

## **MEMORANDUM OF UNDERSTANDING**

BETWEEN

Bike Walk Coral Gables Inc. and

City of Coral Gables

### **SECTION 1 – Description:**

The City of Coral Gables (“City”) and Bike Walk Coral Gables (“BWCG”) (together “the Parties”) have agreed to from time to time jointly organize bicycle oriented educational tours around the City of Coral Gables. These tours will feature different themes such as historical, architectural, youth and nature related topics. One Cycle Day, called the Bike & BBQ tour, will be held annually. Cycle Day tours will be organized through the City and BWCG will provide ride leaders and a tour guide who is knowledgeable in the specific area of the tour.

### **SECTION 2 – Purpose:**

The purpose of this agreement is to ensure that both parties understand and agree to the terms of the Cycle Day events and Bike and BBQ tour. This Memorandum of Understanding will establish the responsibilities of each entity within the Partnership and the terms and conditions under which the Partnership will operate.

In consideration of the above-shared interests, BWCG and the City agree as follows:

### **SECTION 3 - Term**

This Agreement shall stay in effect for three (3) years from the date of execution of the Agreement unless terminated earlier by either party in accordance with Section 8.

### **SECTION 4 - Services**

A. The City SHALL:

- Coordinate with BWCG to determine the dates of up to three (3) mutually agreeable “Cycle Days” each calendar year, one of which shall be the Bike & BBQ Tour.
- Promote the events through social media advertising and printed materials.
- Coordinate registration, ticketing, and collect payments both in advance and on site on the day of the event.
- Provide a waiver for all participants to sign, drafted by the City and approved by both Parties.
- Provide staff on the day of the event to ensure that all payments and waivers are documented.
- Provide additional tour guides and ride leaders if needed, as determined by the City.

- Provide safety vests and t-shirts for ride leaders and tour guides.
- Provide t-shirts and gift bags to tour participants at the City's discretion.
- Specifically, for the Bike and BBQ day the City will provide any and all recreational activities, food, and staffing, including law enforcement, as determined necessary by the City.
- Provide a photographer for marketing use.
- Provide a PA system if the City determines that one is necessary.

**B. BWCG SHALL:**

- Assist in organizing and participate in a maximum of three (3) Cycle Days each calendar year.
- Provide BWCG trained ride leaders to guide the tours.
- Create the routes which will be mutually approved by both Parties.
- Provide walkie-talkies for communication between the ride leaders and City staff who are attending the rides.
- Provide a PA system for the tour guides.
- On the Bike and BBQ tour, BWCG will coordinate the final event location with the City, secure the location at BWCG's cost, and provide staff to assist with any events or food associated with the event and provided by City.

**SECTION 5 – Proceeds & Pricing**

Gross proceeds will be split evenly between the two parties. The City will collect all payments and remit one half of the proceeds collected each year to BWCG. BWCG to will submit all necessary documentation to the City to coordinate receipt of payment. The payment to BWCG will be due on January 31<sup>st</sup> of the following year. The current price of the tour is \$10, (\$5 for City Employees, children under 12 and CG Museum members.) The price may be changed by mutual agreement.

**SECTION 6 - Indemnification and Hold Harmless**

BWCG will hold harmless the City of Coral Gables, its appointed and elected officials, attorneys, administrators, officers, consultants, agents and employees from and against all claims, damages, losses, and expenses direct, indirect, or consequential (including but not limited to fees and charges of attorneys and other professionals and court and arbitrations costs) arising out of or resulting from the cycle day programs conducted by BWCG pursuant to this agreement including, but not limited to personal injury, death, or damage to property caused in whole or in part by either (i) any willful, intentional, reckless, or negligent act or omission of BWCG, any subconsultant, or any person or organization directly or indirectly employed by any of them to perform or furnish any of the services or anyone for whose acts any of them may be liable, regardless of whether or not it is caused in party by a party indemnified hereunder and regardless

of the negligence of any such indemnified party, or (ii) any willful, intentional, reckless, or negligent act or omission of any individual or entity not a party to this agreement, or (iii) any negligent act or omission of the City of the City's officers, agents, or employees. The parties expressly agree that this provision shall be construed broadly, and BWCG's obligations to pay for the City's legal defense hereunder shall arise and be fully enforceable when BWCG (or any subconsultant or any person or organization directly or indirectly employed by BWCG) is alleged to have acted willfully intentionally, recklessly, or negligently in the performance of the services contemplated under this Agreement. This provision shall survive termination of the Agreement.

