

1. Requested Motion:

Meeting Date: April 4, 2011

Approve Amendment No. 3 to the Service Provider Agreement between the Town of Fort Myers Beach and Central Parking Systems of Florida, Inc. to extend the term of the Agreement for twelve months.

Why the action is necessary:

Council must approve all contract extensions.

What the action accomplishes:

The action provides for the continuation of the contract for beach and street enforcement.

2. Agenda:

- Consent
- Administrative

3. Requirement/Purpose:

- Resolution
- Ordinance
- Other – Contract

4. Submitter of Information:

- Council
- Town Staff - Public Works
- Town Attorney

5. Background:

Town Council approved a contract with Central Parking Systems of Florida, Inc. effective April 30, 2007. The Service Provider Agreement was placed for three years with the ability to extend the contract annually for an additional three years. This amendment represents the second, annual extension. Central Parking provides the Town with parking enforcement activities including collections, maintenance of parking facilities, and beach patrol.

This extension does not include an increase to the original contract price of \$299,601.00, which Central Parking has held since its inception.

Attached is a copy of the contract Amendment and the Service Provider Agreement, dated April 25, 2007.

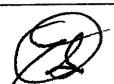
6. Alternative Action:

Do not approve the amendment and advertise Request for Proposals.

7. Management Recommendations:

Approve the contract amendment.

8. Recommended Approval:

Town Manager	Town Attorney	Finance Director	Public Works Director	Community Development Director	Cultural Resources Director	Town Clerk
						

9. Council Action:

- Approved
- Denied
- Deferred
- Other

**AMENDMENT NO. 3
SERVICE PROVIDER AGREEMENT**

This AMENDMENT TO THAT CERTAIN SERVICE PROVIDER AGREEMENT, entered into on April 26, 2007, is made this 1st day of March, 2011, by and between the Town of Fort Myers Beach, 2523 Estero Boulevard, Fort Myers Beach, FL 33931, a municipal corporation of the state of Florida (hereafter "TOWN"), and Central Parking System of Florida, Inc. a Tennessee Corporation, which is legally registered in the State of Florida (hereafter PROVIDER), to render services, as an independent contractor, to the TOWN as follows: management and operation of street parking program, and Beach and Street Enforcement (B.A.S.E.), Town of Fort Myers Beach.

WITNESSETH:

WHEREAS, the Town of Fort Myers Beach, is the governing board of the Fort Myers Beach and Central Parking System of Florida, inc. has been contracted to provide management and operations of street parking program and Beach and Street Enforcement (B.A.S.E.); and,

WHEREAS, the TOWN and PROVIDER desire to amend said Service Provider Agreement to extend the terms thereof;

NOW THEREFORE, in consideration of the forgoing, and the mutual covenants and conditions hereinafter set forth, the TOWN and PROVIDER, intending to be legally bound, hereby agree to this Amendment to the Service Provider Agreement as follows:

1. Exhibit "A" (2). Term is hereby amended by extending the term of the agreement for an additional twelve (12) months ending on April 30, 2012.
2. All other terms and conditions of the Agreement dated April 26, 2007, are hereby extended by mutual agreement through the term of this Agreement.

IN WITNESS WHEREOF, the parties have executed this agreement as set forth below.

TOWN OF FORT MYERS BEACH

CENTRAL PARKING^{SYSTEM} OF FLORIDA, INC.

