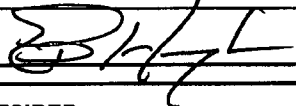


MANATEE COUNTY GOVERNMENT AGENDA MEMORANDUM

SUBJECT	Manatee Beach Concession	TYPE AGENDA ITEM	Regular
DATE REQUESTED	May 11, 2010	DATE SUBMITTED/REVISED	May 4, 2010
BRIEFINGS? Who?	Briefings have been provided	CONSEQUENCES IF DEFERRED	Current agreement expires July
DEPARTMENT/DIVISION	Financial Management, Purchasing Division	AUTHORIZED BY TITLE	Jim Seuffert, Financial Management Director
CONTACT PERSON TELEPHONE/EXTENSION	Melissa Assha (3014), Robert Eschenfelder (3750)	PRESENTER/TITLE TELEPHONE/EXTENSION	Various staff will assist in presenting
ADMINISTRATIVE APPROVAL			

ACTION DESIRED
INDICATE WHETHER 1) REPORT; 2) DISCUSSION; 3) FORM OF MOTION; OR 4) OTHER ACTION REQUIRED

Motion to adopt Concession License Agreement with United Park Services, Inc. and authorize County Administrator or designee to execute same

ENABLING/REGULATING AUTHORITY
Federal/State law(s), administrative ruling(s), Manatee County Comp Plan/Land Development Code, ordinances, resolutions, policy

Manatee County Code § 2-24-11 (authority to grant concessions in parks) **APPROVED IN OPEN SESSION**

BACKGROUND/DISCUSSION MAY 11 2010

HISTORICAL OVERVIEW OF CURRENT MANATEE BEACH CONCESSION **BOARD OF COUNTY COMMISSIONERS
MANATEE COUNTY, FLORIDA**

The Manatee Beach concession facility is a 10,686 sq. ft. facility owned by Manatee County. In 2004, the County spent \$1,100,738 to significantly renovate the facility. Pursuant to the County's Parks Code, the County Commission may grant concession agreements to private companies to operate concessions in parklands such as Manatee Beach.

On June 2, 1992, the County Commission approved a concession agreement with P.S. Beach & Assoc., Inc. (PSB), to operate a concession at Manatee Beach. In addition to the payment of a monthly fee, PSB agreed to undertake certain capital improvements for the facility, and maintain a \$50,000 performance CD to guarantee the work would be done. From the first year of the operation of the concession, payment problems and compliance issues arose:

- June 23, 1992 letter from County regarding unauthorized electrical work done without permit from Holmes Beach
- February 2, 1993 PSB requests rent reduction
- April 20, 1993 PSB requests County reimburse it for electrical work performed without authorization
- February 2, 1994 PSB sends letter to Commission asking the County to make various capital improvements. A majority of the items on the list are items PSB was supposed to perform per PSB's capital improvements duties under the agreement. Records confirm PSB never did make all agreed capital improvements, which either the County ultimately paid for, or declined to require be done.
- February 23, 1994 at request of PSB, County installs 40 palm trees around concession
- June 1, 1994 County sends letter reminding PSB of capital improvements it was obligated to make which had not been made. PSB responded on June 8, asking the County to excuse or modify pending capital improvement commitments, and also asking the County to return the \$50,000 performance bond. In spite of the uncompleted capital improvement obligations, the County agreed to return \$25,000 of the performance bond.
- September 28, 1994 the County agrees to reimburse PSB for capital improvements done, though some of the work was originally required to be paid for by PSB per the agreement. Staff only requests PSB provide cancelled checks showing contractors had been paid for the work.
- October 3, 1994 PSB responds that it cannot provide the requested documents, and then asks the County to pay for additional unauthorized work which the County had not pre-authorized.
- March 6, 1995 PSB requests the County to waive two months past due rent and penalties, and again asks for payment of unauthorized work.
- During this same time frame, PSB had requested a three year extension to its concession. Administration rejected the request due to compliance and late payment and past due issues.
- August 9, 1995 PSB sends "progress report" to the County Commission reviewing how much it had paid to the County and requesting that the County make capital improvements, many of which had been dropped from their promised capital improvement commitment list the year before. The letter also asks the County to support its application to Holmes Beach for a beer & wine permit.

