



V I L L A G E O F K E Y B I S C A Y N E

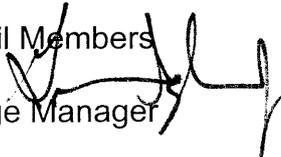
Office of the Village Manager

Village Council
Robert L. Vernon, *Mayor*
Jorge E. Mendia, *Vice Mayor*
Michael Davey
Enrique Garcia
Steve Liedman
Thomas Thornton
Patricia Weinman

Village Manager
Genaro "Chip" Iglesias

DT: April 22, 2008

TO: Honorable Mayor and Council Members

FR: Genaro "Chip" Iglesias, Village Manager 

**RE: COMMUNITY CENTER CONCESSION
CONTRACT**

RECOMMENDATION

It is recommended that the Village Council approve both the contract between the Village of Key Biscayne and 100% Key Biscayne, LLC and the termination of the contract between the Village of Key Biscayne and Zoom Mini, Inc.

BACKGROUND

The Parks & Recreation Department and the Community Center Advisory Board are interested in improving the menu provided by the concession operation at the Community Center. 100 % Key Biscayne approached representatives from both the Village and Zoom Mini, Inc. and expressed interest in operating the venue. 100% Key Biscayne and Zoom Mini have negotiated an agreement to transfer the equipment and business to 100% Key Biscayne.

Representatives from 100% Key Biscayne met with the Community Center Advisory to describe their business plan and menu. They will operate the Community Center concession as a satellite site from their primary location at the former Ad Gustum location. This will permit them to provide a wide variety of healthy menu options.

The Community Center Advisory Board and the staff both recommend that the resolution and contracts be approved so 100% Key Biscayne may be the new concession provider at the Community Center.

RESOLUTION NO. 2008-

A RESOLUTION OF THE VILLAGE COUNCIL OF THE VILLAGE OF KEY BISCAYNE, FLORIDA, APPROVING KEY BISCAYNE COMMUNITY CENTER CONCESSION AGREEMENT TO BE ENTERED INTO BETWEEN THE VILLAGE AND 100% KEY BISCAYNE, LLC, GRANTING A FOOD AND BEVERAGE CONCESSION IN THE VILLAGE COMMUNITY CENTER; AUTHORIZING IMPLEMENTATION BY VILLAGE MANAGER; AND PROVIDING FOR EFFECTIVE DATE.

WHEREAS, the Village of Key Biscayne, Florida, desires to grant a food and beverage concession in the Village Community Center to 100% Key Biscayne, LLC; and

WHEREAS, 100% Key Biscayne, LLC has the necessary experience and resources to run the food and beverage concession in the Community Center; and

WHEREAS, the Village Council finds that approval of the Key Biscayne Community Center Concession Agreement between the Village and 100% Key Biscayne, LLC is in the best interest of the Village.

NOW, THEREFORE, BE IT RESOLVED BY THE VILLAGE COUNCIL OF THE VILLAGE OF KEY BISCAYNE, FLORIDA, AS FOLLOWS:

Section 1. Recitals Adopted. That each of the above stated recitals is hereby adopted and confirmed.

Section 2. Agreement Approved. That the Key Biscayne Community Center Concession Agreement, in substantially the form attached hereto, between the Village and 100% Key Biscayne, LLC, is hereby approved, and the Village Manager is hereby authorized to execute the Agreement on behalf of the Village, once approved as to form and legal sufficiency by the Village Attorney.

Section 3. Implementation. That the Village Manager is hereby authorized to take any action which is necessary to implement the purposes of this resolution and the Agreement.

Section 4. Effective Date. That this resolution shall be effective immediately upon adoption hereof.

PASSED AND ADOPTED this ____ day of _____, 2008.

MAYOR ROBERT L. VERNON

ATTEST:

CONCHITA H. ALVAREZ, CMC, VILLAGE CLERK

APPROVED AS TO FORM AND LEGAL SUFFICIENCY:

VILLAGE ATTORNEY

Concession.wpd

**KEY BISCAAYNE COMMUNITY CENTER
CONCESSION AGREEMENT**

THIS COMMUNITY CENTER CONCESSION AGREEMENT (hereinafter the "Agreement") is made as of this ____ day of April, 2008 by and between the VILLAGE OF KEY BISCAAYNE, a Florida municipal corporation (hereinafter the "Village") and 100% KEY BISCAAYNE, LLC, a Florida limited liability company (hereinafter the "Concessionaire").

