

Background and Policy Issues (cont'd.): years, conditioned upon Hawkhaven receiving a rent reduction. On February 21st and 22nd, 2016, the County scheduled the Seafood Festival at Carlin Park which resulted in Hawkhaven having a substantial loss in sales as their customers did not have reasonable access to their restaurant due to the parking lots being filled by special event visitors. Hawkhaven considers that time of year as being one of the busiest weekends for them. Hawkhaven's total sales for that weekend were \$5,363.00, which is a considerable loss when compared to sales for that same weekend in 2015 - \$9,014.00 and 2014 - \$10,637.00. This was the first time the Seafood Festival was held at Carlin Park. It was previously held at Abacoa Town Center in Jupiter. As such, Hawkhaven has requested the County reduce the percentage rent from 8.5% to 8% due to the impact of the County's special events.

Parks acknowledges that recently held and scheduled special events at Carlin Park impacts the availability of parking and the ability of Hawkhaven customers to access the restaurant during peak business days during the winter tourist season. Parks also acknowledges that the County's special events at Carlin Park this year have increased the County's revenue from Parks operations by approximately \$10,000. Parks believes lowering the percentage rent from 8.5% to 8% per year will compensate Hawkhaven for the current and future loss in sales they will endure due to County special events.

This Amendment extends the term of the Agreement for two (2) years from September 1, 2016, through August 31, 2018; increases the current annual guaranteed rent 2% from \$75,949.20 to \$77,468.18; reduces the Payment of Percentage of Annual Gross Revenue from 8.5% to 8%; updates the non-discrimination and insurance provisions; and adds the required public records provision. Brian Wilson and Jennifer Wilson, submitted a Disclosure of Beneficial Interests in 2013, attached hereto as Attachment No. 4, for the Concessionaire Service Agreement and has recently informed Staff that no changes have occurred as Brian Wilson and Jennifer Wilson each have a fifty percent (50%) ownership interest.