- August 31, 1995 PSB asks to reduce operating hours for patrons due to "lack of business". The County agreed to recommend the request, if PSB would consider a simpler menu not requiring full kitchen staff during afternoon hours. On September 12, PSB rejects this request.
- September 18, 1995 PSB requests the County "forgive" its rent payment for the month.
- October 10, 1995 PSB sent letter to the County Commission again requesting County pay for and install various capital improvements. The County Attorney's Office advised via memo that the items were the contractual duty of PSB to install.
- January 1, 1996 PSB sends County post-dated check for December fee, and requests "forgiveness" for January payment. The County responded it could not legally "forgive" funds due, but offered a payment schedule.
- March 3, 1996 PSB letter indicating it is unable to pay March payment and requesting forgiveness of two months' rent. The administration responded by providing historical revenue data indicating PSB revenues were: \$1,278,290 (93/94), \$1,535,142 (94/95), and \$1,223,734 (95/96).
- May 29, 1996 staff provides Administrator with memo reviewing PSB's forgiveness requests and assertions of operating losses. However, PSB was unable to provide the County with validated expense records to confirm alleged operating losses. On July 19, 1996, the County sent PSB a letter offering an extended payment plan to allow it to catch up on fees past due, or allow the County to audit its books.
- October 1, 1996 County Attorney's Office was required to issue a warning letter to PSB concerning allowing a time share operator to distribute flyers on visitors' cars on a daily basis. The next day County staff issued a warning letter to PSB that it was not permitted to sub-contract rental business without County approval.
- October 31, 1996 County informed PSB the County Commission had forgiven two months' rent and related late fees. A follow up letter two weeks later advised PSB that the Commission requested assurances that PSB would have all past due payments up to date by the end of the contract term, and that it would not be able to forgive the then overdue amount of \$24,288.
- June 3, 1997 letter from staff informing PSB of overdue late payments.
- August 18, 1997 staff advises PSB that it again is consistently late in making required payments.
- September 9, 1997 PSB requests a 9 year contract extension. In this same letter, PSB asks the Commission to "defer" payments due for August, September and October with no interest or penalties, with PSB instead paying an extra \$300 per months until it catches up.
- December 30, 1997 PSB sends letter saying it cannot make its December payment.
- February 5, 1998 County Attorney's Office issues memo confirming PSB is in breach and substantial default.
- In the summer of 1998, the County Commission renews the PSB concession for an additional 3 year term, with an added \$300 per months payment to allow it to bring current past due amounts.
- July 1998, PSB failed to pay July payment, but did pay \$300.
- October 20, 1998 the County Commission approved a decrease in the monthly fee by over \$6,000 per month, a payment plan for past due fees in the amount of \$68,531. The action waived other fees totaling \$78,372.
- October 29, 1998 PSB paid a settlement fine to settle State Health Department fines for numerous uncorrected violation notices resulting from initial and follow up inspections from February 10, 1997 through October 19, 1998.
- In June of 1999, the County issued an RFP for the Manatee Beach concession. On October 26, 1999, the Board executed a new agreement with PSB.
- March 30, 2002 the Florida Department of Revenue placed a \$20,656 lien against PSB. It was not satisfied until May 13, 2002.
- November 4, 2003 the Commission approved R 03-282 allowing PSB to subcontract the food concession to an entity called Café on the Beach, LLC (COB). While the County did not request a copy of the sublease at the time, it subsequently determined that PSB would receive payments totaling \$650,000, none of which the County would be entitled to. The County also determined from accounting records that while PSB had characterized the transaction as a sub-lease to COB, it was represented in accounting records as "sale of business." Of note, while PSB had consistently claimed it lost money with its Manatee Beach food concession, since selling its interest in the concession to COB, healthy profits have been consistently shown in financial reports.
- On June 22, 2004, the County "renewed" a concession agreement with PSB for 5 years for a total yearly fee of \$193,000. The agreement required the County to pay for substantial capital improvements to the facility. Of note, to the extent PSB had at this point already "sold" its business to COB, it likely did not have the operational capacity to perform the terms of this concession. However, it appears no party questioned the exact relationships between the parties.
- August 3, 2004 the Commission approves a construction contract for \$1,100,738 for the capital improvements, which were completed in March of 2005.
- On March 1, 2005, at the request of PSB and no objection from the then County Administrator, the Commission approved a waiver of the required certified financial statements and CPA review for years 2004 and 2005.
- June 21, 2005 the Commission approves a delay in the required fee increase until November, and waived \$31,150 in fees due.
- On March 28, 2008, PSB requested early renewal of the agreement in light of pending bridge work. Staff responded that per its agreement, renewal could not be requested earlier than May 31, 2009.
- The most recent agreement was extended by the County with a final expiration date of July 19, 2010.

