stat. Sec. 255.065.
2. Grant a declaration that: (a) the CITY must comply with the requirements of Fla. Stat. Sec. 255.065 (b) the CITY cannot authorize the demolition of historic Lockhart Stadium pursuant to the Interim Agreement; and (c) the CITY cannot take any action in furtherance of INTERMIAMI'S redeveloping historic Lockhart Stadium pursuant

to Fla. Stat. Sec. 255.065, as the CITY failed to fully comply with the express requirements of Fla. Stat. Sec. 255.065.

3. Grant a declaration that: (a) because the CITY failed to comply with the requirements of Fla. Stat. Sec. 255.065, the CITY must comply with the requirements of Section 8.09 of the CITY Charter; (b) the CITY cannot authorize the demolition of historic Lockhart Stadium pursuant to the Interim Agreement; and (c) the CITY cannot take any action in furtherance of INTERMIAMI'S redeveloping historic Lockhart Stadium without complying with the requirements of Section 8.09 of the CITY Charter.
4. Enter a judgment on PLAINTIFF'S Cause of Action for Tortious Interference: (a) Finding that INTERMIAMI intentionally disrupted/interfered with PLAINTIFF'S prospective economic relationship with the CITY; (b) Enjoining INTERMIAMI from continuing to interfere with PLAINTIFF'S business relations with the CITY; (c) Awarding PLAINTIFF damages; (d) Awarding PLAINTIFF its costs incurred in prosecuting this action; (e) Awarding PLAINTIFF prejudgment interest; and (f) Granting such other and further relief as this Court deems just and proper.
5. Enter a judgment on PLAINTIFF'S Cause of Action for Injurious Falsehood: (a) Finding that INTERMIAMI has promulgated injurious falsehoods against PLAINTIFF; (b) enjoining INTERMIAMI from continuing to promulgate injurious falsehoods about PLAINTIFF'S bid; (c) Awarding PLAINTIFF damages in the amount of its lost profits; (d) Awarding PLAINTIFF its costs incurred in prosecuting this action; (e) Awarding PLAINTIFF prejudgment interest; and (f) Grant such other and further relief as this Court deems just and proper.

Respectfully submitted,

/djw/

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EXHIBIT A
RESOLUTION AND DRAFT INTERIM AGREEMENT



CITY OF FORT LAUDERDALE
City Commission Agenda Memo
REGULAR MEETING

#19-0365

TO: Honorable Mayor & Members of the
Fort Lauderdale City Commission

FROM: Chris Lagerbloom, ICMA-CM, City Manager

DATE: April 2, 2019

TITLE: Motion to Enter into an Interim Agreement with Miami Beckham United,
LLC Pursuant to Florida Statutes Section 255.065(6)

Recommendation

It is recommended that the City Commission approve a motion to enter into an Interim Agreement with Miami Beckham United, LLC ("Miami Beckham") pursuant to Florida Statutes Section 255.065(6), in substantially the form attached.

Background

On January 28, 2019, the City received an unsolicited proposal from Miami Beckham pursuant to Section 255.065, Florida Statutes, to design, construct, occupy, manage, and maintain Parcels 19B, 25, 26 and 27 at Fort Lauderdale Executive Airport ("the Property") for an MLS Training Facility and Stadium. At the February 5, 2019 City Commission Meeting, the City Commission adopted Resolution No. 19-25 and determined therein that the unsolicited proposal submitted by Miami Beckham serves a public purpose as recreational, sporting, and cultural facilities which will be used by the public at large or in support of an accepted public purpose or activity. At the Conference and Regular Meetings of March 19, 2019, the City Commission unanimously selected Miami Beckham's unsolicited proposal as the preferred and first ranked proposal.

In accordance with Section 255.065(6), Florida Statutes, a responsible public entity can enter into an interim agreement with a private entity proposing the development or operation of a qualifying project, before or in connection with the negotiation of a comprehensive agreement. The proposed Interim Agreement permits the commencement of activities related to the qualified project and the Property, including but not limited to, permission to enter upon the Property for purposes of conducting environmental analysis and mitigation, surveys, demolition, and other activities related to the development of the qualifying project that the City and Miami Beckham deem appropriate, under the terms and conditions set forth in the Interim Agreement.

Resource Impact

There is no fiscal impact associated with this action.