_____, Mayor

James H. Bond
James H. Bond, Executive Vice President

ATTEST:

WITNESS:

Michelle Mayher, Town Clerk

Henry J. Abbott
Henry J. Abbott, Secretary
Print Name & Title

LEGAL REVIEW

Fowler, White Boggs, Town Attorney

SERVICE PROVIDER AGREEMENT

This SERVICE PROVIDER AGREEMENT is entered into on this 26th day of APRIL, 2007, by and between the Town of Fort Myers Beach, 2523 Estero Boulevard, Fort Myers Beach, FL 33931, a municipal corporation of the State of Florida (hereafter "Town"), and **Central Parking Systems of Florida, Inc.** with an address of **1661 Estero Blvd, Suite 23, Fort Myers Beach, FL 33931**, (hereafter "Provider"), for the Provider to render services on an independent contractor basis to the Town, as follows: MANAGEMENT AND OPERATIONS OF STREET PARKING PROGRAM AND BEACH AND STREET ENFORCEMENT (B.A.S.E.), TOWN OF FORT MYERS BEACH, FLORIDA

1. Scope of Services. Provider shall perform the services and work as set forth in "Scope of Services" which is attached hereto as Exhibit "A" and made a part of this Agreement. Provider warrants and represents that it is qualified, willing and able to provide and perform all such services in accordance with the terms of this Agreement. The parties shall have the ability to change the Scope of Services by mutual written agreement, except that the Town shall have the unilateral right to delete hereunder for any reason without compensation to Provider other than for services already performed.
2. Term. The term of this Agreement is set forth on Exhibit A.
3. Payment Obligation. The Town shall pay for all requested and authorized services rendered hereunder by the Provider and completed in accordance with this Agreement, as set forth in Exhibit "B," which is attached hereto and made a part of this Agreement. The Provider's invoice statements shall contain a breakdown of charges, description of service(s) and work provided and/or performed, and, where appropriate, supportive documentation of charges consistent with the basis of compensation set forth in this Agreement. In the event of a dispute as to the Town's payment obligation, the Town shall pay the undisputed amount, if any, within thirty (30) days.
4. Provider's Obligations. The Provider's obligations shall include, but are not limited to, the following:
 - a) Licensure. The Provider shall maintain all licenses and/or certifications required by any governmental agencies responsible for regulating and licensing the services provided and performed by the Provider. The Provider shall be qualified to do business in the State of Florida at all times.
 - b) Provision of Services. The Provider shall perform all services pursuant to this Agreement in accordance with generally accepted standards of professional practice and in accordance with the laws, statutes, ordinances, codes, rules, regulations and requirements of governmental agencies which regulate or have jurisdiction over the services to be provided and/or performed by the Provider. All personnel assigned by Provider hereunder will be qualified to perform such duties. Provider shall designate one (1) person as the point of contact for the Town regarding its duties hereunder. Provider is solely responsible for all taxes incurred by Provider and shall make all deductions required of employers by state, federal and local laws.
 - c) Local, State and Federal Taxes. The Provider shall be responsible for any and all local, state and/or federal tax requirements related to the subject matter of this Agreement.
 - d) Non-Waiver. Neither review, approval, nor acceptance by Town of data, studies, reports, memoranda, and incidental professional services, work and materials furnished hereunder by the Provider, shall in any way relieve Provider of responsibility for the adequacy, completeness and accuracy of its services, work and materials.

e) Indemnity and Hold Harmless. The Provider shall be liable and agrees to be liable for, and shall indemnify, defend and hold the Town harmless for any and all claims, suits, judgments or damages, losses and expenses including court costs, expert witness and professional consultation services, and attorneys' fees (including but not limited to appellate attorney fees) arising out of the Provider's errors, omissions, willful action(s) and/or negligence. The Provider shall not be liable to, nor be required to indemnify the Town for any portions of damages arising out of any error, omission, and/or negligence of the Town, its employees, agents, or representatives.

f) Non-Public Information. The Provider agrees, during the term of this Agreement, not to divulge, furnish or make available to any third person, firm, or organization, without the Town's prior written consent, or unless incident to the proper performance of Provider's obligations hereunder, or as provided for or required by law, any non-public information concerning the services to be rendered by Provider. Provider shall require all of its employees and subcontractor(s) to comply with the provisions of this paragraph.

g) Statutory Duties. The duties and obligations imposed upon the Provider by this Agreement and the rights and remedies available to the Town hereunder shall be in addition to, and not a limitation of, any otherwise imposed or available by law or statute.

h) Disclosure. The Provider warrants it has not employed or retained any company or person, other than a bona fide employee working solely for it, to solicit or secure this Agreement and that it has not paid or agreed to pay any person, company, corporation, individual or firm, other than a bona fide employee working solely for it, any fee, commission, percentage, gift or other compensation contingent upon or resulting from the award or making of this Agreement.