TWP 40

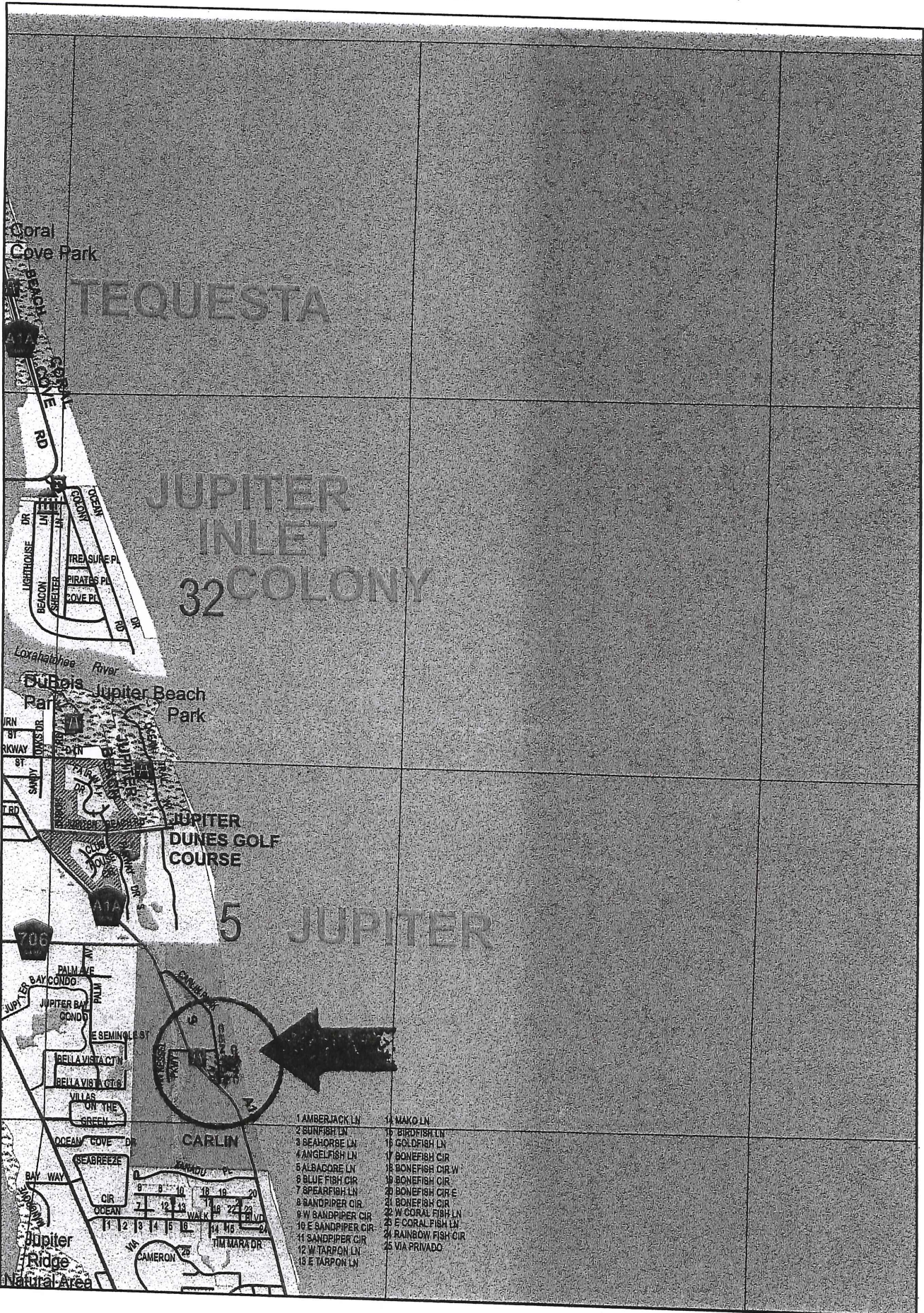
TWP 40

TWP 41

1

2

3



RNG 43

See pg 16

RNG 43

Page 8

LOCATION MAP

Attachment 1
(1 page)

Handwritten signature or mark.

Attachment 2
Resolution with Exhibit "A" (8 pages)

RESOLUTION NO. _____

RESOLUTION OF THE BOARD OF COUNTY COMMISSIONERS OF PALM BEACH COUNTY, FLORIDA, AUTHORIZING A REDUCTION OF THE REVENUE PERCENTAGE PAYMENT REQUIRED UNDER THE TERMS OF THE CONCESSIONAIRE SERVICE AGREEMENT WITH HAWKHAVEN, LLC, dba LAZY LOGGERHEAD CAFE; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, Hawkhaven, LLC, dba Lazy Loggerhead Cafe, a Florida limited liability company, (“Concessionaire”), pursuant to a Concessionaire Service Agreement, dated August 13, 2013 (R2013-1018), operates a food and beverage concession at Carlin Park; and

WHEREAS, Concessionaire has provided County with written notice that Concessionaire wishes to exercise the first of three (3) available two (2) year renewal options; and

WHEREAS, in February 2016, the County scheduled the Seafood Festival at Carlin Park, for the first time, and plans to continue scheduling this event, as well as other events, in the future; and

WHEREAS, the Seafood Festival impacted the availability of parking and the ability for customers to access the concession during peak business days, and as a result, the Concessionaire sustained a loss in revenue; and

WHEREAS, future County events will continue to have an impact on the concession based upon the lack of availability of parking and the inability for customers to access the concession during these events; and

WHEREAS, Concessionaire has made application to the Board of County Commissioners of Palm Beach County requesting that Palm Beach County extend the Term for two (2) years commencing on September 1, 2016, and reduce the revenue percentage payment of Concessionaire’s annual gross revenues due to the impact the County’s special events held at Carlin Park have on the concession; and

WHEREAS, Concessionaire is largely dependent on business derived from park patrons and said events have caused Concessionaire a financial loss; and

WHEREAS, Concessionaire provides a service to patrons of Carlin Park by offering them food, beverage and sundry services at a reasonable price and County wishes to retain Concessionaire’s operations at Carlin Park; and

WHEREAS, the Board of County Commissioners of Palm Beach County hereby finds that Concessionaire provides a service to patrons of Carlin Park by offering them food, beverage and sundry services at a reasonable price that County does not wish to lose, and reducing the revenue percentage payment is in the best interest of the County.