Strategic Connections

This item is a Press Play Fort Lauderdale Strategic Plan 2018 initiative, included within the Internal Support Cylinder of Excellence, specifically advancing:

- Goal 12: Be a leading government organization, managing resources wisely and sustainably
- Objective 1: Ensure sound fiscal management
- Initiative 1: Achieve a structurally balanced budget through viable revenue sources, smart financial management, comprehensive financial forecasting, and results-oriented and efficient services

This item advances the Fast Forward Fort Lauderdale 2035 Vision Plan: We are United.

Attachment

Exhibit 1 – Interim Agreement

Prepared by: Luisa Agathon, City Manager's Office

Department Director: Chris Lagerbloom, ICMA-CM, City Manager

INTERIM AGREEMENT

This Interim Agreement is entered into this ____ day of April, 2019 by and between the **CITY OF FORT LAUDERDALE, FLORIDA**, a Florida municipal corporation (the "CITY") and **MIAMI BECKHAM UNITED, LLC**, a Florida limited liability company, and its respective successors and assigns ("MIAMI BECKHAM"), pursuant to Section 255.065(6), Florida Statutes:

RECITALS

WHEREAS the CITY holds all right, title or interest in the real property described as Parcels 19B, 25, 26, and 27 located at the Fort Lauderdale Executive Airport in the City of Fort Lauderdale, Florida, commonly known as the site of Lockhart and Fort Lauderdale Stadiums, which are currently vacant and unoccupied, and which are more legally described as follows:

See Exhibit "A" (hereinafter the "Property");

WHEREAS on January 28, 2019, the CITY received an unsolicited proposal from MIAMI BECKHAM pursuant to Section 255.065(6), Florida Statutes, to design, construct, occupy, manage, and maintain the Property for a Major League Soccer (MLS) Training Facility and Stadium, as more particularly described in its unsolicited proposal;

WHEREAS, pursuant to Resolution No. 19-25, the City Commission, at its meeting of February 5, 2019, determined that the unsolicited proposal submitted by MIAMI BECKHAM serves a public purpose as recreational, sporting, and cultural facilities which will be used by the public at large or in support of an accepted public purpose or activity, and as proposed, constitutes a qualifying project pursuant to Section 255.065, Florida Statutes;

WHEREAS, pursuant to Resolution No. 19-25, the City Commission further declared its intent to enter into a comprehensive agreement with MIAMI BECKHAM for the qualified project described in MIAMI BECKHAM's unsolicited proposal;

WHEREAS, at its conference and regular meetings of March 19, 2019, the City Commission unanimously selected MIAMI BECKHAM's unsolicited proposal as the preferred and first ranked proposal in accordance with Section 255.065(5)(c), Florida Statutes, thereby authorizing the CITY to commence negotiations for a Comprehensive Agreement with MIAMI BECKHAM, encompassing therein the development, improvement, design, construction, occupation, and management of the Property.

WHEREAS, in accordance with Section 255.065(6), Florida Statutes, a responsible public entity is authorized to enter into an interim agreement with a private entity proposing the development or operation of a qualifying project, before or in connection with the negotiation of a comprehensive agreement, for purposes of authorizing the private entity to commence activities for which it can be compensated related to the proposed qualifying project, including but not limited to, project planning and development, design, environmental analysis and mitigation, survey, other activities concerning any part of the proposed qualifying project, and ascertaining the availability of financing for the proposed facility or facilities, as well as purposes related to an aspect of the development or operation of a qualifying project that the responsible public entity and the private entity deem appropriate.

WHEREAS, before and in connection with the negotiation of a comprehensive agreement, the CITY and MIAMI BECKHAM are desirous of commencing activities related to the qualified project and the Property, including but not limited to, permission to enter upon the Property for purposes of conducting environmental analysis and mitigation, surveys, demolition, and other activities related to the development of the qualifying project that the CITY and MIAMI BECKHAM deem appropriate, under terms and conditions set forth herein.

NOW, THEREFORE, in consideration of the mutual covenants and conditions contained herein, and other good and valuable considerations, the adequacy and receipt of which are hereby acknowledged, the CITY and MIAMI BECKHAM agree as follows:

1. **Recitals.** The foregoing recitals are true and correct and incorporated herein by reference.

2. **Investigation, Study, Demolition, and Commencement**

2.1 In accordance with Section 255.065(6), Florida Statutes, the Parties agree that neither this Interim Agreement, nor any work to be performed in accordance thereto, obligate the CITY to enter into a Comprehensive Agreement with MIAMI BECKHAM.

