Agenda Item #: 5C-1

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

Meeting Date: August 16, 2016 | Consent [X] Regular [] Ordinance [] Public Hearing

Facilities Development & Operations Department:

I. EXECUTIVE BRIEF

Motion and Title: Staff recommends motion to:

A) Adopt a Resolution authorizing a First Amendment to extend the term of the Concessionaire Service Agreement (R2013-1018) with Hawkhaven, LLC d/b/a Lazy Loggerhead Café for the continued operation of approximately 1,300 SF concession building at Carlin Park in Jupiter at an annual rate of \$77,468.18; and

B) Approve the First Amendment to Concessionaire Service Agreement (R2013-1018 with Hawkhaven, LLC d/b/a Lazy Loggerhead Cafe' (Hawkhaven).

Summary: Hawkhaven manages and operates the Lazy Loggerhead Café in the Carlin Park concession building pursuant to a Concessionaire Service Agreement (R2013-1018). The initial term of the Agreement was for three (3) years, expiring on August 31, 2016, with three (3) options to extend, each for a period of two (2) years. The Concessionaire Service Agreement requires payment of a guaranteed annual rent of \$75,949.20 with 2% annual increases, plus a percentage rent payment equal to the amount by which 8.5% of gross revenues exceed the guaranteed annual rent. Due to additional special events being held in the Park, Hawkhaven has sustained a loss in sales and has requested the County reduce the percentage rent from 8.5% to 8%. Parks acknowledges that these special events impact the availability of parking and the ability of Hawkhaven customers to access the restaurant during peak business days during the winter tourist season. Staff believes that the reduction in percentage rent is appropriate, will facilitate Hawkhaven's continued operation of its concession, and is in the best interest of the County. This First Amendment will extend the term of Agreement for two (2) years from September 1, 2016, through August 31, 2018; reduces the percentage rent from 8.5% to 8%; and updates and adds various standard County provisions. The guaranteed annual rent for the first year of this two (2) year extension period will be increased by two percent (2%) to \$77,468.18. The Board may terminate the Agreement upon ninety (90) days written notice. Parks will continue to have administrative responsibility for this Agreement. (PREM) District 1 (HJF)

Background and Policy Issues: In May 2013, PREM issued an RFP for the concession at Carlin Park and received one (1) proposal. On August 13, 2013, the Board approved a Concessionaire Service Agreement with Hawkhaven which expires on August 31, 2016. On May 25, 2016, Hawkhaven exercised the first of three (3) options to extend the term of the Agreement for a period of two (2)

(Continued on page 3)

- **Attachments:** Location Map 1.
 - 2. Resolution
 - 3. First Amendment Concessionaire Service Agreement
 - 4. Budget Availability Statement
 - 5. Disclosure of Beneficial Interests

Recommended By:	16.C.H	7-28-110		
	Department Director	Date		
Approved By:	VCBaller	8/5/14		
	County Administrator			

II. FISCAL IMPACT ANALYSIS

A. Five Year Summary of Fiscal Impact:

Fiscal Years	2016	2017	2018	2019	2020
Capital Expenditures Operating Costs					
External Revenues	(\$6,455)	(\$77,597)	(\$72,433)		
Program Income (County In-Kind Match (County	y)				
NET FISCAL IMPACT	<u>(\$6,455</u>)	<u>(\$77,597</u>)	<u>(\$72,433</u>)	E	
# ADDITIONAL FTE POSITIONS (Cumulative	e)				
Is Item Included in Curre	ent Budget: Y	es <u>X</u>	No		
Budget Account No:	Fund <u>0001</u> Program	Dept <u>580</u>	Unit <u>5405</u>	RSRC <u>4729</u>	-03

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

Hawkhaven's exercise of its extension option extends the term of this Agreement for two (2) years from 09/01/16 - 08/31/18. The guaranteed annual rent for the period of 09/01/16 - 08/31/17 is \$77,468.18 (\$6,455.68/monthly). On 09/01/17, the guaranteed annual rent will increase two percent (2%). The percentage rent payments will depend on operating performance of the concession.