THE COUNTY SEEKS NEW PROPOSALS

Given the often difficult history the County has had in obtaining contract compliance, the history of financial inability of PSB to comply with payment obligations and the desire to examine whether other vendors might be able to bring greater corporate strength and fresh energy for the future, the County Commission authorized issuing an RFP on June 23, 2009 for the Manatee Beach concession.

The RFP issued sought the following minimum qualifications for proposers:

- Three (3) years of proven experience in operating a "public food service establishment" as defined in Florida Statute §509.013
- Disclosure of any acquisitions or mergers proposed to meet minimum experience requirement.
- No history of loss of license
- No history of closures or suspensions due to health reasons
- No history of failure to pay all taxes due

In addition, the RFP required the following information to be submitted:

- Disclosure of any Sub-Leasing a portion of the facility to a third party
- The office location of the business entity
- A narrative explaining the direct economic benefit to Manatee County to be realized
- A detailed phased explanation of the steps proposed to accomplish the tasks from the start of the work
- References, of business entity's concession services experience
- Contracts proposer has obtained within the past five (5) years, indicating the type of services provided and the locations.
- Authorize a Manatee County auditor to access financial records at the primary location of the business entity.
- A detailed Quality Assurance statement to demonstrate the level of quality that is proposed will meet or exceed current quality standards in terms of food and beverage, customer service, cleanliness, safety and atmosphere.
- Manning level statement for this site and proposed service

To address local community concerns, the RFP also asked proposers to explain how they would address existing services or special events popular with local residents such as all you can eat promotions, musical performances and the like would be provided. It also asked providers to explain how the "proposal will maintain the facility's "feel" as traditional, non-chain franchise, and beach-oriented in character" and to provide "a statement of customer service commitment with demonstration of your business entities experience in successfully implementing an effective customer service program." It also asked proposers to explain how they would generate community involvement by "creating added-value and benefits to the surrounding community and to park visitors." To address the environment, the RFP required environmental sustainability be addressed, asking proposers to detail "what services, products, methods or actions that you propose to use in the operation of the concession that will maximize the ecology friendly or "green" impact of your business entity when operating the concessions." And of course, as it is a goal to have patrons patronize the facility, proposers were asked to elaborate on marketing and advertising plans.

