Agenda Item #:

48-2

PALM BEACH COUNTY **BOARD OF COUNTY COMMISSIONERS** AGENDA ITEM SUMMARY

Meeting Date:

December 3, 2013

| Consent ſ] Ordinance

[X] Regular [] Public Hearing

Facilities Development & Operations Department:

I. EXECUTIVE BRIEF

Motion and Title: Staff recommends motion to:

A) adopt a Resolution authorizing a three (3) month term extension and finding that the First Amendment to Concessionaire Service Agreement with Dania Pier Management Corp. (DPM) is in the best interest of the County; and

B) approve a First Amendment to Concessionaire Service Agreement (R2007-2256) with DPM to continue operating the concession building at the Juno Beach pier for \$4,562.45/month.

Summary: Since January 1, 2008, DPM has operated the concession building at the Juno Beach pier. The Agreement's initial three (3) year term commenced January 1, 2008, offered three (3) options to extend the term for one (1) year each, and currently expires on December 31, 2013. Staff is in the process of preparing a Request for Proposals for the pier concession services and believes numerous vendors are interested in operating the concession. Since the Juno Beach pier is extremely busy during the New Year's period, Staff recommends extending the term for three (3) months in order to provide for a smooth transition in the event a new vendor is chosen. This First Amendment i) extends the term of the Agreement for three (3) months from January 1, 2014, to March 31, 2014; ii) modifies the nondiscrimination provision; and iii) adds provisions regarding third party beneficiaries and the Office of the Inspector General. The current rent of \$4,562.45/month will continue throughout the three (3) month term extension. The Agreement is managed by Parks & Recreation and they are satisfied with DPM's performance. (PREM) District 1 (HJF)

Background and Policy Issues: In 2007, a Request for Proposals was issued to operate the concession building at the Juno Beach pier. On December 18, 2007, the Board awarded the Agreement to DPM. The Agreement's initial three (3) year term commenced on January 1, 2008, and expired on December 31, 2010. The first option to extend was exercised on December 7, 2010 (R2010-2005). The second option to extend was exercised on December 6, 2011 (R2011-1933). The third option to extend was exercised on December 4, 2012 (R2012-1788). During the First Amendment's three (3) month extension period, a Request For Proposals for the operation of a pier concession will be issued. State Statutes do not require a Disclosure of Beneficial Interest to be obtained when the County leases property to a tenant. Since the statute does not require the Disclosure, and as this is an amendment to a previously approved agreement for which a Disclosure was obtained, Staff did not request a new Disclosure. Donald V. Streeter is the President of and owns 100% of DPM.

Attachments:

- 1. Location Map
- 2. Resolution
- First Amendment to Concessionaire Service Agreement 3.
- Budget Availability Statement 4.

Recommended By:	Anny Worf Department Director	11(6(13 Date	
Approved By:	County Administrator	$r\sqrt{2i(l^2)}$ Date	

II. FISCAL IMPACT ANALYSIS

A. Five Year Summary of Fiscal Impact:

Fiscal Years	2014	2015	2016	2017	2018
Capital Expenditures Operating Costs External Revenues Program Income (County) In-Kind Match (County)	(\$13,687)				
NET FISCAL IMPACT	<u>(\$13,687</u>)		0		0
# ADDITIONAL FTE POSITIONS (Cumulative)					
Is Item Included in Current Bu	idget: Yes	X	No		
0	0001 Dep gram	t <u>580</u>	Unit <u>5260</u>	RSRC 4	4729-18

B. Recommended Sources of Funds/Summary of Fiscal Impact:

For the three (3) month term extension from 1/1/14 - 3/31/14, the rent/income will remain at the current rate of \$4,562.45/month, for a \$13,687.35 total.