2.2 MIAMI BECKHAM, through its agents, servants, employees and contractors, is authorized and entitled, at its expense, to commence activities related to the proposed qualifying project, including but not limited to, project planning and development, design, and financial and business planning.

2.3 MIAMI BECKHAM, through its agents, servants, employees and contractors, is authorized and entitled, at its expense, to enter upon the Property for the purpose of conducting an investigation, discovery, inspection, and testing of the Property, including soil testing and boring, environmental studies, and surveying;

2.4 MIAMI BECKHAM, through its agents, servants, employees and contractors, is authorized and entitled, contingent upon obtaining all necessary approvals and permits, to enter upon the Property for purposes of conducting the demolition of the existing improvements thereon, including but not limited to Lockhart Stadium and Fort Lauderdale Stadium, within one hundred and eighty (180) days from the date of this Interim Agreement, at its sole costs and expense, in a good workmanlike manner, in accordance with applicable ordinances and laws, but without any additional approvals from the CITY in its capacity as fee simple owner of the Property.

2.5 MIAMI BECKHAM, through its agents, servants, employees and contractors, is authorized and entitled, contingent upon obtaining all necessary approvals and permits, to enter upon the Property for purposes of relocating, improving, or expanding public utilities, at its expense, deemed necessary by both CITY and MIAMI BECKHAM, for the construction of the qualified project.

2.6 MIAMI BECKHAM shall protect and retain for future use as part of the qualifying project, either by CITY or MIAMI BECKHAM, any salvageable bleachers contained within Lockhart Stadium. MIAMI BECKHAM shall also collect, retain, and transfer to the CITY all scrap metal produced as a result of the demolition of any structures contained upon the Property.

2.7 All entries upon the Property shall be at the sole risk of MIAMI BECKHAM. CITY shall have no liability for any injuries sustained by MIAMI BECKHAM or any of its agents, servants, employees or contractors. MIAMI BECKHAM agrees to repair or restore promptly any unscheduled or authorized damage to the Property caused by MIAMI BECKHAM, its agents, servants, employees or contractors.

2.8 This Interim Agreement is contingent upon MIAMI BECKHAM, including its agents, servants, employees, and contractors, obtaining all the necessary approvals and permits, including from the CITY's Department of Sustainable Development and Department of Public Works, Broward County, and the Federal Aviation Administration (FAA), if applicable. In the event MIAMI BECKHAM, its agents, servants, employees, and contractors, fail to obtain the necessary permits and approvals from the CITY's Department of Sustainable Development, Department of Public Works, Broward County, and the FAA, if applicable, then this Interim Agreement shall be null and void.

3. Investigation, Study, Demolition, and Commencement Period. The Investigation, Study, Demolition, and Commencement Period under Paragraph 2 shall be for a period ending on the earlier of (i) one hundred eighty (180) days after the date of this Interim Agreement or (ii) the date a Comprehensive Agreement is fully executed by CITY and MIAMI BECKHAM.

4. Expedited Approvals. The Parties shall use their best efforts in seeking and providing necessary approvals and permits related to the scope of work under this Interim Agreement. The CITY agrees to reasonably cooperate with MIAMI BECKHAM in securing all permits and approvals necessary to complete the scope of work under this Interim Agreement.

The CITY hereby consents to MIAMI BECKHAM's use of privatized inspection services, selected from the CITY's approved list of inspectors, at MIAMI BECKHAM's option, and sole cost and expense, to perform, under the CITY's guidance, the various inspections and approvals required for the scope of work under this Interim Agreement.

5. Effective Date. The Effective Date of this Interim Agreement shall be the date the last party executes this Interim Agreement.

6. License, not Lease. It is acknowledged and stipulated by and between the CITY and MIAMI BECKHAM hereto that the rights of MIAMI BECKHAM under this Interim Agreement shall not be deemed a lease of the Property but rather a license granted for the purpose of entry onto and occupation of the Property.