5. Commencement and Completion of Work. The Town shall provide written notice to the Provider that it is authorized to commence work. The Provider thereafter shall commence work promptly and shall carry on all such services and work as may be required in a timely and diligent manner to completion. Should the Provider fail to commence, provide, perform, and/or complete any of the services and work required hereunder in a timely and diligent manner, the Town may consider such failure as justifiable cause to terminate this Agreement, in addition to any other remedies the Town may have.
6. Criminal Background Investigations. The Provider shall be required to obtain and maintain drug screens and criminal background investigations of all persons that will be employed, contracted or assigned by the Provider that will have involvement with the management or operation of the street parking program and beach and street enforcement.
7. Insurance. The Provider shall have, and maintain, during the entire period of this Agreement, all such insurance (or self-insurance) as set forth on Exhibit "A". Each Certificate of Insurance shall include the name and type of policy and coverage provided; the amount or limit applicable to each coverage provided; the date of expiration of coverage; the designation of the Town of Fort Myers Beach as additional insured and as certificate holder, except as to Professional Liability Insurance and for Workers' Compensation Insurance. Should any of these policies be cancelled before the expiration date thereof, the issuing company will endeavor to mail thirty (30) days written notice to the Town.
8. Inclusion of Additional Documents. Any request for bids and/or request for proposal and all exhibits or other attachments thereto as issued by the Town are hereby incorporated by reference. In addition, the following Exhibits are attached hereto and hereby incorporated by reference: Exhibit

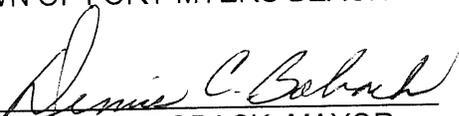
“C” – Proposal. In the event of any conflict between or among the terms and conditions of any documents, the prevailing document shall be, in this order, (a) this Service Provider Agreement; (b) Exhibits to this Service Provider Agreement; (c) The Request for Proposal; (d) the Response to the Request for Proposal.

9. Termination of Agreement. Either party may terminate this Agreement without cause upon thirty (30) calendar days' prior written notice to the other, in which case the Town shall compensate the Provider for all services performed prior to the effective date of termination and reimbursable expenses then due. In addition, the Town shall have the ability to terminate this Agreement at any time for cause.
10. Assignment, Transfer and Subcontracts. The Provider shall not assign or transfer any of its rights, benefits or obligations hereunder, except for transfers that result from the merger or consolidation of Provider with a third party. The Provider shall have the right, subject to the Town's prior written approval, to employ other persons and/or firms to serve as subcontractors to Provider in connection with its performance of services and work pursuant to this Agreement.
11. Maintenance of Records. The Provider will keep and maintain adequate records and supporting documentation applicable to all of the services, work, information, expense, costs, invoices and materials provided and performed pursuant to this Agreement. Said records and documentation will be retained by the Provider for a minimum of two (2) years from the date of termination of this Agreement, or for such period as required by law. The Town and its authorized agents shall, with reasonable prior notice, have the right to audit, inspect and copy all such records and documentation as often as the Town deems necessary during this Agreement the next succeeding two (2) years.
12. References to Town. All references to “the Town” or “the Town of Fort Myers Beach” shall be deemed to include its employees, agents, and/or authorized representatives.
13. Modification. Except as set forth in Paragraph 1 above, modifications to this Agreement shall only be valid when made in writing and signed by both parties. In the event of any conflict between the requirements, provisions, and/or terms of this Agreement and any subsequent written modification hereto, the most recently executed document shall take precedence.
14. Miscellaneous Provisions.
 - a) Applicable Law. This Agreement shall be governed by the laws, rules and regulations of the State of Florida.
 - b) Non-Discrimination. The Provider covenants that in the furnishing of services hereunder, no person on the grounds of race, color, national origin, handicap, or sex shall be excluded from participation in, denied the benefits of, or otherwise be subjected to discrimination.
 - c) Headings. The headings of the Articles, Sections, Exhibits, and Attachments in this Agreement are for the purpose of convenience only and shall not be deemed to expand, limit or change the provisions contained in such Articles, Section, Exhibits and Attachments.
 - d) Entire Agreement. This Agreement, including any Exhibits, constitutes the entire Agreement between the parties and shall supersede all prior agreements or understandings, written or oral, relating to the matters set forth herein.
 - e) Notices. All notices hereunder shall be in writing and shall be sent via U.S. Postal Service, first