C. Departmental Fiscal Review:

11-6-3

III. <u>REVIEW COMMENTS</u>

A. OFMB Fiscal and/or Contract Development Comments:

OFMB

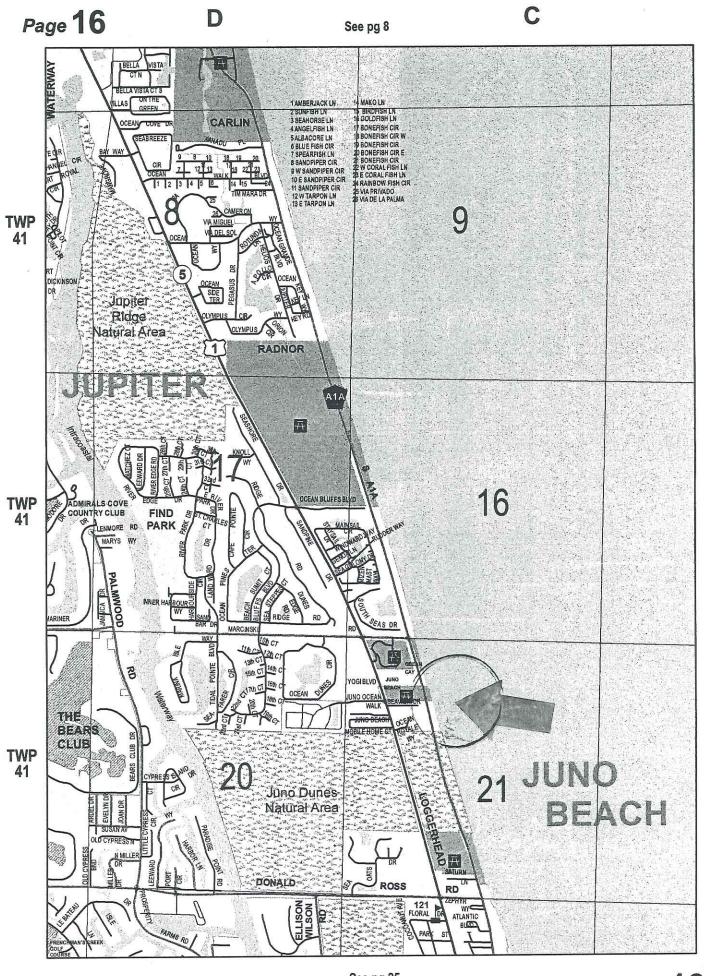
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B. Legal Sufficiency County Attorney

C. Other Department Review:

Department Director

This summary is not to be used as a basis for payment.



RNG 43

See pg 25

MAP

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RNG 43

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6

LOCATION

RESOLUTION NO. 2013-

RESOLUTION OF THE BOARD OF COUNTY COMMISSIONERS OF PALM BEACH COUNTY, FLORIDA, AUTHORIZING AN AMENDMENT TO THE CONCESSIONAIRE SERVICE AGREEMENT WITH DANIA PIER MANAGEMENT CORP.; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, Dania Pier Management Corp., a Florida corporation ("Concessionaire"), pursuant to a Concessionaire Service Agreement dated December 18, 2007, (R2007-2256), as extended, manages and operates a fishing pier concession located at the Juno Beach pier; and

WHEREAS, the current Concessionaire Service Agreement expires on December 31, 2013, with no options to extend, which will require a new Request for Proposals for a concession at the pier; and

WHEREAS, in order to minimize the interruption of service during the holiday period and provide for a smooth transition in the event a new vendor is chosen, the County wishes to retain the Concessionaire's operations at the pier as the Concessionaire provides a service for the benefit of the public; and

WHEREAS, the Board of County Commissioners of Palm Beach County hereby finds that the amendment to the Concessionaire Service Agreement is in the best interest of the County as an amendment to the Concessionaire Service Agreement with Dania Pier Management Corp. will ensure continued operations at the pier.

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS OF PALM BEACH COUNTY, FLORIDA, that:

Section 1. <u>Recitals</u>

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

Section 2. <u>Authorization to Amend the Concessionaire Service Agreement</u>

The Board of County Commissioners of Palm Beach County shall extend the Term for three (3) months pursuant to the First Amendment to Concessionaire Service Agreement, attached hereto and incorporated herein by reference, for the management and operation of a fishing pier concession located at the Juno Beach pier at the same Guaranteed Annual Rent established by the previous option to extend the Term of the Concessionaire Service Agreement.

Conflict with Federal or State Law or County Charter Section 3.

Any statutory or Charter provisions in conflict with this Resolution shall prevail.