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

Section 1. Recitals

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

Section 2. Authorization to Extend Term and Adjust Revenue Percentage Payment

The Board of County Commissioners of Palm Beach County shall extend the Term for two (2) years commencing on September 1, 2016, and shall reduce the revenue percentage payment of the annual gross revenues pursuant to the First Amendment to Concessionaire Service Agreement, attached hereto and incorporated herein by reference.

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

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

Section 4. Effective Date

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 Mary Lou Berger, Mayor
- Commissioner Hal R. Valeche, Vice Mayor
- Commissioner Paulette Burdick
- Commissioner Shelley Vana
- Commissioner Steven L. Abrams
- Commissioner Melissa McKinlay
- Commissioner Priscilla A. Taylor

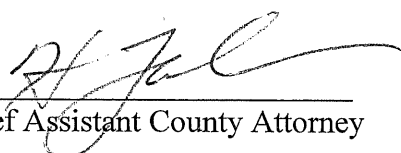
The Mayor thereupon declared the Resolution duly passed and adopted this ____ day of _____, 2016.

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

By: 
Chief Assistant County Attorney

APPROVED AS TO TERMS
AND CONDITIONS

By: 
Department Director

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FIRST AMENDMENT TO CONCESSIONAIRE SERVICE AGREEMENT

THIS FIRST AMENDMENT TO CONCESSIONAIRE SERVICE AGREEMENT (R2013-1018), (the "First Amendment") is made and entered into _____, by and between PALM BEACH COUNTY, a political subdivision of the State of Florida, ("County") and HAWKHAVEN, LLC, DBA LAZY LOGGERHEAD CAFE, a Florida limited liability company, ("Concessionaire").

WITNESSETH:

WHEREAS, County and Concessionaire entered into that certain Concessionaire Service Agreement dated August 13, 2013 (R2013-1018) (the "Agreement") for the use of the Licensed Area as defined in the Agreement, which Agreement commenced on September 1, 2013, for a term of three (3) years, with three (3) two (2) year options to extend; and

WHEREAS, the Commencement Date was established as September 1, 2013, pursuant to Section 1.04 of the Agreement; and

WHEREAS, Concessionaire has provided County with written notice that Concessionaire wishes to exercise the first of three (3) available two (2) year renewal options; and

WHEREAS, Concessionaire has requested a reduction of the annual percentage rent due to the increase in County special events being held at Carlin Park; and

WHEREAS, County wishes to amend the Agreement to incorporate certain language required by County; and

WHEREAS, the parties hereto desire to amend the Agreement in accordance with the terms and conditions set forth herein.

NOW, THEREFORE, in consideration of the mutual covenants and agreements hereinafter set forth, and various other good and valuable considerations, 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 as ascribed to them in the Agreement, as amended.
2. The parties agree that the Term of the Agreement shall be renewed for two (2) years commencing on September 1, 2016, extending the Term through August 31, 2018. Annual Rent shall be adjusted to \$77,468.18 (\$6,455.68/month), as provided for in Section 2.02 of the Agreement.

3. Section 2.01.B., of the Agreement is modified to provide that effective September 1, 2016, the Payment of Percentage of Annual Gross Revenues is reduced to 8.0% (eight percent) of the certified annual gross revenues derived from the operation of the concession on the Premises less the Guaranteed Annual Rent (“Revenue Percentage Payment”).

4. Section 4.05 Non-Discrimination is hereby deleted and replaced with the following:

Section 4.05 Non-Discrimination

Concessionaire shall assure and certify that it will comply with Title VI of the Civil Rights Act of 1964, as amended, and Palm Beach County Resolution No. R92-13, and shall not discriminate against any individual on the basis of their race, color, national origin, religion, ancestry, sex, age, marital status, familial status, sexual orientation, gender identity or expression, disability, or genetic information with respect to any activity occurring on the Premises or conducted pursuant to this Lease. Concessionaire warrants that in the event the facilities constructed or operated upon the Premises are public facilities the same shall be open to and benefit all residents of Palm Beach County and shall be available thereto on the same cost and availability basis as to residents of the municipality in which the Premises are located.