RECITALS

A. The Village is the owner of that certain real property located at 95 West McIntyre Street, Key Biscayne, Miami-Dade County, Florida and commonly known as the Key Biscayne Community Center (the "Community Center");

B. The Village desires to grant Concessionaire a food and beverage concession (the "Concession") on the first floor of the Community Center in the approximate location shown on Exhibit "A" attached hereto (the "Concession Location"); and Concessionaire desires to secure such concession rights in the Community Center, and shall perform in accordance with this Agreement.

NOW, THEREFORE, in consideration of the mutual promises set forth herein, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties agree as follows:

1. **Recitals.** The foregoing recitals are true and correct and are hereby incorporated into this Agreement by reference.

2. **Concession Grant.** The Village grants to Concessionaire and Concessionaire accepts from the Village the exclusive privilege of maintaining the Concession in the Concession Location, subject to and in accordance with the terms of this Agreement. The Concession granted shall constitute a license to use a portion of the Community Center. This Agreement does not constitute a lease, and no landlord/tenant relationship shall be created. This Agreement shall not impair or affect the Village's authority to provide for vending machines containing snacks and beverages at the Community Center or to host or allow special events at which foods and beverages are served by Village or other persons at the Community Center.

3. **Condition of Concession Location.** Taking possession of the Concession Location by Concessionaire shall constitute acknowledgment that the Community Center and the Concession Location are in good condition. Concessionaire shall accept the Concession Location in its presently existing condition, and the Village shall not be required to make any alterations to the Concession Location or to the Community Center. The parties hereto understand and agree that all of the existing improvements to the Concession Location less and

except the Removable Items as provided in Article 8 (the "Improvements") are and shall remain the property of the Village.

4. **Concession Fee.** Concessionaire shall pay to the Village during the initial term of this Agreement \$600.00 per month (the "Monthly Fee"), together with all applicable sales taxes due thereon, for the use of the Concession Location. The payments shall be paid to the Village on the first (1st) day of each month for operations of the preceding calendar month, and payments shall be made to the order of the Village of Key Biscayne and mailed to Village of Key Biscayne, 88 West McIntyre Street, Key Biscayne, Florida 33149, to the attention of Finance Director.

5. **Intentionally Left Blank.**

6. **Intentionally Left Blank.**

7. **Use of Premises.** The Concession Location shall be used by Concessionaire solely to conduct a food and beverage business. Concessionaire shall not use or permit the Concession Location to be used for any other purpose. Concessionaire shall not sell, serve, provide or allow the consumption or use of any alcoholic beverages or tobacco products at the Concession Location.

8. **Equipment required of Concessionaire.** Concessionaire, at its sole cost and expense acquired on or about April ___, 2008, from Zoom Mini all the equipment listed on Exhibit "B" attached hereto already installed and ready for use at the Concession Location. All of such equipment provided by Concessionaire that is removable from the Concession Location without any damage (the "Removable Items") to the Concession Location shall remain the property of Concessionaire and may be removed by Concessionaire at the termination of this Agreement. If such Removable Items are not removed within thirty (30) days after termination of this Agreement, it shall become the property of the Village, at the Village Manager's discretion.

9. **Quality of Service.** All items sold by Concessionaire shall be of first class quality, commensurate with the Community Center, and the services provided by Concessionaire shall be rendered courteously and efficiently. The Village reserves the right to prohibit the sale of any item that it deems objectionable, and the Village shall have the right to order the improvement of the quality of either the foods or the services rendered.

10. **Rates and Charges.** Maximum rates and charges for foods and beverages to be sold and services to be rendered are as set forth in the menu included in Exhibit "C" attached hereto, which menu may be amended by agreement of the parties hereto. Concessionaire shall post the prices for all foods and beverages in such places as the Village Manager may designate.

11. **Changes in Rates and Services.** Concessionaire shall not change any rates established in Article 10 of this Agreement or curtail or diminish any food or beverage services provided for in this Agreement without first requesting and receiving permission from the Village Manager.

12. **Hours of Operation.** Concessionaire shall operate the Concession seven (7) days each week during the term of this Agreement from 7:30 a.m. to 7:00 p.m. on Monday to and including Thursday, and from 9:00 a.m. to 6:00 p.m. on Friday, Saturday and Sunday. The Village Manager reserves the right to establish different hours of operation at any time that the Village Manager deems the same to be necessary, but shall not reduce hours to less than a total of sixty (60) hours per week. The Village shall determine those holidays for which the Community Center shall be closed to the public and to Concessionaire. The Concessionaire may request approval from the Village Manager to reduce the total hours of operation or alter the hours of operation, which approval shall not be unreasonably withheld.