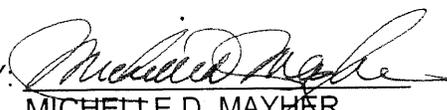
class mail, to the other party's address as listed at the beginning of this Agreement. Either party may change its address by prior written notice to the other party.

IN WITNESS WHEREOF, the parties have executed this Agreement as set forth below.

TOWN OF FORT MYERS BEACH

BY: 
DENNIS C. BOBACK, MAYOR

ATTEST:

BY: 
MICHELLE D. MAYHER,
TOWN CLERK

APPROVED AS TO LEGAL FORM:

BY: 
ANNE DALTON, ESQUIRE
TOWN ATTORNEY

PROVIDER
CENTRAL PARKING SYSTEMS OF FLORIDA, INC.

BY: 
Robert Cizek
Senior Vice President

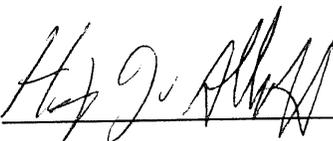
ATTEST: 

EXHIBIT "A"

TO THE SERVICE PROVIDER CONTRACT DATED April 26th, 2007 BETWEEN THE TOWN AND **CENTRAL PARKING SYSTEMS OF FLORIDA, INC.**, PROVIDER.

1. **SCOPE OF SERVICES**: The Provider shall perform the following services under this Agreement:
 - a) Assistance and consultation with the Town as necessary in any design of the program.
 - b) Assistance in implementing the program, including working with businesses, neighborhood groups, and other organizations as needed.
 - c) Provide and/or purchase all support vehicles, office and computer equipment as required to perform the day to day operations of the parking program. Provider may negotiate with the Town, the lease and/or use of Town owned parking program support equipment to be used during the term of the Contract.
 - d) Installation and maintenance of parking meters. The Provider shall provide price quotes and act as the Town's agent when new parking meters are purchased by the Town. Meter type and installation shall be in accordance with standards issued by the Town. All meters shall be repaired within twenty-four hours of identified as malfunctioning.
 - e) Collection, counting and depositing of revenue. Collections of each meter shall be done no less than weekly. In the high volume areas the meters shall be collected at least twice per week and more often if meter can is full. All collections shall be deposited on the day of collection, into a bank account specified by the Town. A receipt, in a form approved by the Town, shall be provided to the Town the following workday along with the meter audit generated at the time of collection. Each meter will be audited by Provider's personnel any time the cash in the meter is removed.
 - f) Carries out B.A.S.E. operations consisting of beach patrol and enforcement of the violations of a civil nature pursuant to Town of Fort Myers Beach Ordinances including but not limited to: Animal Control, Taking of Recyclable Materials, Two Wheeled Motor Driven Vehicles, Parking Vehicles, Night Sleeping on Beach, Parks and Recreation, Removal of Nuisance, Anti-Littering, Beach and Dune Management, Regulations on Live Shelling, Bicycle Safety Ordinance and such additional ordinances as determined by the Town in its sole discretion.
 - g) Provide sufficient personnel to issue parking violation citations at a level of enforcement specified by the Town. Service will be seven days a week with operating hours at least from 9:00 AM to 6:00 PM.
 - h) Provide appropriate training for all enforcement personnel at Provider's sole expense. A training program will be developed in conjunction with Town staff, and may be attended by Town staff as desired.
 - i) Provide towing and immobilization services.
 - j) Maintain a database of citations issued. Provide connectivity between parking operation and Town staff as desired. Also, enter additional parking citations issued by Police Department into database.