Effective Date Section 4.

The provisions of this Resolution shall be effective immediately upon adoption hereof.

The foregoing Resolution was offered by Commissioner ______who

moved its adoption. The Motion was seconded by Commissioner

and upon being put to a vote, the vote was as follows:

Commissioner Steven L. Abrams Commissioner Priscilla A. Taylor Commissioner Hal R. Valeche **Commissioner Paulette Burdick** Commissioner Shelley Vana Commissioner Mary Lou Berger Commissioner Jess R. Santamaria

The Chair thereupon declared the Resolution duly passed and adopted this day of

, 2013.

PALM BEACH COUNTY, a political subdivision of the State of Florida BOARD OF COUNTY COMMISSIONERS

SHARON R. BOCK CLERK & COMPTROLLER

By: _

Deputy Clerk

APPROVED AS TO FORM AND LEGAL SUFFICIENCY

APPROVED AS TO TERMS AND CONDITIONS

County Attorney

By: Teit Ann Work Department Director

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FIRST AMENDMENT

TO

CONCESSIONAIRE SERVICE AGREEMENT

THIS FIRST AMENDMENT TO CONCESSIONAIRE SERVICE AGREEMENT (the "First Amendment") is made and entered into ______ by and between PALM BEACH COUNTY, a political subdivision of the State of Florida ("County"), and DANIA PIER MANAGEMENT CORP. a Florida corporation ("Concessionaire"). County

and DANIA PIER MANAGEMENT CORP., a Florida corporation ("Concessionaire"). County and Concessionaire are sometimes referred to herein collectively as the "parties".

WITNESSETH:

WHEREAS, County and Concessionaire entered into that certain Concessionaire Service Agreement dated December 18, 2007, (R2007-2256) (the "Agreement"), for the use of the Premises as defined in the Agreement; and

WHEREAS, the Term of the Agreement, as extended by the Concessionaire's exercise of the first (R2010-2005), second (R2011-1933) and third (R2012-1788) options to extend, currently expires on December 31, 2013; and

WHEREAS, the parties wish to amend the Agreement to approve a three (3) month extension of the Term of the Agreement and incorporate certain language required by County; and

WHEREAS, County hereby acknowledges that Tenant is not delinquent in the payment of rent and is not in default of any of the terms and conditions of the Agreement.

NOW, THEREFORE, in consideration of the sum of Ten Dollars (\$10.00) and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereby agree as follows:

- 1. The foregoing recitals are true and correct and incorporated herein by reference. Terms not defined herein shall have the same meaning ascribed to them in the Agreement.
- 2. The Term of this Agreement is extended for a period of three (3) months commencing upon January 1, 2014, and terminating March 31, 2014, unless sooner terminated pursuant to the provisions of this Agreement.
- 3. The parties agree that for the three (3) month extension of the Term that commences on January 1, 2014, and expires on March 31, 2014, the Guaranteed Annual Rent shall not be adjusted as provided for in Section 2.02, but shall instead remain the same as it was for the year of the Term that commenced on January 1, 2013.
- 4. Section 18.19, Non-Discrimination, is modified to include a prohibition against discrimination based on familial status.
- 5. No provision of this Lease is intended to, or shall be construed to, create any third party beneficiary or to provide any rights to any person or entity not a party to this Lease, including but not limited to any citizens of Palm Beach County or employees of County or Tenant.
- 6. Palm Beach County has established the Office of the Inspector General in Palm Beach County Code, Section 2-421 2-440, as may be amended. The Inspector General is authorized with the power to review past, present and proposed County contracts, transactions, accounts and records. The Inspector General's authority includes, but is not limited to, the power to audit, investigate, monitor, and inspect the activities of entities contracting with the County, or anyone acting on their behalf, in order to ensure compliance with contract requirements and to detect corruption and fraud. Failure to cooperate with the Inspector General or interfering with or impeding any investigation shall be a violation of Palm Beach County Code, Section 2-421 2-440, and punished pursuant to Section 125.69, Florida Statutes, in the same manner as a second degree misdemeanor.

7. Except as set forth herein, the Agreement remains unmodified and in full force and effect.

. . . .