13. **Employees of Concessionaire.** Concessionaire shall at all times employ only those persons of good moral character and Concessionaire shall not retain any employee that the Village considers to be unfit for employment or otherwise objectionable. All employees of Concessionaire shall be well groomed and neatly dressed at all times. Employees shall conduct themselves courteously in their relations with the public.

14. **Utilities.** The Village shall provide routine water, telephone, sewer and electric service. Concessionaire shall pay all applicable connection fees of utilities and any impact fees imposed by government entity concerning the Concession Location. Concessionaire shall pay for any long distance or toll telephone service. The failure or the interruption or termination of any utility services, in whole or in part, shall not render the Village liable in any respect to Concessionaire, nor work an abatement of the Monthly Fee, nor relieve Concessionaire from the obligation to fulfill any covenant or agreement hereof.

15. **Term.** The term of this Agreement shall be for one (1) year, and shall commence on April _____, 2008 and end on April _____, 2009, both dates being inclusive. The term of this Agreement is subject to the option to renew as provided in Article 16, and to sooner termination as provided in Article 32 below.

16. **Option to Renew.** Concessionaire shall have the option to renew this Agreement for up to four (4) successive additional one (1) year terms after the termination of the initial term, provided that at a time not later than ninety (90) days prior to the expiration of the initial or then current renewal term of this Agreement, Concessionaire serves a written notice on the Village Manager of Concessionaire's desire to extend the term of the Agreement, and provided further, that no Concessionaire uncured event of default has occurred and is continuing at the time the said option is exercised and at the time of expiration of the initial term or a renewal term, as the case may be. All of the provisions of this Agreement shall remain the same during any renewal term unless both parties mutually agree to revise any of the provisions. The option to renew is, and shall remain, subject to the provisions of Article 32 of this Agreement, concerning termination by the Village.

17. **Repair and Maintenance of Concession Location.** Except as provided in Article 18, Concessionaire shall maintain the Concession Location in good order and repair at Concessionaire's own expense during the entire term of this Agreement and any extensions and renewals thereof. Concessionaire shall perform any required maintenance and repairs at Concessionaire's own expense. If Concessionaire neglects or refuses to do so, the Village shall have the right to perform necessary maintenance or repairs for the account of Concessionaire,

and Concessionaire shall promptly reimburse the Village for the cost of such necessary maintenance or repairs, provided that the Village shall first give Concessionaire ten (10) days written notice of its intention to perform necessary maintenance or repairs to enable Concessionaire to perform necessary maintenance or repairs at Concessionaire's own expense.

18. **Structural Maintenance.** Structural maintenance to the Concession Location and painting and decoration, whether interior or exterior, shall be done by the Village, except that the Concessionaire must repair any damages which it has caused.

19. **Alterations.** No alterations or additions of any character shall be made on or to the Concession Location by Concessionaire without obtaining the prior written consent of the Village. If alterations or additions are made, they shall be made at the sole cost and expense of Concessionaire.

20. **Improvements as Property of the Village.** All new alterations and additions to the Improvements in the Concession Location, except as provided in Article 8 as to Removable Items, shall remain on the Concession Location and become the property of the Village on the termination of this Agreement.

21. **Maintenance of Equipment.** Concessionaire shall maintain all equipment used for the Concession in good working condition at all times, at Concessionaire's sole cost and expense, for the operation of the Concession. Concessionaire shall be responsible for replacing, with the exception of reasonable wear and tear, any equipment of the Village that becomes missing, damaged beyond repair, or too unsanitary for use; Concessionaire shall replace all equipment that Concessionaire has acquired or will acquire from Zoom Mini as set forth in Article 8 of this Agreement if it becomes unfit for use.

22. **Premises to be Kept Clean.** Concessionaire shall keep the Concession Location in a clean and sanitary condition at all times. Concessionaire shall store all trash and garbage in the containers provided by Concessionaire for that purpose. Concessionaire shall provide and pay for the removal of all trash and garbage from the Concession Location, if Village's solid waste collection service provider imposes any charge for such service.

23. **Right of Access.** The Village shall have access to the Concession Location, and to each part of the Concession Location, during the regular business hours of Concessionaire for the purpose of inspecting the same and making repairs to the Concession Location.