- k) Provide a conveniently located office within the corporate limits of Fort Myers Beach to accept payment of citations, issue parking permits, accept customer inquiries, and generally contain the management of the program, issue late notices for overdue payment of citations and coordinate follow-up collection services. Accept payment of citations and late penalties. Attend enforcement proceedings for disputed citations and follow through with special magistrate/judge/hearing officers' decisions.
- l) Handle all customer service associated with the program.
- m) Provide weekly, monthly and annual reports as required by the Town.
- n) The Provider may purchase data software and information systems relating to and associated with the day to day operations of the parking management program, with prior approval of the Town. All program specific products purchased by the Provider on behalf of the Town shall, upon termination of the Contract, remain the property of the Town.
- o) Any reasonably related services upon request.

2. **TERM:** This Agreement shall commence on May 1st, 2007 and continue for a period of **three years**, with an option to extend on an annual basis for a total of an additional three years, subject to the Town's ability to terminate the Agreement as set forth in the provisions of the Service Provider Agreement.

3. **INSURANCE:** The Provider shall obtain and maintain during the entire period of this Agreement the following insurance coverage:

Workers Compensation Coverage for all employees to comply with Statutory Limits in compliance with the applicable State and Federal laws;

Commercial General Liability Insurance with minimum limits of \$3,000,000 each occurrence combined single limit or \$3,000,000 each occurrence/\$3,000,000 general aggregate

Business Automobile Liability Insurance with minimum limits of \$3,000,000 each occurrence Combined Single Limit or \$3,000,000 each occurrence/\$3,000,000 general aggregate. (The Certificate of Insurance will include confirmation that the Provider is insured at these limits while operating the Town's vehicles while performing their duties under the provisions of this Agreement.)

Employee Fidelity Bonds with a limit no less than \$25,000 for each employee

In the event that the Provider engages sub-contractors to assist in providing or performing services or work pursuant to the requirements of this Agreement, the insurance coverages required under this paragraph to be provided by the Provider shall cover all of the services or work to be provided or performed by all Subcontractors engaged by the Provider. However, in the event the services or work of Sub-Contractors engaged by the Provider is not covered by the Provider's insurance policy or policies, it shall be the responsibility of the Provider to ensure that all Sub-Contractors have fully complied with the Town insurance requirements as set forth above.

4. **PERFORMANCE BOND:** The Provider shall submit to the Town, simultaneously with execution of this Agreement a Performance Bond in the amount of one million (\$1,000,000.00) dollars. The bond shall be issued by a surety company considered satisfactory by the Town and otherwise authorized to transact business in the State of Florida. Such bond shall be properly executed by the surety company.

This bond is for the purpose of insuring the faithful performance of the obligations imposed by this contract. The Town may, at the commencement of year two of this Agreement, reduce the amount of the Performance Bond by fifty percent (50%), but all other requirements of the bond shall remain in full effect. The Provider shall be required to keep the Bond, as reduced above, in effect for the remaining term of the Agreement.

EXHIBIT "B"

TO THE SERVICE PROVIDER CONTRACT DATED April 26, 2007 BETWEEN THE TOWN AND CENTRAL **PARKING SYSTEMS OF FLORIDA, INC.**, PROVIDER.