7. Indemnity

7.1 MIAMI BECKHAM shall protect, defend, indemnify and hold harmless the CITY, its officials, officers, employees and agents from and against any and all claims, demands, causes of action, lawsuits, penalties, damages, settlements, judgments, decrees, costs, charges and other expenses, including reasonable attorney's fees and costs through trial and the appellate level, or liabilities of every kind, nature or degree arising out of or in connection with the rights, responsibilities and obligations of MIAMI BECKHAM under this Interim Agreement, conditions contained therein, the location, construction, repair, or use by MIAMI BECKHAM, or the breach or default by MIAMI BECKHAM, its agents, servants, employees or contractors of any covenant or provision of this Interim Agreement, the negligent acts or omission or willful misconduct of MIAMI BECKHAM or its agents, servants, employees

or contractors except for any occurrence arising out of or resulting from the intentional torts or gross negligence of CITY, its officers and employees acting within the course and scope of their employment. Without limiting the foregoing, any and all such claims, suits, causes of action relating to personal injury, death, damage to property, defects in construction, rehabilitation or restoration of any of the Property by MIAMI BECKHAM, its agents, servants, employees or contractors, alleged infringement of any patents, trademarks, copyrights or of any other tangible or intangible personal or real property right by MIAMI BECKHAM, its agents, servants, employees or contractors or any actual or alleged violation of any applicable statute, ordinance, administrative order, rule or regulation or decree of any court by MIAMI BECKHAM, its agents, servants, employees or consultants is included in the indemnity.

MIAMI BECKHAM further agrees that upon proper and timely notice to investigate, handle, respond to, provide defense for, and defend any such claims at its sole expense and agrees to bear all other costs and expenses related thereto even if the claim is groundless, false or fraudulent and if called upon by CITY, MIAMI BECKHAM shall assume and defend not only itself but also the CITY in connection with any claims, suits or causes of action, and any such defense shall be at no cost or expense whatsoever to the CITY, provided that the CITY (exercisable by CITY's Attorney) shall retain the right to select counsel of its own choosing. This indemnification shall survive termination, revocation or expiration of this Interim Agreement and shall cover any acts or omissions occurring during the term of the Interim Agreement, including any period after termination, revocation or expiration of the Interim Agreement while any curative acts are undertaken and is not limited by insurance coverage. Notwithstanding the foregoing, in no event shall the discovery by MIAMI BECKHAM of contamination at the Property alone be considered damage to property, resulting from MIAMI BECKHAM's or its agents, servants, employees or contractors' use of or access to the Property which is subject to the indemnity covenants of MIAMI BECKHAM contained herein.

Upon request by CITY, MIAMI BECKHAM shall provide copies of all property condition reports and environmental assessments conducted or surveys completed by MIAMI BECKHAM, its agents, employees or contractors on the Property.

7.2. All construction materials, equipment, goods, signs and any other personal property of MIAMI BECKHAM, its agents, servants, employees or contractors, shall be protected solely by MIAMI BECKHAM. MIAMI BECKHAM acknowledges and agrees that the CITY assumes no responsibility, whatsoever, for any such item and that the security and protection of any such item from theft, vandalism, the elements, acts of God, or any other cause, are strictly the responsibility of MIAMI BECKHAM.

8. Insurance.

8.1 As a condition precedent to the effectiveness of this Interim Agreement, during the term of this Interim Agreement and during any renewal or extension term of this Interim Agreement, MIAMI BECKHAM, at its sole expense, shall provide insurance of such types and with such terms and limits as noted below. Providing proof of and maintaining adequate insurance coverage are material obligations of MIAMI BECKHAM. MIAMI BECKHAM shall provide the CITY a certificate of insurance evidencing such coverage. MIAMI BECKHAM's insurance coverage shall be primary insurance for all applicable policies. The limits of coverage under each policy maintained by MIAMI BECKHAM shall not be interpreted as limiting MIAMI BECKHAM's liability and obligations under this Interim Agreement. All insurance policies shall

be through insurers authorized or eligible to write policies in the State of Florida and possess an A.M. Best rating of A-, VII or better, subject to approval by the CITY's Risk Manager.

The coverages, limits, and/or endorsements required herein protect the interests of the CITY, and these coverages, limits, and/or endorsements shall in no way be required to be relied upon by MIAMI BECKHAM for assessing the extent or determining appropriate types and limits of coverage to protect MIAMI BECKHAM against any loss exposures, whether as a result of this Interim Agreement or otherwise. The requirements contained herein, as well as the CITY's review or acknowledgement, are not intended to and shall not in any manner limit or qualify the liabilities and obligations assumed by MIAMI BECKHAM under this Interim Agreement.

8.2 The following insurance policies and coverages are required:

Commercial General Liability

Coverage must be afforded under a Commercial General Liability policy with limits not less than:

- \$5,000,000 each occurrence and \$5,000,000 aggregate for Bodily Injury, Property Damage, and Personal and Advertising Injury
- \$5,000,000 each occurrence and \$5,000,000 aggregate for Products and Completed Operations

Policy must include coverage for contractual liability and independent contractors.