24. **Damage to Concession Location.** If at any time during the term of this Agreement the Concession Location is damaged by fire, act of nature, or other cause beyond the control of Concessionaire, to the extent that continued use of the Concession Location is not practical, Concessionaire may, on written notice to the Village delivered within ten (10) days after the damage has occurred, terminate this Agreement without any liability of Concessionaire to the Village except for the payment of concession fees accrued to the date of termination. If Concessionaire does not elect to terminate this Agreement, the Village shall, with due diligence, restore the Concession Location to operative condition, but the Village shall not be obligated under this provision to expend on such restoration more than the proceeds of any insurance received by it on account of the damage. The Village shall not be responsible for any profits lost

by Concessionaire due to the partial or complete damage or destruction of the Concession Location. If the use of the Concession Location is not practical due to such damage, then Concessionaire shall not be responsible for the Monthly Fee from the date of the damage until the date that the repair is complete.

25. **Signs, Advertising, Name.** Concessionaire shall not erect any sign on the Concession Location or in the vicinity of the premises without obtaining the advance written approval of the Village Manager. The Concession Location shall be known by the name of “*100% Natural*” and this name may not be changed without obtaining the advance written approval of the Village Manager.

26. **Licenses and Permits.** Concessionaire shall obtain and pay for all Village, County, State and Federal permits and all licenses that may be required for the operation of the Concession and for all improvements and alterations made by the Concessionaire to the Concession Location as permitted by the terms of this Agreement.

27. **Compliance with Laws.** Concessionaire shall comply with applicable state and local laws governing the operation of the Concession and with Village's operating procedures for the Community Center. Violation of state laws or the ordinances of Miami-Dade County, Florida or the Village or Village's operating procedures shall be considered as cause for termination of this Agreement by Village. Village shall be responsible for the Community Center's compliance with the Americans with Disabilities Act (the "ADA"). However, Concessionaire shall be responsible for accommodating all special ADA-related requests arising out of Concessionaire's use of the Concession Location.

28. **Payment of Bills.** Concessionaire shall promptly pay all debts incurred by Concessionaire for the purchase of goods or services used by Concessionaire in the operation of the Concession. Concessionaire shall not allow any lien or purported lien to be placed on the Concession Location or equipment or upon the Community Center. The Community Center shall fully retain its immunity from all encumbrances or liens as municipal property.

29. **Taxes.** Concessionaire shall pay all taxes on personal property belonging to Concessionaire located on the Concession Location, and Concessionaire shall pay all sales and other taxes levied against the use and operation of the Concession business, the Monthly Fee and real property taxes, if any, assessed against the Concession Location.

30. **Insurance.**

30.1 **Liability Insurance.** Throughout the term of this Agreement, Concessionaire shall maintain insurance for bodily injury, death, or property damage occasioned by reason of the operations conducted by Concessionaire on the Concession Location, including products liability, with minimum liability limits of \$1,000,000.00 for bodily injury or death of any one person and \$2,000,000.00 for bodily injury or death of two or more persons in any one incident or event, and in the minimum amount of \$1,000,000.00 for damage to property resulting from any one incident. The Village shall be designated as an additional insured.

30.2 **Selection of Insurance Company.** The above liability insurance policies shall be placed with an insurance company or companies which are approved by Village's Risk Management Consultant.

30.3. **Copies of Policies to be delivered to the Village.** Certified copies of the above-described insurance policies and all certificates of such policies shall be furnished to the Village effective as of the date of this Agreement.

30.4. **Contents of Insurance Policies.** The above insurance policies shall contain clauses or endorsements substantially in the following words:

1. "Notwithstanding any other provision in this policy, the insurance afforded under this policy to the Village as additional insured shall be primary as to any other insurance or reinsurance covering the Village, and such other insurance or reinsurance shall not be required to contribute to any liability until the appropriate limit of liability afforded under this policy has been exhausted."

2. "This policy may not be canceled or materially changed until thirty (30) days after receipt by the Village of a written notice of cancellation or change in coverage, as evidenced by receipt of a certified letter."

30.5 **Workers Compensation.** Concessionaire shall take out and maintain during the life of this Agreement workers' compensation insurance and employer's liability insurance for all Concessionaire's employees in strict compliance with Florida law. Certificates evidencing such insurance or approved self-insurance shall be submitted to the Village, effective on the date of this Agreement. The certificates shall provide that notice of cancellation or change of self-insured status shall be delivered to the Village thirty (30) days in advance of the effective date of the cancellation or change.