The RFP also asked for core business information including proposed operational aspects such as:

- An Hours of Operation Plan describing the standard hours of operation plus expected seasonal variances.
- A list of equipment to be provided by your firm.
- The time required from the date of execution of the agreement to the commencement of service at the facility. Specifically describe the amount of time required to prepare the facility after the current licensee has removed all of their property from the premises. Include potential less than full service options which may be used to facilitate a transfer of Licensees.
- Assumptions regarding the budgetary projections on the volume of sales to be generated.
 - 1) Food and beverage (excluding alcoholic beverages)
 - 2) Vending machines
 - 3) Sundry items and auxiliary services including any rental items which must be detailed in the operational plan such as: Beach chairs, umbrellas, beach bikes, portable food, beverage or sundry vending carts and kayaks.
 - 4) Souvenirs (include price ranges and general descriptions)
 - 5) Alcoholic beverages (specify beer, wine, etc.)
- A Five Year Projected Budget with projected sales, revenue to Manatee County, expenses, and net income.
- Capital improvements or renovations to the facilities.
- A price schedule for a representative sample of the products and services proposed.
- Provide a statement of your pricing policy to provide visitors to the park with quality products at reasonable prices considering the competition of comparable markets for similar products and services.
- Projected sales by product type (sundries, food non-alcoholic beverages, alcoholic beverages, rentals, etc) and assumptions used in the formulation of the budget. This information should represent the application of sound business principles which provide for continuity of operations, unanticipated expenses, steady cash flow and financial responsibility.
- State the amount due monthly as the base payment to Manatee County.
- State the percentage of total gross sales of alcoholic beverages to be paid to Manatee County in addition to the monthly payment
- State the percentage of total gross sales up to \$1,000,000 per annum that is to be paid to Manatee County in addition to the monthly payment.
- State the percentage of total sales over \$1,000,000 per year that is to be paid to Manatee County in addition to the monthly payment.

Proposers were informed that the concession would be for the operation of a food and gift shop concession at Manatee Beach, located at 4000 Gulf Drive, Holmes Beach, Florida, and that proposers' operations would be subject to and governed by "a combination of legislative enactments and departments, to include: Laws of Florida, Florida Department of Business and Professional Regulation Division of Hotels and Restaurants, Florida Department of Environmental Protection, Manatee County Code Chapter 2-24, plus any applicable laws of the City of Holmes Beach."

Proposers were informed that if successful they would be required to:

- Operate the concession to the benefit of the general public beginning on or around July 20, 2010.
- Provide continuation of traditional food items or services as identified by the County (pancakes & sausage).
- Perform all work with a minimum use of sub-contractors.
- Operate the concession a minimum of seven (7) days per week, 365 days per year with the exception of weather events or other emergency conditions as defined by the County.
- Be licensed to operate a food concession.
- Prepare all food on site or provide detailed planning to maintain service if the subcontractor cannot timely provide the food.
- Obtain prior written approval from County's Contract Manager to provide amplified or non-amplified music in accordance with any and all applicable City or County ordinances.
- Conduct a daily cleanup of concession, including all adjacent dining areas; dispose of trash, cardboard and recyclables; disposing of trash, cardboard and recyclables from concession operations into the County supplied dumpsters and bins.
- Select and train personnel, who shall at all times, conduct themselves in a professional and courteous manner.
- Maintain the concession in good repair and in accordance with all applicable local, state and federal requirements.
- Confirm the willingness and ability to obtain and maintain any insurance required by the ultimate agreement.
- Conduct operations so that the impacts to the environment are mitigated as much as possible while also being in compliance with all regulations and ordinances in relation to sea turtles and nesting shore birds.

Per applicable purchasing procedures, the RFP was advertised in the local papers, notices sent via the Chamber of Commerce, and the document was posted on our Manatee County website for download at no cost and on the national website DemandStar.com. The RFP was issued on December 17, 2009. Purchasing staff directly provided copies of the proposal to 18 Manatee County companies likely to have the ability and desire to submit:

PS Beach Associates, Inc., Bradenton, FL
 Café on the Beach, LLC, Holmes Beach, FL
 Chiles Restaurant Group, Anna Maria, FL
 Banana Cabana, Anna Maria, FL
 Blue Parrot Catering, Bradenton, FL
 DA Giorgio Ristorante, Holmes Beach, FL
 Lakewood Ranch Golf & Country Club, Bradenton, FL
 Ma's Catering, Bradenton, FL
 Midtown Café, Palmetto, FL
 Noreen's Deli, Bradenton, FL
 Orange Blossom Catering, Bradenton, FL
 Premiere Catering, Bradenton, FL
 River Club Restaurant, Bradenton, FL
 Riverhouse @ Regatta Pointe, Palmetto, FL
 Smitty's Catering, Bradenton, FL
 The Riverhouse Reef & Grill, Palmetto, FL
 Volume Services, Bradenton, FL
 Wild Monkey Gourmet, Inc., Bradenton, FL

In addition to these firms, eleven firms defined as local under the County Purchasing Code were also directly provided copies:

Alexandra of Clearwater Beach, Clearwater, FL
 Bo Jos Concessions, Gibsonton, FL
 Cabana Man, Indian Rocks Beach, FL
 Catering by Lundy's, St Petersburg, FL
 Sunset/Sunrise Concessions, Nokomis, FL
 Dogs & Suds, Largo, FL
 I Scream Ice Cream, St. Petersburg, FL
 Personal Touch, St. Petersburg, FL
 Sharon's Fast Food Restaurant, St Petersburg, FL
 SKC Foods, Sarasota, FL
 United Park Services, Tampa, FL

Proposals were received from following four (4) firms:

Blue Wave – a division of Sunset/Sunrise Concessions, Nokomis, Florida
 Café on the Beach, LLC, Holmes Beach, Florida
 Dogology, Inc. (Loggerheads LLC), Bradenton, Florida
 United Park Services, Inc., Tampa, Florida

It should be noted that **P.S. Beach Associates**, Inc. (Lorna Dee Shaefer, President), **did not submit a proposal.**

Proposals were opened on January 29, 2010. Again, per standard County procedure for the RFP process, an evaluation panel was created to examine the proposals and provide recommended rankings and negotiation recommendations to the Administrator. The committee, which in this evaluation stage was a "sunshine" committee which allowed for the press or other interested persons to attend, was comprised of:

Cindy Turner, Director of Parks and Recreation: Over twenty five (25) years experience in the Parks and Recreation profession. Twenty three years with Manatee County Parks and Recreation with the last nine serving as the Department Director responsible for 43 parks, 2.6 miles of beaches, 2 golf courses, and all recreation programs. Developed and implemented "Preserve our Beautiful Beaches Task Force" comprised of Island elected

officials, law enforcement, the Scenic Highway Committee and County staff. Responsible for the beautification and crime reduction at Coquina Beach. Received two awards for these efforts. Served on the prior RFP Selection Committee in 1998. Bachelors Degree with honors.

Elliott Falcione. Executive Manager, Manatee County Convention and Visitors Bureau, Mr. Falcione has extensive experience in facilities operations, food service/vending, and tourism-related fields and has worked with the County's CVB and at the County's Civic Center for years.

Melissa Assha. Contract and Buyer Manager, Purchasing Division, Financial Management Department. Melissa has over twenty-two years of negotiating and contracting experience and over twenty-two years of procurement experience with more than ten of those focused in the area of public/government procurement.

The committee's meeting schedule and activities were as follows:

March 2, 2010: Overview of all proposals received. Committee consensus is to have all four proposers present their offer to gain clarification of their offers. The committee decided to jointly prepare a list of questions for the proposers in order to gain additional details on items contained within the proposal. All proposers were asked the same questions and were required to respond in writing by March 18, 2010.

March 23, 2010: Presentations and follow up discussions were conducted with each of the proposers. Thirty minutes was allotted for the presentation and an additional thirty minutes was set aside for questions and discussion.