Fixed Assets Number N/A

C. Departmental Fiscal Review: ____

7,21-16

III. <u>REVIEW COMMENTS</u>

A. OFMB Fiscal and/or Contract Development Comments:

MB

B. Legal Sufficiency:

Assistant County Attorney

C. Other Department Review:

Contract Deve opment and C 16 FW

Department Director

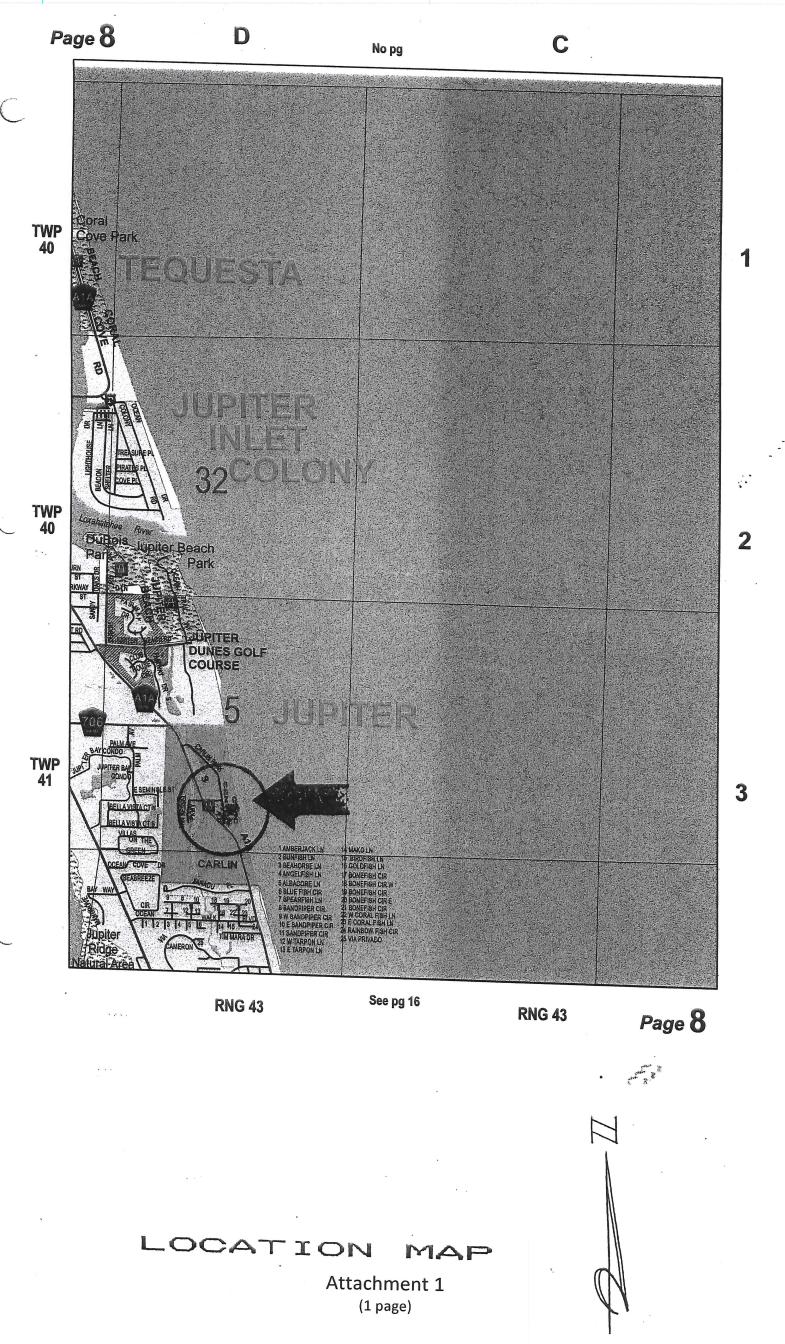
This summary is not to be used as a basis for payment.

Page 3

Background and Policy Issues (cont'd.): years, conditioned upon Hawkhaven receiving a rent reduction. On February 21^{st} and 22^{nd} , 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.