PAYMENT OBLIGATION

1. The Town shall pay the Provider as follows:

Parking and Street Enforcement	\$164,067.00
Beach and Street Enforcement	\$135,534.00
Total Contract Price	\$299,601.00

Payment will be made by the Town on a monthly basis in an amount of \$24,966.75, equivalent to one-twelfth the annual contract price of \$299,601.00

The Town may at the end of the first year, and each year thereafter, through the duration of this Agreement negotiate a modification to the annual contract price, with an increase, if any, capped by a local Consumer Price Index (CPI), approved by the Town that is in effect on the renewal date

2. Provider shall have access to and is authorized use of the Town property as below described used in the day to day operations of the Street Parking Program and Beach and Street Enforcement (B.A.S.E):

- | | |
|---|--|
| 1 - 2003 Ford Ranger; | 2 - 2006 Kawasaki Mules; |
| 1 - Manco "Hornet" Scooter; | 2 - Hamilton 1200 Coin Changers; |
| 1 - Magner Coin Counter; | 1 - Ace Coin Counter; |
| 1 - Coin Canister Collection Card; | 1 - Amsec All Steel Safe; |
| 2 - Linkport Credit Card Machines; | 1 - P.O.M. Handheld Meter Auditing System; |
| 1 - Cubic Handheld Paystation Auditing System; | |
| 2 - Nikon Digital Cameras; | |
| 1- HP Compaq Computer w/Brother MFC 3100C Printer and Acer Monitor; | |
| 1- Emachine T2240 Computer w/ HP 5500 Printer and Emachine Monitor; | |
| 1- HP PSC 1210 Printer; | 1 - HP PSC 620 Fax Machine; |
| 5 - Nextel Cell Phones; | 1 - Spectronic 7" DVD Player; |
| 1 - Acro Print Time Clock; | 2 - AT&T Desk Telephones; |
| 1- Uniden Desk Phone; | 2 - APC Battery Backups; |
| 2 -Survivalink Defibrillators; | 2 - First Aid Kits (Beach Patrol Units); |
| 1 - Small Office First Aid Kit; | 1 - Symphonic VCR; |
| 1 - Small Refrigerator; | 1 - Small Microwave; |
| 4 - Office Desks; | 3 - Desk Chairs; |
| 4 - 4-drawer Filing Cabinets; | 2 - 2-drawer Filing Cabinets; |
| 2- blonde/gray lobby tables; | 1 - black fold out table; |
| 1 - Pickled wood VCR/TV stand; | 1 - couch; |
| 1 - Loveseat; | 1 - pickled wood end table; |
| 1 - Pickled wood coffee table; | 3 - cherry wood shelving units; |
| 1- Cherry wood table; | 3 - cherry wood chairs; |

1 - Round cherry wood table;

and miscellaneous office supplies.

The Provider shall pay to the Town \$1,000.00 per annum for the use of the above listed Town property.

The Provider shall be responsible, at its own cost, to assure the proper maintenance and repair to any and all Town property being used. The Provider shall provide all maintenance and repair logs to the Town as requested. Provider shall also agree to pay all fuel costs for said vehicles.

The Provider accepts and fully understands that should the Town be desirous, or it becomes necessary to discontinue usage of any Town property, it shall not be the Town's responsibility to replace said property. Replacement of any such property as part of this provision shall be negotiated between the Town and the Provider.

The Town reserves the right to increase or decrease the amount the Provider shall pay to the Town for usage of the described property. The annual amount will be deducted from the first monthly payment of each year for the duration of this Agreement.

It is further understood and accepted by the Provider that all Town property shall not leave the corporate limits of the Town unless being taken for regular service or repair. No Town property shall be utilized by the Provider or any of its employees, representatives, or agents, for personal use or convenience at any time for any reason. Provider shall ensure that any person operating the vehicle is properly licensed and is physically and mentally fit to so operate it at all times.

2. Provider shall receive reimbursement for out-of-pocket expenses from the Town as follows:

The Provider shall not receive any out-of-pocket expenses from the Town unless previously approved and authorized by the Town.