April 7, 2010: The selection Committee determined the ranking as summarized in the findings of the selection committee as stated in the email to the County Administrator and on the Source Selection posting. Those findings were that in consideration of the presentations by all proposers and investigation of the proposals, the Committee unanimously concluded that it is in the best interest of the County to enter into negotiations with the top ranked firm, United Park Services, Inc. (UPS) of Tampa, Florida. The committee's final summary notes on the top proposers were:

United Park Services, Inc.: The top ranked firm, proposed the highest compensation plan to the County including profit sharing in tiers and thoughtful ideas for capital investment. Their capital investment offer includes aspects such as significant revisions to the exterior and interior to provide a fresh, pleasing upgrade in appearance of the building, development of an ice cream and coffee café and renovations in the existing retail area. United's beach front concession experience includes Fort DeSoto Park in St Petersburg, Florida. United provided exceptional responses in all areas: food and beverage quality, operational vision, beach oriented essence, customer service programs, community involvement and participation, environmental consideration, and marketing/advertising strategies. United affirmed their strong commitment to the success of a Manatee Beach concession through a commitment to relocating the residence of their key operator's to Manatee County. Lastly, United demonstrated tested and sound measures will be initiated to assure proper accounting and provide a system of checks of balances.

Café on the Beach, LLC: Ranked second. The roles of the incumbent operator, PS Beach & Associates led by Dee Percifield and Gene Schaefer, shifted to only the operation of the gift shop as proposed subcontractors. The current subcontractors, Tommy Vayias and John Menihtas of Café on the Beach submitted as the principal operators of the concession. The proposed compensation offer was less than the top ranked firm and had no profit sharing during the term of the agreement. Overall, this proposal lacked creativity and vision; particularly it contains limited Capital Investment, relying on minor cosmetic changes. The Selection Committee recognized the past efforts of these partners to run the Manatee Beach concessions and that it maintains a stable local customer base. This proposal did not demonstrate efforts to stimulate our local economy by encouraging new patrons to visit our beaches who in turn could consume other services offered by local businesses, shop at our stores, book stays at our local hotels and more.

Dogology, Inc. (Loggerhead's, LLC): Third ranked. Firm shows enthusiasm and vision; however, the Selection Committee perceived that this firm lacked the experience that the Committee felt was important and necessary to achieve these proposed goals and provision of services concurrently with sustaining their business. This was evidenced in that some elements of their proposal were unclear in terms of how they planned to carry out activities that directly impacted proposed revenues. Loggerhead's did present a well thought out marketing plan and offered a competitive compensation package, but overall did not represent themselves as having the business experience to achieve what was proposed.

Blue Wave, (a division of Sunset/Sunrise): This fourth ranked firm represented themselves as a very capable concessionaire that is dependable, reliable and able to handle a busy beach concession. The proposal was not as detailed as some of the proposers on the Capital Investment side and lagged behind on the compensation plan in comparison to other proposals.

Again, as per standard County procurement policy and procedure, the Committee's recommendations were submitted to the County Administrator. On April 9, 2010, the Administrator concurred with the committee's evaluation and recommendation, and instructed the Purchasing Division to open negotiations toward a contract with the top ranked firm, UPS. Contract negotiations were conducted by the Purchasing Division, with operational input from Facilities Management and Parks Departments, under the overall authority of the Administrator, throughout April. During this process, the County staff and UPS heard input and concerns from island residents and officials concerning the desire not to create drastic change to a much-loved venue. In particular, many concerns were raised regarding rentals which the County's RFP had asked proposers to address, including kayaks and bicycles. The negotiations took these concerns into consideration when arriving at a final contract. In sum, these rental items were removed from consideration.