Concessionaire has submitted to County a copy of its non-discrimination policy which is consistent with the above paragraph, as contained in Resolution R-2014-1421, as amended, or in the alternative, has acknowledged through a signed statement provided to County that Concessionaire will conform to the County’s non-discrimination policy as provided in R-2014-1421, as amended.

4. Section 8.05 Insurance Terms and Conditions is hereby modified to add the following:

Concessionaire will deliver to Insurance Tracking Services, Inc. (ITS), County’s authorized insurance consultant, a certificate of insurance with respect to each required policy to be provided by the Concessionaire under this Section. The required certificates must be signed by the authorized representative of the Insurance Company shown on the certificate.

Submit certificates of insurance to:

Palm Beach County
c/o Insurance Tracking Services, Inc. (ITS)
P.O. Box 20270
Long Beach, CA 90801
Email: pbcc@instracking.com or Facsimile: (562) 435-2999

Subsequently, Concessionaire shall, during the term of the Lease, and prior to each renewal thereof, provide such evidence to ITS at pbcc@instracking.com or fax (562) 435-2999, which is Palm Beach County’s insurance management system. The certificate of insurance shall include a minimum thirty (30) day endeavor to notify due to cancellation or non-renewal of coverage. In the event coverage is cancelled or not renewed during the

life of this Lease, Concessionaire shall furnish thirty (30) days prior to, but in no case later than the expiration of such insurance, a new certificate of insurance evidencing replacement coverage. Should Concessionaire fail to maintain the insurance required herein, the County shall have the right, but not the obligation, to purchase or maintain said insurance, and Concessionaire shall promptly pay as Additional Rent, upon demand from County, all premiums and expenses incurred by County.

5. Notwithstanding anything contained herein, as provided under Section 119.0701, F.S., if the Concessionaire: (i) provides a service; and (ii) acts on behalf of the County as provided under Section 119.011(2) F.S., the Concessionaire shall comply with the requirements of Section 119.0701, Florida Statutes, as it may be amended from time to time. The Concessionaire is specifically required to:

A. Keep and maintain public records required by the County to perform services as provided under this Contract.

B. Upon request from the County's Custodian of Public Records, provide the County with a copy of the requested records or allow the records to be inspected or copied within a reasonable time at a cost that does not exceed the cost provided in Chapter 119 or as otherwise provided by law. The Concessionaire further agrees that all fees, charges and expenses shall be determined in accordance with Palm Beach County PPM CW-F-002, Fees Associated with Public Records Requests, as it may be amended or replaced from time to time.

C. Ensure that public records that are exempt, or confidential and exempt from public records disclosure requirements are not disclosed except as authorized by law for the duration of the contract term and following completion of the Contract, if the Concessionaire does not transfer the records to the public agency.

D. Upon completion of the Contract the Concessionaire shall transfer, at no cost to the County, all public records in possession of the Concessionaire unless notified by County's representative/liaison, on behalf of the County's Custodian of Public Records, to keep and maintain public records required by the County to perform the service. If the Concessionaire transfers all public records to the County upon completion of the Contract, the Concessionaire shall destroy any duplicate public records that are exempt, or confidential and exempt from public records disclosure requirements. If the Concessionaire keeps and maintains public records upon completion of the Contract, the Concessionaire shall meet all applicable requirements for retaining public records. All records stored electronically by the Concessionaire must be provided to County, upon request of the County's Custodian of Public Records, in a format that is compatible with the information technology systems of County, at no cost to County.

Failure of the Concessionaire to comply with the requirements of this article shall be a material breach of this Contract. County shall have the right to exercise any and all remedies available to it, including but not limited to, the right to terminate for cause. Concessionaire acknowledges

that it has familiarized itself with the requirements of Chapter 119, F.S., and other requirements of state law applicable to public records not specifically set forth herein.