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

RESOLUTION NO.

BOARD OF OF THE COUNTY RESOLUTION **COMMISSIONERS** PALM BEACH OF COUNTY FLORIDA, AUTHORIZING A REDUCTION OF **REVENUE PERCENTAGE PAYMENT REQUIRED UNDER** THE TERMS OF THE CONCESSIONAIRE SERVICE WITH HAWKHAVEN, LLC, dba LAZY AGREEMENT CAFE; AND PROVIDING LOGGERHEAD FOR 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. <u>Recitals</u>

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

Section 2. <u>Authorization to Extend Term and Adjust Revenue Percentage Payment</u>

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. <u>Conflict with Federal or State Law or County Charter</u>

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

Section 4. <u>Effective Date</u>

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

AND CONDITIONS By: <u>C</u>. <u>C</u> Department Director

APPROVED AS TO TERMS

G:\PREM\PM\In Lease\Parks - Carlin Park Concession 2013\1st Amendment\Resolution.hf app 7-6-2016.docx

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.

Page 1 of 5

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: 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

Page 2 of 5

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 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

Page 3 of 5

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 <u>RECORDSREQUEST(@pbcgov.org</u> 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.

REMAINDER OF PAGE INTENTIONALLY LEFT BLANK

Page 4 of 5

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

Signed in the presence of: HAWKHAVEN, LLC, DBA LAZY liability company By: _____ Signature of Witness (SEAL) Print Name of Witness Signature of Witness

Print Name of Witness

ATTEST:

SHARON R. BOCK CLERK & COMPTROLLER

By:

Deputy Clerk

LEGAL SUFFICIENCY

By:__

CONDITIONS

Department Director

G:\PREM\PM\In Lease\Parks - Carlin Park Concession 2013\1st Amendment\First Amendment.hf app 7-6-2016.docx

Page 5 of 5

CONCESSIONAIRE:

LOGGERHEAD CAFE, a Florida limited

By:

COUNTY:

Mary Lou Berger, Mayor

APPROVED AS TO TERMS AND

PALM BEACH COUNTY, a political

subdivision of the State of Florida

APPROVED AS TO FORM AND

Chief Assistant County Attorney

By:__

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

FIRST AMENDMENT TO CONCESSIONAIRE SERVICE AGREEMENT

______, 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.

Page 1 of 5

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: 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

Page 2 of 5

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 upon completion of the Concessionaire keeps and maintains public records upon completion of 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

Page 3 of 5

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 <u>RECORDSREQUEST(@pbcgov.org</u>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.

REMAINDER OF PAGE INTENTIONALLY LEFT BLANK

Page 4 of 5

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

Signed in the presence of:

Witness łW

Print Name of Witness

Sig lature of itness

tw Will Print Name of Witness

CONCESSIONAIRE:

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

By: Signature

Jennifer Alsa (Print Name and Title)

(SEAL)

Thit mame of writies

ATTEST:

SHARON R. BOCK CLERK &COMPTROLLER

By:_

Deputy Clerk

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

By:

COUNTY:

Mary Lou Berger, Mayor

APPROVED AS TO TERMS AND CONDITIONS

LEGAL SUFFICIENCY By:

APPROVED AS TO FORM AND

Chief Assistant County Attorney

: TRH AAMy WOUF

Department Director

G:\PREM\PM\In Lease\Parks - Carlin Park Concession 2013\1st Amendment\First Amendment.hf app 7-6-2016.docx

Page 5 of 5

Attachment 4 Budget Availability Statement (1 page) .