8. This First Amendment is expressly contingent upon the approval of the Palm Beach County Board of County Commissioners and shall become effective only when signed by all parties and approved by the Palm Beach County Board of County Commissioners.

REMAINDER OF PAGE INTENTIONALLY LEFT BLANK

IN WITNESS WHEREOF, the parties have duly executed this First Amendment as of the day and year first written above.

ATTEST:

4 6 5

SHARON R. BOCK CLERK & COMPTROLLER COUNTY:

PALM BEACH COUNTY, a political subdivision of the State of Florida

By:

By:

Deputy Clerk

APPROVED AS TO FORM

fant Q

AND LEGAL SUFFICIENCY

By:_

, Chair

APPROVED AS TO TERMS AND CONDITIONS

By

Audrey Wolf, Director Facilities Development & Operations

CONCESSIONAIRE:

DANIA PIER MANAGEMENT CORP., a Florida corporation

R

Donald V. Streeter, President

SEAL

WITNESSES:

Assi

Witnes ignature

ounty Attorney

PAVEL KО JOHN Print Witness Name

Witness Signature

David H. Lill

Print Witness Name

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BUDGET AVAILABILITY STATEMENT

REQUEST DATE: 10/17/2013	REQUEST	ED BY: Steven k Property	K. Schlamp Spec./PREM	PHONE: 2 FAX: 2	33-0239 33-0210
PROJECT TITLE: Juno Beach I	Pier Concession Terr	n Extension 2013		PROJECT	NO.: 2013-5.019
Fiscal Years	2014	2015	2016	2017	2018
Capital Expenditures Operating Costs External Revenues Program Income (County) In-Kind Match (County)	 (\$13,687.3	5)			<u>x</u>
NET FISCAL IMPACT	<u>(\$13,687.3</u>	<u>5) \$-0-</u>			
# ADDITIONAL FTE POSITIONS (Cumulative)) ann aige an aige an ann a'			
** By signing this BAS your depa BAS by FD&O. Unless there is a					
BUDGET ACCOUNT NUMBE	R				
FUND: 0001 I	dept: 580	UNI	г: 5260	obj: 472 sub obj:	19-18
IS ITEM INCLUDED IN CUR	RENT BUDGET:	YES 📝 N	0		
			1010 (cal= /// 1424 147		

IDENTIFY FUNDING SOURCE FOR EACH ACCOUNT: (check all that apply)

□ Ad Valorem (source/type:)
□ Non-Ad Valorem (source/t	уре:		
Grant (source/type:			
Park Improvement Fund (se			
General Fund	□Operatin	ng Budget	Federal/Davis Bacon
17	<u>_</u>		
SUBJECT TO IG FEE? Department: <u>Parks & Recre</u>	<i>YES</i> eation Department	□ NO	
DHL BAS APPROVED BY:	REBECCA PINE	and a final state of the state	DATE: 10/18/13
	•		

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Thursday, 10/17/13, page 1 of 1 /

Below is information on the justification for the figures listed on the attached BAS for the First Amendment to the Concessionaire Service Agreement with Dania Pier Management Corp., for a three (3) month term extension for the Juno Beach pier concession from 1/1/2014 - 3/31/2014.

A. Five Year Summary of Fiscal Impact:

Fiscal Years	2014	2015	2016	2017	2018
Capital Expenditures Operating Costs External Revenues Program Income (County) In-Kind Match (County)	 (\$13,687.35) 				
NET FISCAL IMPACT	(\$13,687.35)		<u>\$-0-</u>	<u>\$-0-</u>	<u>\$-0-</u>
# ADDITIONAL FTE POSITIONS (Cumulative)					

FY14:

- The Agreement currently expires on 12/31/2013.
- The current rent is \$54,749.39/year = \$4,562.45/month.
- The First Amendment extends the term for three (3) months from 1/1/2014 3/31/2014 and the rent remains the same at \$54,749.39/year = \$4,562.45/month.
- Rent for FY14 will be:

1/1/2014 - 3/31/2014 = 3 months. \$4,562.45 x 3 months = \$13,687.35. FY14 TOTAL = <u>\$13,687.35</u>

<u>FY15 – FY18:</u> <u>\$-0-</u>

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