The CITY, a Florida municipal corporation, its officials, employees, and volunteers are to be covered as an additional insured with a CG 20 26 04 13 Additional Insured – Designated Person or Organization Endorsement or similar endorsement providing equal or broader Additional Insured Coverage with respect to liability arising out of activities performed by or on behalf of MIAMI BECKHAM. The coverage shall contain no special limitation on the scope of protection afforded to the CITY, its officials, employees, and volunteers.

Business Automobile Liability

Coverage must be afforded for all Owned, Hired, Scheduled, and Non-Owned vehicles for Bodily Injury and Property Damage in an amount not less than \$1,000,000 combined single limit each accident.

If MIAMI BECKHAM does not own vehicles, MIAMI BECKHAM shall maintain coverage for Hired and Non-Owned Auto Liability, which may be satisfied by way of endorsement to the Commercial General Liability policy or separate Business Auto Liability policy.

Crane and Rigging Liability

Coverage must be afforded for any crane operations under the Commercial General or Business Automobile Liability policy as necessary, in line with the limits of the associated policy.

Pollution and Remediation Legal Liability (Hazardous Materials)

For the purpose of this section, the term “hazardous materials” includes all materials and substances that are designated or defined as hazardous by Florida or federal law or by the rules or regulations of Florida or any federal agency. If work being performed involves hazardous materials, the Contractor shall procure and maintain any or all of the following coverage, which will be specifically addressed upon review of exposure.

Contractors Pollution Liability Coverage

For sudden and gradual occurrences and in an amount not less than \$1,000,000 per claim arising out of this Agreement, including but not limited to, all hazardous materials identified under the Agreement.

Asbestos Liability Coverage

For sudden and gradual occurrences and in an amount not less than \$1,000,000 per claim arising out of work performed under this Agreement.

Disposal Coverage

The Contractor shall designate the disposal site and furnish a Certificate of Insurance from the disposal facility for Environmental Impairment Liability Insurance, covering liability for sudden and accidental occurrences in an amount not less than \$1,000,000 per claim and shall include liability for non-sudden occurrences in an amount not less than \$1,000,000 per claim.

Hazardous Waste Transportation Coverage

The Contractor shall designate the hauler and furnish a Certificate of Insurance from the hauler for Automobile Liability insurance with Endorsement MCS90 for liability arising out of the transportation of hazardous materials in an amount not less than \$1,000,000 per claim limit and provide a valid EPA identification number.

Property Coverage (Builder’s Risk)

Coverage must be afforded in an amount not less than 100% of the total project cost, including soft costs, with a deductible of no more than \$25,000 each claim. Coverage form shall include, but not be limited to:

- All Risk Coverage including Flood and Windstorm with no coinsurance clause
- Guaranteed policy extension provision
- Waiver of Occupancy Clause Endorsement, which will enable the City to occupy the facility under construction/renovation during the activity
- Storage and transport of materials, equipment, supplies of any kind whatsoever to be used on or incidental to the project
- Equipment Breakdown for cold testing of all mechanized, pressurized, or electrical equipment

This policy shall insure the interests of the owner, contractor, and subcontractors in the property against all risk of physical loss and damage, and name the CITY as a loss payee. This insurance shall remain in effect until the work is completed and the property has been accepted by the CITY.

Workers' Compensation and Employer's Liability

Coverage must be afforded per Chapter 440, Florida Statutes. Any person or entity performing work for or on behalf of the CITY must provide Workers' Compensation insurance. Exceptions and exemptions will be allowed by the CITY's Risk Manager, if they are in accordance with Florida Statute.

MIAMI BECKHAM waives, and MIAMI BECKHAM shall ensure that MIAMI BECKHAM's insurance carrier waives, all subrogation rights against the CITY and the CITY's officers, employees, and volunteers for all losses or damages. The CITY requires the policy to be endorsed with WC 00 03 13 Waiver of our Right to Recover from Others or equivalent.

MIAMI BECKHAM must be in compliance with all applicable State and federal workers' compensation laws, including the U.S. Longshore Harbor Workers' Act and the Jones Act, if applicable.