IF THE CONCESSIONAIRE HAS QUESTIONS REGARDING THE APPLICATION OF CHAPTER 119, FLORIDA STATUTES, TO THE CONCESSIONAIRE'S DUTY TO PROVIDE PUBLIC RECORDS RELATING TO THIS CONTRACT, PLEASE CONTACT THE CUSTODIAN OF PUBLIC RECORDS AT RECORDS REQUEST, PALM BEACH COUNTY PUBLIC AFFAIRS DEPARTMENT, 301 N. OLIVE AVENUE, WEST PALM BEACH, FL 33401, BY E-MAIL AT RECORDSREQUEST(@pbcgov.org OR BY TELEPHONE AT 561-355-6680.

6. This First Amendment is expressly contingent upon the approval of the Palm Beach County Board of County Commissioners, and shall become effective (the "First Amendment Effective Date") only when signed by all parties and approved by the Palm Beach County Board of County Commissioners.

7. Except as set forth herein, the Agreement, as amended, remains unrevised and in full force and effect, and the parties hereby ratify, confirm, and adopt the Agreement, as amended, hereby.

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IN WITNESS WHEREOF, the parties have executed this First Amendment on the date set forth above.

Signed in the presence of:

CONCESSIONAIRE:

HAWKHAVEN, LLC, DBA LAZY
LOGGERHEAD CAFE, a Florida limited
liability company

By: _____

(SEAL)

Signature of Witness

Print Name of Witness

Signature of Witness

Print Name of Witness

ATTEST:

COUNTY:

SHARON R. BOCK
CLERK & COMPROLLER

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

By: _____
Deputy Clerk

By: _____
Mary Lou Berger, Mayor

APPROVED AS TO FORM AND
LEGAL SUFFICIENCY

APPROVED AS TO TERMS AND
CONDITIONS

By: _____
Chief Assistant County Attorney

By: _____
Department Director

Attachment 3
First Amendment to Concession Service Agreement (2 @ 5 pages each)

FIRST AMENDMENT TO CONCESSIONAIRE SERVICE AGREEMENT

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WITNESSETH:

WHEREAS, County and Concessionaire entered into that certain Concessionaire Service Agreement dated August 13, 2013 (R2013-1018) (the "Agreement") for the use of the Licensed Area as defined in the Agreement, which Agreement commenced on September 1, 2013, for a term of three (3) years, with three (3) two (2) year options to extend; and

WHEREAS, the Commencement Date was established as September 1, 2013, pursuant to Section 1.04 of the Agreement; and

WHEREAS, Concessionaire has provided County with written notice that Concessionaire wishes to exercise the first of three (3) available two (2) year renewal options; and

WHEREAS, Concessionaire has requested a reduction of the annual percentage rent due to the increase in County special events being held at Carlin Park; and

WHEREAS, County wishes to amend the Agreement to incorporate certain language required by County; and

WHEREAS, the parties hereto desire to amend the Agreement in accordance with the terms and conditions set forth herein.

NOW, THEREFORE, in consideration of the mutual covenants and agreements hereinafter set forth, and various other good and valuable considerations, 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 as ascribed to them in the Agreement, as amended.
2. The parties agree that the Term of the Agreement shall be renewed for two (2) years commencing on September 1, 2016, extending the Term through August 31, 2018. Annual Rent shall be adjusted to \$77,468.18 (\$6,455.68/month), as provided for in Section 2.02 of the Agreement.

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Concessionaire has submitted to County a copy of its non-discrimination policy which is consistent with the above paragraph, as contained in Resolution R-2014-1421, as amended, or in the alternative, has acknowledged through a signed statement provided to County that Concessionaire will conform to the County's non-discrimination policy as provided in R-2014-1421, as amended.

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Concessionaire will deliver to Insurance Tracking Services, Inc. (ITS), County's authorized insurance consultant, a certificate of insurance with respect to each required policy to be provided by the Concessionaire under this Section. The required certificates must be signed by the authorized representative of the Insurance Company shown on the certificate.