### **SECTION 7- Sovereign Immunity**

BWCG acknowledges that the Florida Doctrine of Sovereign Immunity bars all claims by BWCG against the City other than claims arising out of this Agreement. Specifically, BWCG acknowledges that it cannot and will not assert any claims against the City, unless the claim is based upon a breach by the City of this Agreement. BWCG acknowledges that it has no right and will not make any claims based upon any of the following:

- (a) Claims based upon any alleged breach by the City of Implied warranties or representations not specifically set forth in this Agreement, as the Parties stipulate that there are no such implied warranties or representations of the City. All obligations of the City are only as set forth in this Agreement,
- (b) Claims based upon negligence or any tort arising out of this Agreement;
- (c) Claims upon alleged acts or inaction by any City Employee or Agent of the City;
- (d) Claims based upon an alleged waiver of any of the terms of this Agreement. BWCG affirms that the provisions regarding notice to claims, and the requirement for a written change order cannot be waived and further, without timely notice of a claim or a written change order as required in this Agreement, BWCG shall not be entitled to additional compensation or an extension of the Contract Time. Such claims for additional compensation or extensions of the Contract Time are waived if BWCG has not given all required notices and obtained a written a change order when required.

### **SECTION 8- Non-Fund Obligating Document**

This agreement is neither a fiscal nor a funds obligation document. Any endeavor or transfer of anything of value involving reimbursement or contribution of funds between the parties to this agreement will be handled in accordance with applicable laws, regulations, and procedures.

### **SECTION 9 - Notice.**

Any notice or other document required or permitted to be given hereunder by either party shall be in writing and sent to address set forth for such party below. Any notice so given shall be deemed received when personally delivered or three (3) business days after mailing. Notice to the parties shall be as follows:

Bike Walk Coral Gables, Inc.  
John Swain  
4015 University Drive  
Coral Gables FL. 33146  
Johnsswain@gmail.com

City of Coral Gables  
Fred Couceyro  
405 University Drive  
Coral Gables, FL 33134  
fcouceyro@coralgables.com Cc: City Attorney

#### **SECTION 10 - Modification/Termination**

Modifications within the scope of the agreement shall be made by mutual consent of the parties, by the issuance of a written modification, signed and dated by all parties, prior to any changes being performed.

Any of the parties, in writing, may terminate the agreement in whole, or in part, at any time during the term of the Agreement.

#### **SECTION 11 - Public Records.**

Records subject to the provisions of Public Record Law, Florida Statutes Chapter 119, shall be kept and maintained in accordance with such Statute. BWCG acknowledges that records and books, not subject to exemption under Chapter 119, may be disclosed and/or produced to third parties by the City in accordance with requests submitted under Chapter 119 or court orders without penalty or reprisal to the City for such disclosure and/or production. BWCG also agrees to assert, in good faith, any relevant exemptions provided for under Chapter 119 for records in its possession on behalf of the City. Furthermore, BWCG agrees to comply with the provisions outlined in Section 119.0701 of the Florida Statutes, the requirements of which are incorporated herein.

**IF BWCG HAS QUESTIONS REGARDING THE APPLICATION OF CHAPTER 119, FLORIDA STATUTES, TO BWCG 'S DUTY TO PROVIDE PUBLIC RECORDS RELATING TO THIS CONTRACT, CONTACT THE CUSTODIAN OF PUBLIC RECORDS AT 305-460-5210, [cityclerk@coralgables.com](mailto:cityclerk@coralgables.com), 405 Biltmore Way, First Floor, Coral Gables, FL 33134.**