31. **Indemnification.** Concessionaire shall defend, indemnify and hold harmless the Village, Village's officers and employees, from liabilities, damages, losses and costs, including, but not limited, reasonable attorney's fees, to the extent caused by the negligence, recklessness or intentional wrongful conduct of the Concessionaire and persons employed or utilized by the Concessionaire in the performance of the Agreement.

32. **Termination.**

32.1 **Discontinuance.** If the Village Council decides to discontinue food and beverage Concession service at the Community Center, the Village may terminate this Agreement or any renewal thereof upon 120 days advance written notice to Concessionaire.

32.2 **Concessionaire's Default.** If Concessionaire is in default of any of the terms of this Agreement, the Village shall give Concessionaire a written notice specifying the particulars of such default. If Concessionaire fails to cure the default within twenty (20) days after receipt by Concessionaire of the notice, the Village may terminate this Agreement.

32.3 **Termination by the Village.** In the event that the Village terminates this Agreement during the initial term or during any renewal term, the Concessionaire shall have the option to remove the Removable Items pursuant to the terms and conditions set forth in Article 8 hereof or offer to sell to the Village such Removable Items at a price and terms then to be mutually agreed upon by the Village and Concessionaire. The Village may accept or reject such offer of sale by Concessionaire at its sole and absolute discretion.

32.4. **Termination by Concessionaire.** Concessionaire may terminate this Agreement at any time by giving ninety (90) days written notice to the Village of Concessionaire's intention to terminate. In the event that Concessionaire terminates this Agreement, no Termination Reimbursement shall be payable by the Village to Concessionaire.

32.5. **Concession Location on Termination.** On the termination of this Agreement for any reason, the Village shall have full authority to take full and exclusive possession and use of the Concession Location without the necessity of obtaining any legal process. Concessionaire stipulates that the Village shall not be liable to prosecution or for damages for resuming exclusive possession and use of the Concession Location.

33. **Assignment Prohibited.** Concessionaire shall operate the Concession directly through its employees and shall not assign any right, privilege, or license conferred by this Agreement; nor may Concessionaire sublicense the whole or any part of the Concession Location.

34. **Nondiscrimination.** Concessionaire shall not discriminate against any employee or applicant for employment because of race, color, creed, sex, age, or national origin or sexual orientation. Concessionaire and Concessionaire's employees shall not discriminate against any person because of race, color, age, creed, sex, sexual orientation or national origin by refusing to furnish such person any service or privilege offered to or enjoyed by the general public.

35. **Waiver of Breach.** The waiver by the parties of any breach of any term contained in this Agreement shall not be deemed to be a waiver of such term for any subsequent breach of the same or any other term. The subsequent acceptance of a concession fee payment by the Village shall not be deemed to be a waiver of any prior occurring breach by Concessionaire of any term contained in this Agreement regardless of the knowledge of the Village of the prior existing breach at the time of the acceptance of the concession fee payment.

36. **Material Terms.** Each term of this Agreement is material. A breach by Concessionaire of any one of the terms of this Agreement shall be considered to be a material breach of the entire Agreement and shall be grounds for the termination of the entire Agreement by the Village, after expiration of any applicable notice and cure period.

37. **Headings for Convenience Only.** The paragraph headings contained in this Agreement are for convenience of reference only and are not intended to define or limit the scope of any provision of this Agreement.

38. **Force Majeure.** Any prevention, delay, or stoppage due to strikes, walkouts, labor disputes, acts of God, inability to obtain labor, materials, or reasonable substitutes for the same, governmental restrictions, controls, or regulations, enemy or hostile governmental action, civil commotion, fire, or any other causes beyond the reasonable control of Concessionaire, shall not be deemed to be a breach of this Agreement. Concessionaire shall have a reasonable time after cessation of any of the above-mentioned causes to render performance.

39. **Governing Law.** This Agreement shall be construed in accordance with the laws of the State of Florida and any proceeding arising between the parties in any manner pertaining or related to this Agreement shall, to the extent permitted by law, be held in Miami-Dade County, Florida. Each party hereby knowingly, voluntarily and intentionally waives any right they may have to a trial by jury in respect of any litigation based upon the Agreement or arising out of, under or in connection with any other agreement contemplated to be executed in conjunction herewith, or any course of conduct, course of dealing, statements (whether verbal or written) or actions of any party. This provision is a material inducement for the parties entering into this Agreement.