Insurance Certificate Requirements

- a. MIAMI BECKHAM shall provide the CITY with valid Certificates of Insurance (binders are unacceptable) no later than thirty (30) days prior to the start of work contemplated in this Agreement.
- b. MIAMI BECKHAM shall provide to the CITY a Certificate of Insurance having a thirty (30) day notice of cancellation; ten (10) days' notice if cancellation is for nonpayment of premium.
- c. In the event that the insurer is unable to accommodate the cancellation notice requirement, it shall be the responsibility of MIAMI BECKHAM to provide the proper notice. Such notification will be in writing by registered mail, return receipt requested, and addressed to the certificate holder.
- d. In the event the Agreement term goes beyond the expiration date of the insurance policy, MIAMI BECKHAM shall provide the CITY with an updated Certificate of Insurance no later than ten (10) days prior to the expiration of the insurance currently in effect. The CITY reserves the right to suspend the Agreement until this requirement is met.
- e. The Certificate of Insurance shall indicate whether coverage is provided under a claims-made or occurrence form. If any coverage is provided on a claims-made form, the Certificate of Insurance must show a retroactive date, which shall be the effective date of the initial contract or prior.
- f. The CITY shall be named as an Additional Insured on all liability policies, with the exception of Workers' Compensation.

- g. The CITY shall be granted a Waiver of Subrogation on MIAMI BECKHAM's Workers' Compensation insurance policy.
- h. The title of the Agreement, Bid/Contract number, event dates, or other identifying reference must be listed on the Certificate of Insurance.

The Certificate Holder should read as follows:

City of Fort Lauderdale
100 N. Andrews Avenue
Fort Lauderdale, FL 33301

MIAMI BECKHAM has the sole responsibility for all insurance premiums and shall be fully and solely responsible for any costs or expenses as a result of a coverage deductible, co-insurance penalty, or self-insured retention; including any loss not covered because of the operation of such deductible, co-insurance penalty, self-insured retention, or coverage exclusion or limitation. Any costs for adding the CITY as an Additional Insured shall be at MIAMI BECKHAM's expense.

If MIAMI BECKHAM's primary insurance policy/policies do not meet the minimum requirements, as set forth in this Agreement, MIAMI BECKHAM may provide evidence of an Umbrella/Excess insurance policy to comply with this requirement.

MIAMI BECKHAM's insurance coverage shall be primary insurance as respects to the CITY, a Florida municipal corporation, its officials, employees, and volunteers. Any insurance or self-insurance maintained by the CITY, a Florida municipal corporation, its officials, employees, or volunteers shall be non-contributory.

Any exclusion or provision in any insurance policy maintained by MIAMI BECKHAM that excludes coverage required in this Agreement shall be deemed unacceptable and shall be considered breach of contract.

All required insurance policies must be maintained until the contract work has been accepted by the CITY, or until this Agreement is terminated, whichever is later. Any lapse in coverage shall be considered breach of contract. In addition, MIAMI BECKHAM must provide to the CITY confirmation of coverage renewal via an updated certificate should any policies expire prior to the expiration of this Agreement. The CITY reserves the right to review, at any time, coverage forms and limits of MIAMI BECKHAM's insurance policies.

MIAMI BECKHAM shall provide notice of any and all claims, accidents, and any other occurrences associated with this Agreement to MIAMI BECKHAM's insurance company or companies and the CITY's Risk Management office, as soon as practical.

It is MIAMI BECKHAM's responsibility to ensure that any and all of MIAMI BECKHAM's independent contractors and subcontractors comply with these insurance requirements. All coverages for independent contractors and subcontractors shall be subject to all of the applicable requirements stated herein. Any and all deficiencies are the responsibility of MIAMI BECKHAM.

9. Joint Preparation. Each party and its counsel have participated fully in the review and revision of this Interim Agreement and acknowledge that the preparation of this Interim Agreement has been their joint effort. The language in this Interim Agreement expresses the mutual intent of each party and the resulting document shall not, solely as a matter of judicial construction, be construed more severely against one party than the other. The language in this Interim Agreement shall be interpreted as to its fair meaning and not strictly for or against any party.

10. Severability. If any provision of this Interim Agreement, or its application to any person or situation, is deemed invalid or unenforceable for any reason and to any extent, the remainder of this Interim Agreement, or the application of the remainder of the provisions, shall not be affected. Rather, this Interim Agreement is to be enforced to the extent permitted by law. The captions, headings and title of this Interim Agreement are solely for convenience of reference and are not to affect its interpretation. Each covenant, term, condition, obligation or other provision of the Interim Agreement is to be construed as a separate and independent covenant of the party who is bound by or who undertakes it, and each is independent of any other provision of this Interim Agreement, unless otherwise expressly provided. All terms and words used in this Interim Agreement, regardless of the number or gender in which they are used, are deemed to include any other number and other gender, as the context requires.

