

City of Miami Beach – Pepsi and Red Bull Exclusive Pouring Rights Agreement Summary

Exclusivity:

Pepsi will be the exclusive “Beverage” supplier to, and Beverage sponsor of, the City and City owned or operated facilities and Red Bull will be the exclusive “Energy Drink” Beverage supplier to, and Energy Drink Beverage sponsor of, the City and City owned or operated facilities in the following categories: community centers, golf courses, parks and recreational facilities, tennis centers, parking garages, beachfront concessions and internal City Departments (collectively, the "Facilities"), and shall include the use of the City's rights of ways in connection with City-Sponsored Events or Special Event Permits issued to a third party.

As used herein, "Beverage" or "Beverages" means all carbonated and non-carbonated, non-alcoholic drinks, however dispensed.

As used herein, "Energy Drink" means every beverage product which claims to improve personal energy, physical or cognitive performance, endurance, vitalization including, without limitation, any beverage (whether alcoholic, non-alcoholic, carbonated or non-carbonated) regardless of whether in ready-to drink/consume, concentrate, powder, frozen, mixed with another beverage, or in any other format, and whether or not the product/beverage is manufactured, distributed, marketed, advertised or sold on the Effective Date or thereafter.

Except with respect to the Permitted Exceptions (as described below), the City will take all steps to ensure that the Products are the exclusive Beverages of their respective types sold, dispensed or made available, or in any way advertised, displayed, represented or promoted at or in connection with the Facilities by any method or through any medium whatsoever (including without limitation digital, print, broadcast, displays and signage). Except with respect to the Permitted Exceptions, City will not serve, dispense, make available, advertise, display or promote, beverage products of “Competitive Products”, wherein "Competitive Products" means any and all Beverages other than those supplied by Pepsi and Red Bull.

Permitted Exceptions

The City, through itself or pursuant to a separate agreement with a third party (ex: special event permit), may market, sell, serve, or otherwise make available hot or iced coffee, hot cocoa, and hot tea. Pepsi offers packaged coffee, cocoa and tea beverages; however, dispensed hot coffee or iced coffee; hot cocoa; and/or hot tea shall not fall within Pepsi's exclusivity rights, and facilities and third party producers shall have the right to source competing products in those categories.

Special Promotional Events and Charitable Events

- 1) Special Promotional Events and Charitable Events that do not fall within the exclusivity requirements:
 - a. The term "**Special Promotional Events**" refers to events occurring at a Facility that are sponsored by a manufacturer, distributor, or marketer of Competitive Products under a sponsorship agreement with the owner or operator of the

subject Event (not including in any instance the City or its affiliates or agents) **and which do not require a Special Event Permit.**

- b. The term "**Special Promotional Events Exemptions**" shall refer to those exceptions granted under the Agreement, for each Year, to permit the following Special Promotional Events at the following Facilities:
 - i. Three (3) events at the Miami Beach Golf Club for Pepsi and Red Bull.
 - ii. Three (3) events at the Normandy Shores Golf Club for Pepsi and Red Bull.
 - iii. Four (4) events at the Miami Beach Convention Center for Pepsi and Three (3) events at the Miami Beach Convention Center for Red Bull.
 - iv. Four (4) additional Special Promotional Events or Public Special Events for Pepsi and Three (3) additional Special Promotional Events or Public Special Events for Red Bull.
 - c. The City will provide Pepsi and Red Bull with no less than thirty (30) calendar days prior written notice of each event which it intends to designate as a Special Promotional Event or Public Special Event.
 - d. The private, personal consumption of Competitive Products by athletes, coaching staff, musicians, actors, comedians, or other entertainment personalities appearing or performing at a Facility is allowed and will not be considered a violation of exclusivity. City shall use reasonable efforts to ensure that the consumption is limited to private areas, or that the public consumption of the Competitive Product is not apparent from the exterior of the beverage container/glass.
- 2) **Private Events** - a private event at a Facility, either through the rental of the Facility or through the issuance of a City-approved Special Event Permit, which is not open or accessible to the general public either free or via a purchased ticket, shall be allowed to distribute or sample competitive products, provided that Pepsi and Red Bull products will continue to be the only Beverage sold by the City or at the Facility, including the related concession operations at the Facility.
- 3) **Charitable Events** - charitable events (events produced by a non-for-profit entities with valid tax exemption from the IRS) at a Facility or at City-Permitted Special Events, shall be allowed to distribute or sample competitive products, provided that Pepsi and Red Bull products will continue to be the only Beverage sold by the City or at the Facility, including the related concession operations at the Facility.

If you have any further questions, or to order product, please contact Matt Kenny at mattkenny@miamibeachfl.gov