40. **Modification.** Notwithstanding any of the provisions of this Agreement, the parties, by mutual consent, may agree to modifications or additions to it. The Village shall have the right to grant reasonable extensions of time to Concessionaire for any purpose or for the performance of any obligation of Concessionaire under this Agreement.

41. **Notices.** Any notice which either party may or is required to give, shall be given in writing and shall be given by mailing the same, certified mail, return receipt requested, postage prepaid, or by hand delivery, or by overnight courier service, to the Village at the address shown below or Concessionaire at the address shown below, or at such other places as may be designated in writing by the parties from time to time. Notices may also be delivered by facsimile provided such notice is also sent by one of the methods in the preceding sentence.

If to Village:

Village of Key Biscayne
88 West McIntyre Street
Key Biscayne, Florida 33149
Attention: Genaro "Chip" Iglesias, Village Manager
Facsimile No.: (305) 365-8936

and

Village of Key Biscayne
Attn: Director, Recreation Department
88 West McIntyre Street
Key Biscayne, Florida 33149
Facsimile No.: (305) 365-8991

In addition to being the duplicate addressee for notices to the Village, the principal contact for the Village in connection with this Agreement is the Director of the Recreation Department, which is currently Todd Hofferberth, unless otherwise directed by the Village Manager.

If to Concessionaire:

100% KEY BISCAYNE LLC, a Florida limited liability company
180 Crandon Boulevard
Suite 101
Key Biscayne, Florida 33149
Attention: Mr. Jose A. Solis Camara, Manager
Facsimile No.: 305-445-5500

42. **Complete Agreement** This Agreement, when executed, together with the attached Exhibits, as provided for by this Agreement, shall constitute the entire Agreement between both parties and this Agreement may not be amended, modified or terminated except by writing signed by both parties. The Village Manager is authorized to act on behalf of the Village hereunder.

43. **Reservation; Authority.**

43.1 **Rights Reserved.** Any rights not expressly granted herein by Village to Concessionaire are reserved by Village.

43.2 **Regulatory Approval.** Village cannot, and hereby specifically does not, waive or relinquish any of its regulatory approval or enforcement rights and obligations as it may relate to regulations of general applicability which may govern the Concession or any operations at the Concession. Nothing herein shall be deemed to create an affirmative duty of Village to abrogate its sovereign right to exercise its police powers and governmental powers by approving or disapproving or taking any other action in accordance with its ordinances, rules and regulations, federal laws and regulations and state laws and regulations.

44. **Counterparts** This Agreement and any amendments may be executed in one or more counterparts, each of which shall be deemed an original but all of which together shall constitute one and the same instrument.

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

WITNESSES:

100% KEY BISCAYNE, LLC, a Florida limited liability company

Print Name: _____

By: _____
Jose A. Solis Camara, Manager

Print Name: _____

VILLAGE:

VILLAGE OF KEY BISCAYNE,
a Florida municipal corporation

By: _____
Genaro "Chip" Iglesias, Village Manager

Attest:

By: _____
Village Clerk

Approved as to legal form and sufficiency:

By: _____
Village Attorney

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EXHIBIT LIST

Exhibit "A" - Concession Location

Exhibit "B" - List of Equipment installed by Zoom Mini and acquired by Concessionaire
("Removable Items")

Exhibit "C" - Menu

EXHIBIT "A"

CONCESSION LOCATION

The Concession is located with the Key Biscayne Community Center located at 95 West McIntyre St. Key Biscayne, Florida 33149.

The location is on the first floor of the Community Center adjacent to the front desk.

The following is a picture of the existing concession:



EXHIBIT "B"

LIST OF EQUIPMENT

Key Biscayne Community Center / Juice Bar Inventory:

1. Two stainless steel hand wash sinks with dispenser – NSF component NO15367
2. Two 36" stainless steel shelves
3. 3 bin stainless steel sink – Aero manufacturing
4. Two stainless steel refrigerators – Master Bilt # CCR – 49DR
5. One Hot Point microwave
6. One stainless steel display refrigerator w/ glass door and lighting – True Refrigerator
7. One stainless steel 6' prep table w/ 3 steel mesh bins
8. One stainless steel oven - Cadco Unox
9. One stainless steel meat cutter - Univex
10. Two 24" stainless steel shelves
11. One blender - Blendtec
12. One cabinet w/ two built in cup dispensers
13. One stainless steel juice maker - Breville
14. One stainless steel ice cream/refrigerator display – Sancher # C83FS – 150SC
15. One stainless steel ice cream/refrigerator display – Royal # PD05LSC-T
16. One stainless steel ice cream scoop holder
17. Ten black rubber blender tops
18. Eight clear, plastic blender pitchers
19. Two grey plastic garbage bins
20. Four stainless steel cylinder holders/presenters
21. One espresso machine – Mr. Coffee