11. No Waiver of Sovereign Immunity. Nothing contained in this Interim Agreement is intended to serve as a waiver of sovereign immunity by any agency to which sovereign immunity may be applicable.

12. No Third Party Beneficiaries. The parties expressly acknowledge that it is not their intent to create or confer any rights or obligations in or upon any third person or entity under this Interim Agreement. None of the parties intend to directly or substantially benefit a third party by this Interim Agreement. The parties agree that there are no third party beneficiaries to this Interim Agreement and that no third party shall be entitled to assert a claim against any of the parties based upon this Interim Agreement. Nothing herein shall be construed as consent by any agency or political subdivision of the State of Florida to be sued by third parties in any manner arising out of any contract.

13. Non-Discrimination. MIAMI BECKHAM shall not discriminate against any person in the performance of duties, responsibilities and obligations under this Interim Agreement because of race, age, religion, color, gender, national origin, marital status, disability or sexual orientation.

14. Termination. In the event of emergency, the CITY may cancel this Interim Agreement during the term hereof upon twenty-four (24) hours written notice to the other party of its desire to terminate this Interim Agreement. Either party may send notice to the other party at the addresses set forth in the preamble.

15. Breach: A material breach of this Interim Agreement by MIAMI BECKHAM shall be grounds for the CITY to terminate this Interim Agreement, except that before such termination, MIAMI BECKHAM shall be entitled to ten (10) days written notice and an opportunity to cure the breach within such period. Notice of any breach may be sent as provided in Section 19, Notice, of this Interim Agreement.

16. Entire Agreement. This document incorporates and includes all prior negotiations, correspondence, conversations, agreements and understandings applicable to the

matters contained herein and the parties agree that there are no commitments, agreements or understandings concerning the subject matter of this Interim Agreement that are not contained in this document. Accordingly, the parties agree that no deviation from the terms hereof shall be predicated upon any prior representations or agreements, whether oral or written.

17. Governing Law. This Interim Agreement shall be interpreted and construed in accordance with and governed by the laws of the State of Florida. Any controversies or legal problems arising out of this Interim Agreement, and any action involving the enforcement or interpretation of any rights hereunder, shall be brought exclusively in the state courts of the Seventeenth Judicial Circuit in Broward County, Florida, and venue for litigation arising out of this Interim Agreement shall be exclusively in such state courts, forsaking any other jurisdiction which either party may claim by virtue of its residency or other jurisdictional device. **By entering into this Interim Agreement, CITY and MIAMI BECKHAM hereby expressly waive any rights either party may have to a trial by jury of any civil litigation related to this Interim Agreement or any acts or omissions in relation thereto.**

18. Scrutinized Companies. As a condition precedent to the effectiveness of this Interim Agreement and as a condition precedent to any renewal of this Interim Agreement, MIAMI BECKHAM certifies that it is not on the Scrutinized Companies that Boycott Israel List created pursuant to Section 215.4725, Florida Statutes (2018), as may be amended or revised, and that it is not engaged in a boycott of Israel. The CITY may terminate this Interim Agreement at the CITY's option if MIAMI BECKHAM is found to have submitted a false certification as provided under subsection (5) of section 287.135, Florida Statutes (2018), as may be amended or revised, or been placed on the Scrutinized Companies that Boycott Israel List created pursuant to Section 215.4725, Florida Statutes (2018), as may be amended or revised, or is engaged in a boycott of Israel as defined in Sections 287.135 and 215.4725, Florida Statutes (2018), as may be amended or revised.

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

CITY:

City of Fort Lauderdale
100 North Andrews Avenue
Fort Lauderdale, FL 33301
Attn: City Manager (CLagerbloom@fortlauderdale.gov)

With a copy to:

City of Fort Lauderdale
City Attorney's Office (ABoileau@fortlauderdale.gov)
100 North Andrews Avenue
Fort Lauderdale, Florida 33301

MIAMI BECKHAM:

Stephanie J. Toothaker, Esquire (sjt@TrippScott.com)
Tripp Scott
110 SE Sixth Street, Suite 1500
Fort Lauderdale, FL 33301

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IN WITNESS WHEREOF, the parties hereto, through their duly authorized representatives, have executed this Interim Agreement to be effective as of the day and year first set forth above.