BUDGET AVAILABILITY STATEMENT

REQUEST DATE: 06/23/16	REQUESTED BY:	Della M. Lowe Property Speci		PHONE: 233 FAX: 233	-0239 -0210
PROJECT TITLE: Carlin Park (Option 1 of		aven dba Lazy Log	ggerhead Cafe	PROJECT NO).: 2016-5.010
Fiscal Years	2016	2017	2018	2019	2020
Capital Expenditures Operating Costs External Revenues Program Income (County) In-Kind Match (County)	(\$6,455.68)	 (\$77,597.28) 	 (\$72,432.80) 		
NET FISCAL IMPACT	<u>(\$6,455.68)</u>	<u>(\$77,597.28)</u>	<u>(\$72,432.80)</u>	<u>\$-0-</u>	<u>\$-0-</u>
# ADDITIONAL FTE POSITIONS (Cumulative					
** By signing this BAS your dep BAS by FD&O. Unless there is	•			v .	× •
BUDGET ACCOUNT NUMB	ER				
FUND: 0001 DEPT: 580	UNIT: 5405 (OBJ: SUI	3 OBJ:	_RSRC: 4	729-03
IS ITEM INCLUDED IN CU	RRENT BUDGET:	YES X N	00		
IDENTIFY FUNDING SOUR	CE FOR EACH AC	COUNT: (check	<i>all</i> that apply)		
 Ad Valorem (source/type: Non-Ad Valorem (source/type) Grant (source/type:	irce/type:	ng Budget))) eral/Davis Bacc	on
SUBJECT TO IG FEE?	YES	□ N	0		
Department: Parks & Recrea	tion Department				
BAS APPROVED BY:	h			DATE:	29/16
ENCUMBRANCE NUMBER:					

G:\PREM\PM\In Lease\Parks - Carlin Park Concession 2013\Option 1 of 3\BAS.06.23.16.doc

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

1. Affiant is the <u>Managing Member</u> (position - i.e. president, partner, trustee) of <u>Hawchoven UC. 2/b/a (arg Lagoer</u> (frame 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.	Pox	1928	-		
m		North	Palm	Beach	FL	alanto yankanyi payaa kasa dhaday	eponda and a first star
		•		334	20		

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.

Print Affiant Name. Jennifer Wilson

The foregoing instrument was sworn to, subscribed and acknowledged before me this \mathscr{S}
day of July, 2013, by Jennier Blelan
[] who is personally known to me or [] who has produced <u>7</u>
Afruices freeze as identification and who did take an oath.
Shar Ci. 3 ke
SHAWN A. BOBO SHAWN A. BOBO Commission # EE 138750 Commission # EE 138750
NOTARY PUBLIC

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

G:\PREM\PM\In Lease\Parks - Carlin Park Concession 2013\Disclosure.doc

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).



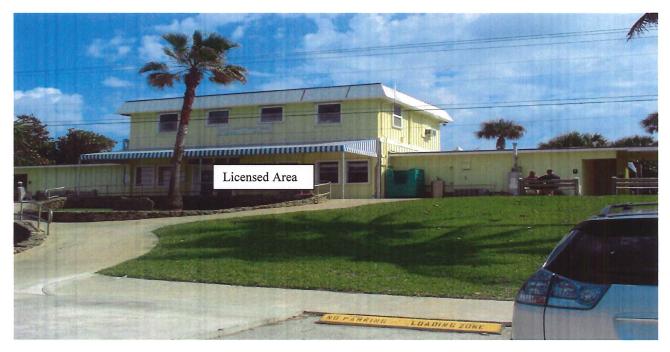


EXHIBIT "B"

SCHEDULE TO BENEFICIAL INTERESTS

Concessionaire is only required to identify five percent (5%) or greater beneficial interest holders. If none, so state. Concessionaire must identify individual interest holders. If, by way of example, Concessionaire is wholly or partially owned by another entity, such as a corporation, Concessionaire must identify such other entity, its address and percentage interest, as well as such information for the individual interest holders of such other entity.

NAME	ADDRESS	PERCENTAGE		
		OF INTEREST		
Jennifer Wilson	1PG Box 14928 N. Palm Beach, 1	E-33408 SO%.		
Brian (Wilson	PO Box 14928 N. Palm Beach, 1 PO Box 14928, N. Palm Beach, F	J. 33408 55%		
a Branden estado e sur contra de la Canada de Canada				
		1		
		and an		
		na an a		
ann an				
and and a second stand and a second				
an a				
<u> San an a</u>		an a far an		

Page 3 of 3