EXHIBIT "C"

MENU

EXHIBIT "C"
100% NATURAL MENU

SMOOTHIES & JUICE THERAPY		
The Purist	Carrot, Orange ,Grapefruit	\$3.95 / \$4.95
Fiji	Pineapple and Orange	\$3.95 / \$4.95
Bali	Pineapple Lime Spinach & Orange	\$3.95 / \$4.95
California	Pineapple, Lime ,Apple & Orange	\$3.95 / \$4.95
Cancun	Papaya, strawberries and Banana	\$3.95 / \$4.95
Oasis	Pineapple, strawberries & Orange	\$3.95 / \$4.95
Tahiti	Orange, strawberries & Grapefruit	\$3.95 / \$4.95
Iron	Spinach, Beet, Celery & Carrot	\$3.95 / \$4.95
Anti-cholesterol	Pineapple, Lime, Cactus & Orange	\$3.95 / \$4.95
Baby Yog	Yoghurt, strawberries, Banana	\$3.95 / \$4.95
V8	Combination of 8 Vegetables	\$4.95 / \$5.95
Wheat Grass	100% Chlorophyll Shot	\$2.50 / \$3.50

Green Power & Big Sandwiches		
Oriental Salad	Greens, Tomato Nuts & Citrics	\$ 6.95
Chicken Salad	Greens, Veggies & Chicken	\$ 7.95
Veggie Sandwich	100% Vegetables & Cheese	\$ 5.95
Turkey Supreme	Turkey , Cheese & 100% Vegetables	\$ 6.95
Extreme	Chicken, Turkey, Cheese & 100% Vegetables	\$ 6.95
The Viking	Smoked Salmon, Cream Cheese & Avocado	\$ 6.95
Croissant	Ham& Cheese or Smoked Salmon & Vegetables	\$ 5.95
Chicken Burger	Chicken Breast with Veggies	\$ 5.95
Burritos	Ham & Cheese Quesadillas	\$ 5.95

Fruit Salads - Pastries & Coffee		
Natural Salad	Combination of fresh seasonal fruits	\$ 4.50
Natural Salad Option # 2	Add Granola ,Honey and Yoghurt	\$ 5.95
Energetic Treasure	A cup of Yoghurt, Fruits & Nuts	\$ 4.50
Avena Susy	Oatmeal with Fruits, Nuts & Seeds	\$ 5.95
Home Made Pastries	Muffins, Cinnamon Roll, Bigote, Trenza	\$ 1.75
Home Made Pie of the day	Selection of HOMEMADE pies	\$ 3.95
Ice Cream		\$2.00 / \$3.00
Bottle of Water		\$ 1.50
Spearmint Lemonade	Refreshing Lemonade	\$ 2.50
American Coffee		\$ 1.00
Espresso or Te		\$ 1.50
Cappuccino		\$ 2.00

TERMINATION OF CONCESSION AGREEMENT

THIS TERMINATION OF CONCESSION AGREEMENT ("Agreement") is made as of this _____ day of _____, 2008, by and between the **VILLAGE OF KEY BISCAYNE, a Florida municipal corporation** ("Village"), and **ZOOM MINI, INC., a Florida corporation** ("Concessionaire").

RECITALS:

A. The Village and Concessionaire entered into that certain Concession Agreement dated October 13, 2005 (the "Concession Agreement") pursuant to which the Village granted a Concession to Concessionaire, and Concessionaire accepted from the Village, the Concession Location as those terms are defined in the Concession Agreement.

B. The Village and Concessionaire desire to terminate the Concession Agreement as of the date hereof.

NOW, THEREFORE, in consideration of the sum of One Dollar (\$1.00), paid by The Village and Concessionaire, each to the other, and the mutual covenants and conditions contained in this Agreement, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Village and Concessionaire agree as follows:

1. Recitals. The recitals set forth above are true and correct and incorporated herein by reference.

2. Capitalized Terms. Unless otherwise herein defined, all capitalized terms used in this Agreement shall have the meanings set forth in the Concession Agreement.