Submit certificates of insurance to:

Palm Beach County
c/o Insurance Tracking Services, Inc. (ITS)
P.O. Box 20270
Long Beach, CA 90801
Email: pbc@instracking.com or Facsimile: (562) 435-2999

Subsequently, Concessionaire shall, during the term of the Lease, and prior to each renewal thereof, provide such evidence to ITS at pbc@instracking.com or fax (562) 435-2999, which is Palm Beach County's insurance management system. The certificate of insurance shall include a minimum thirty (30) day endeavor to notify due to cancellation or non-renewal of coverage. In the event coverage is cancelled or not renewed during the

life of this Lease, Concessionaire shall furnish thirty (30) days prior to, but in no case later than the expiration of such insurance, a new certificate of insurance evidencing replacement coverage. Should Concessionaire fail to maintain the insurance required herein, the County shall have the right, but not the obligation, to purchase or maintain said insurance, and Concessionaire shall promptly pay as Additional Rent, upon demand from County, all premiums and expenses incurred by County.

5. Notwithstanding anything contained herein, as provided under Section 119.0701, F.S., if the Concessionaire: (i) provides a service; and (ii) acts on behalf of the County as provided under Section 119.011(2) F.S., the Concessionaire shall comply with the requirements of Section 119.0701, Florida Statutes, as it may be amended from time to time. The Concessionaire is specifically required to:

A. Keep and maintain public records required by the County to perform services as provided under this Contract.

B. Upon request from the County's Custodian of Public Records, provide the County with a copy of the requested records or allow the records to be inspected or copied within a reasonable time at a cost that does not exceed the cost provided in Chapter 119 or as otherwise provided by law. The Concessionaire further agrees that all fees, charges and expenses shall be determined in accordance with Palm Beach County PPM CW-F-002, Fees Associated with Public Records Requests, as it may be amended or replaced from time to time.

C. Ensure that public records that are exempt, or confidential and exempt from public records disclosure requirements are not disclosed except as authorized by law for the duration of the contract term and following completion of the Contract, if the Concessionaire does not transfer the records to the public agency.

D. Upon completion of the Contract the Concessionaire shall transfer, at no cost to the County, all public records in possession of the Concessionaire unless notified by County's representative/liaison, on behalf of the County's Custodian of Public Records, to keep and maintain public records required by the County to perform the service. If the Concessionaire transfers all public records to the County upon completion of the Contract, the Concessionaire shall destroy any duplicate public records that are exempt, or confidential and exempt from public records disclosure requirements. If the Concessionaire keeps and maintains public records upon completion of the Contract, the Concessionaire shall meet all applicable requirements for retaining public records. All records stored electronically by the Concessionaire must be provided to County, upon request of the County's Custodian of Public Records, in a format that is compatible with the information technology systems of County, at no cost to County.

Failure of the Concessionaire to comply with the requirements of this article shall be a material breach of this Contract. County shall have the right to exercise any and all remedies available to it, including but not limited to, the right to terminate for cause. Concessionaire acknowledges

that it has familiarized itself with the requirements of Chapter 119, F.S., and other requirements of state law applicable to public records not specifically set forth herein.

IF THE CONCESSIONAIRE HAS QUESTIONS REGARDING THE APPLICATION OF CHAPTER 119, FLORIDA STATUTES, TO THE CONCESSIONAIRE'S DUTY TO PROVIDE PUBLIC RECORDS RELATING TO THIS CONTRACT, PLEASE CONTACT THE CUSTODIAN OF PUBLIC RECORDS AT RECORDS REQUEST, PALM BEACH COUNTY PUBLIC AFFAIRS DEPARTMENT, 301 N. OLIVE AVENUE, WEST PALM BEACH, FL 33401, BY E-MAIL AT RECORDSREQUEST@pbcgov.org OR BY TELEPHONE AT 561-355-6680.

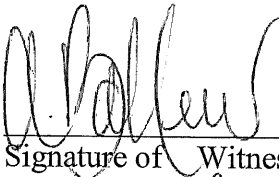
6. This First Amendment is expressly contingent upon the approval of the Palm Beach County Board of County Commissioners, and shall become effective (the "First Amendment Effective Date") only when signed by all parties and approved by the Palm Beach County Board of County Commissioners.