CITY OF FORT LAUDERDALE, a Florida municipal corporation

By: _____
Dean J. Trantalis, Mayor

By: _____
Christopher J. Lagerbloom
City Manager

ATTEST:

Jeffrey A. Modarelli, City Clerk

APPROVED AS TO FORM:

Alain E. Boileau, City Attorney

STATE OF FLORIDA:
COUNTY OF BROWARD:

The foregoing instrument was acknowledged before me this _____ day of _____, 2019, by **Dean J. Trantalis**, Mayor of the City of Fort Lauderdale, a municipal corporation of Florida. He is personally known to me and did not take an oath.

(SEAL)

Notary Public Signature

Name of Notary Typed
My Commission Expires:

Commission Number

STATE OF FLORIDA:
COUNTY OF BROWARD:

The foregoing instrument was acknowledged before me this ____ day of April, 2019, by **Christopher J. Lagerbloom**, City Manager of the City of Fort Lauderdale, a municipal corporation of Florida. He is personally known to me and did not take an oath.

(SEAL)

Notary Public, State of Florida

Name of Notary Typed,
Printed or Stamped
My Commission Expires:

Commission Number

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MIAMI BECKHAM UNITED, LLC

By _____
Pablo Alvarez, Vice-President & Secretary

STATE OF FLORIDA:
COUNTY OF BROWARD:

The foregoing instrument was acknowledged before me this _____ day of April, 2019, by **Jorge Mas**, on behalf of said corporation. He is personally known to me or produced _____ as identification and did not take an oath.

(SEAL)

Notary Public signature

Name Typed, Printed or Stamped
My Commission Expires:
Commission Number:

EXHIBIT B
CITY AUDITOR MEMORANDUM



Memorandum

Memo No: 18/19-03.2

Date: March 19, 2019

To: Honorable Mayor and Commissioners

From: John Herbst, CPA, CGFO, CGMA
City Auditor

Re: Updated Preliminary Review of the Lockhart Stadium Unsolicited Proposals

This is an update to my memo issued on March 17th to reflect additional information received from Inter Miami regarding their financing.

The City of Fort Lauderdale has received two unsolicited proposals for the development of soccer and related activities at the Lockhart and Fort Lauderdale Stadium sites located adjacent to the Fort Lauderdale Executive Airport. The two proposers are Miami Beckham United (Inter Miami) and FXE Futbol. The City Auditor's Office (CAO) was asked to review the financial aspects of the two submittals.

The intent of the review was to evaluate three issues:

1. Do the proposers have firm commitments to finance the development?
2. Do the methods and assumptions in the business plan seem reasonable?
3. What is the financial impact to the City?

CONCLUSION

At this time, based on the submittals received, the CAO is unable to provide an opinion on the financial merits of the two proposals. They are both conceptual in nature and lack details regarding the expected revenue to the City or a business plan that would indicate the potential success for the ventures. Both Inter Miami and FXE Futbol have lined up firm commitments for financing.

Question 1. Do the proposers have firm commitments available to finance the development?

Inter Miami

Inter Miami provided a firm commitment from Goldman Sachs for \$50 million for development of the project.

FXE Futbol

FXE Futbol provided firm commitments from two firms for \$85 million for development of the project.

Question 2. Do the methods and assumptions in the business plan seem reasonable?

Scope Limitation - Neither proposal contained a business plan, therefore we were unable to obtain sufficient audit evidence to provide a basis for an opinion as to the reasonableness of the plans. A scope limitation is a restriction placed on the audit that precludes the CAO from accomplishing our objectives and plans, including a lack of access to records, personnel, and documentation relevant to the performance of the engagement.

Question 3. What is the financial impact to the City?

Scope Limitation - Neither proposal contained information regarding proposed lease terms, profit-sharing potential, etc., therefore we were unable to obtain sufficient audit evidence to provide a basis for an opinion as to the financial impact to the City. A scope limitation is a restriction placed on the audit that precludes the CAO from accomplishing our objectives and plans, including a lack of access to records, personnel, and documentation relevant to the performance of the engagement.

cc: Chris Lagerbloom, City Manager
Alain Boileau, City Attorney
Jeff Modarelli, City Clerk
Linda Logan-Short, Interim Assistant City Manager
Rhoda Mae Kerr, Interim Assistant City Manager