3. Termination of Concession Agreement. Effective as of the date hereof (the "Termination Date"), the Concession Agreement shall terminate. As of the Termination Date, neither the Village nor Concessionaire shall have any further rights or obligations under the Concession Agreement; provided, however, that after the Termination Date Concessionaire shall remain liable to the Village for any claims for indemnification the Village may have under the Concession Agreement against Concessionaire related to Concessionaire's use and occupancy of the Concession Location during the term of the Concession Agreement.

4. Vacation of the Concession Location. Concessionaire shall vacate the Concession Location on or before the Termination Date, and leave the Concession Location in broom clean and in as good as condition as when received, normal wear and tear excepted. On the Termination Date, except for the Improvements and the Removable Items the right, title and interest of which have been assigned by Concessionaire to 100% Key Biscayne, LLC, a Florida limited liability company on the date hereof, any fixtures and other improvements remaining upon the Concession Location shall constitute the property of the Village and Concessionaire waives any right, title, claim or interest in or to such items.

5. Representation and Warranties of Concessionaire. Except as set forth in that certain purchase and sale agreement, dated March 26, 2008 by and between 100% Key Biscayne, LLC, as buyer, and Concessionaire, as the seller, Concessionaire represents and warrants that it has not subleased the Concession Location or assigned the Concession Agreement; that no party other than the Concessionaire has any right of possession to the Concession Location; that the Concessionaire has not at any time done or suffered any act or thing whereby the Concession Location or any part thereof are or may be in any way charged, affected or encumbered; that the Concession Location is free and clear of any judgments, executions, liens, claims, assessments and taxes (including, without limitation, payroll taxes, sales taxes, utilities charges, personal property taxes and other state and local excise taxes) arising as a result of the operation and use of the Concession Location during the term of the Concession Agreement or any of Concessionaire's acts or omissions through the date hereof. Concessionaire agrees to indemnify and hold harmless the Village and its agents for any untrue statement concerning the foregoing representations.

6. Release. Concessionaire further represents and warrants that Concessionaire has no claims, off-sets or defenses to any of Concessionaire's obligations under the Concession Agreement and hereby waives the same, and further releases the Village from any and all claims and liabilities whatsoever from the beginning of the world to the Termination Date of this Agreement whether or not related to the Concession Agreement, including, without limitation any rights to reimbursement under Section 32.3 of the Concession Agreement.

7. Notices. Any communication pursuant to this Agreement shall be delivered by personal delivery, overnight delivery service or registered or certified mail, return receipt requested to the following addresses:

CONCESSIONAIRE:

Zoom Mini, Inc.

Attention: Mr. Fernando Sabino
Facsimile No.: _____

THE VILLAGE:

Village of Key Biscayne
88 West McIntyre Street
Key Biscayne, Florida 33149
Attention: Village Manager
Facsimile No.: (305) 365-8936
and

Village of Key Biscayne
Attn: Director, Recreation Department
88 West McIntyre Street
Key Biscayne, Florida 33149
Facsimile No.: _____

Any communication shall be deemed to have been given on the day of personal delivery if personally delivered, the day after sending if delivered by an overnight delivery services, or three (3) days after mailing if delivered by registered or certified mail.

8. Miscellaneous. (i) The provisions hereof shall be binding upon and inure to the benefit of the parties hereto and their respective heirs, personal representatives, successors and assigns; (ii) this instrument constitutes the entire understanding between the parties in respect to the subject matter hereof, superseding any and all prior agreements or understandings; (iii) in the event of any dispute arising out of this Agreement, the non-prevailing party agrees to pay to the prevailing party its attorney's fees and costs incurred at all pretrial, trial and appellate levels; (iv) this Agreement may be executed in multiple counterparts each of which shall be deemed an original, but all of which together shall be deemed one instrument; and (v) this Agreement may be executed and delivered by facsimile transmission, and facsimile or PDF electronic transmission, and facsimile or PDF executed copies thereof shall in all cases be deemed originals.

IN WITNESS WHEREOF, the parties hereto have executed this Termination of Concession Agreement as of the Termination Date.

VILLAGE:

VILLAGE OF KEY BISCAYNE,
a Florida municipal corporation

By: _____
Genaro "Chip" Iglesias, Village Manager

Attest:

By: _____
Village Clerk

Approved as to legal form and
sufficiency:

By: _____
Village Attorney

CONCESSIONAIRE:

ZOOM MINI, INC., a Florida corporation

Signature

Print Name

Signature

Print Name

By: _____

Name: Fernando Sabino

Title: President