7. Except as set forth herein, the Agreement, as amended, remains unrevised and in full force and effect, and the parties hereby ratify, confirm, and adopt the Agreement, as amended, hereby.

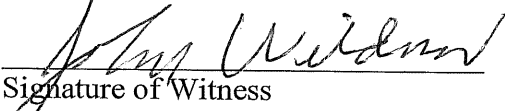
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IN WITNESS WHEREOF, the parties have executed this First Amendment on the date set forth above.

Signed in the presence of:


Signature of Witness

Alicia Ballew
Print Name of Witness


Signature of Witness

JOHN WILDNER
Print Name of Witness

CONCESSIONAIRE:

HAWKHAVEN, LLC, DBA LAZY
LOGGERHEAD CAFE, a Florida limited
liability company

By: 
Signature

Jennifer Wilson, Managing
(Print Name and Title) Member

(SEAL)

ATTEST:

SHARON R. BOCK
CLERK & COMPTRROLLER


By: _____
Deputy Clerk

COUNTY:

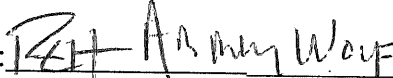
PALM BEACH COUNTY, a political
subdivision of the State of Florida

By: _____
Mary Lou Berger, Mayor

APPROVED AS TO FORM AND
LEGAL SUFFICIENCY

By: 
Chief Assistant County Attorney

APPROVED AS TO TERMS AND
CONDITIONS

By: 
Department Director

Attachment 5
Disclosure of Beneficial Interests (3 pages)

EXHIBIT "D"
TO THE CONCESSIONAIRE SERVICE AGREEMENT

CONCESSIONAIRE'S DISCLOSURE OF BENEFICIAL INTERESTS

TO: PALM BEACH COUNTY CHIEF OFFICER, OR HIS OR HER OFFICIALLY DESIGNATED REPRESENTATIVE

STATE OF FLORIDA
COUNTY OF PALM BEACH

BEFORE ME, the undersigned authority, this day personally appeared Jennifer Wilson, hereinafter referred to as "Affiant", who being by me first duly sworn, under oath, deposes and states as follows:

1. Affiant is the Managing Member (position - i.e. president, partner, trustee) of Hawthorn, LLC d/b/a Lazy Loggerhead Cafe (name and type of entity - i.e. ABC Corporation, XYZ Limited Partnership), (the "Concessionaire") which entity is providing concession services on the real property legally described on or depicted in the attached Exhibit "A" (the "Licensed Area").

2. Affiant's address is: P.O. Box 14928
North Palm Beach, FL
33468

3. Attached hereto, and made a part hereof, as Exhibit "B" is a complete listing of the names and addresses of every person or entity having a five percent (5%) or greater beneficial interest in the concessionaire and the percentage interest of each such person or entity.

4. Affiant further states that Affiant is familiar with the nature of an oath and with the penalties provided by the laws of the State of Florida for falsely swearing to statements under oath.

5. Under penalty of perjury, Affiant declares that Affiant has examined this Affidavit and to the best of Affiant's knowledge and belief it is true, correct, and complete, and will be relied upon by Palm Beach County relating to its entering into a Concessionaire Service Agreement for the Licensed Area.

FURTHER AFFIANT SAYETH NAUGHT.

Jennifer Wilson, Affiant
Print Affiant Name: Jennifer Wilson

The foregoing instrument was sworn to, subscribed and acknowledged before me this 8 day of July, 2013, by Jennifer Wilson [] who is personally known to me or [] who has produced Her Driver's License as identification and who did take an oath.

Shawn A. Bobo
Notary Public
SHAWN A. BOBO
Commission # EE 138750
Expires October 30, 2015
Bonds: TPA Troy Fair Insurance 800-385-7019

NOTARY PUBLIC
State of Florida at Large
My Commission Expires: 10/30/15

EXHIBIT "A"

LICENSED AREA

Approximately 1,300 square feet of space on the first floor of a two-story building located in the County's Carlin Park at 601 South SR A1A, Jupiter, Florida (a portion of PCN 30-43-41-05-00-004-0060).