The final agreement negotiated with UPS includes the following terms and conditions of note:

- Guaranteed base annual payment to County: **\$342,000** (current operators COB proposed \$326,400 with no added profit-sharing) (PSB currently pays flat annual amount of \$216,000). The guaranteed amount alone allows the County to **offset the ad valorem burden to taxpayers by \$126,000** per year.
- In addition to the base rate, UPS has agreed to pay **4% of gross sales** over \$2.5 million each year.
- Capital improvement investment totaling **\$308,000**, with \$108,000 to be made within the first year (COB offered \$250,000 for a 20-year contract). All such improvements are subject to County's review for proper construction, and proper "look and feel" for community.
- UPS will maintain "all you can eat" pancake specials that the local community has grown to love.
- UPS agrees to provide local preference in purchasing goods and hiring employees first to the City of Holmes Beach then to Manatee County businesses and residents. In this regard, the management team selected to operate the concession for UPS will become County residents upon award of the agreement.
- UPS agrees to maintain the 25 feet around the facility.

- UPS agrees to abide by all state and local laws, including all municipal and County ordinances.
- Payments will be made electronically, reducing staff work to process payments.
- UPS will be subject to more strict cash handling, record keeping and audit provisions than the current provider is.
- Unlike current operations, UPS will be required to submit monthly accounting reports signed by a corporate officer certifying accuracy.
- At its own expense UPS must submit annual audits performed by a licensed CPA.
- The County's auditors are granted broad authority to audit concession books at any time, and relevant records must be maintained in Manatee County.
- UPS shall be subjected to an annual performance review by the Administration.
- Will perform area and fixture maintenance, trash removal, and repairs to systems other than main building structure.
- Dedicated recycle receptacles
- Will work with County and School District to develop educational programs for children on beach environment and ecology.
- Current provider uses Styrofoam products. UPS agrees not to do so, and to only sell products which are environmentally friendly, using biodegradable materials where available. UPS will not sell beverages with straws or plastic lids, so as to reduce litter and harmful environmental impacts.
- On site management team will be required to have no other duties at other facilities, and must engage in local community interaction and outreach, including establishing relationships with the island chamber, police department, local elected officials, neighboring businesses and community and civic groups.
- Any musical entertainment shall be family friendly, and will be subject to all applicable Holmes Beach codes.
- Service of beer/wine is subject to all State and local laws, and UPS will ensure all staff engaged in serving are fully trained to State standards including awareness of excessive consumption and how to properly respond.
- UPS will not be permitted to rent out the facility to any person or group in a "closed to the public" manner absent express prior approval of the County.
- UPS is strictly prohibited from selling, assigning, or otherwise transferring the agreement or its rights thereunder without express County approval after full disclosure of any relevant facts the County requires.
- The agreement is for an initial 5 year term, with the option of renewals.

The Administration believes the agreement it has negotiated with UPS is demonstrably more beneficial to the County, and its taxpaying residents, and that UPS clearly has the strongest capacity, resources, and experience to successfully perform under the proposed concession agreement.

RESPONSES TO COMMUNITY AND PRESS CONCERNS

The nature of the RFP process, where proposers are asked by the County to address operational issues which may not even make it into the final contract, appears to have resulted in unfortunate public concern and at times not accurate news reports concerning what the agreement would provide. For instance, in several April articles or editorial comments, news outlets reported that the facility was going to be converted to look like Key West, that motor scooters would be rented, and that a Tiki Bar would be built outside. These assertions probably stemmed from the press attending the committee review meetings, where ideas of what might be done were still being discussed. Recall that the County asked the proposers to address such matters in the RFP, which by intent was broadly worded to allow different ideas and proposals to be suggested. To that end, COB had also proposed a Tiki Bar in its proposal. In any event, the final agreement does not provide for such items in deference to the local character and desires of residents and city officials.

As to the style of design related to the capital improvements, some residents expressed a fear that a change in concession operations would create "Disneyland West" and ruin property values. Hopefully, a review of the actual proposed agreement will allay such fears. The use of the phrase Key West in the RFP documents was not intended as a literal imposition of that style. The idea is that any revisions to appearance be consistent with the small island community look and feel. To this end, as noted earlier, no work will be done until the County approves of the proposed look, and UPS has indicated its intent to create a group of local stakeholders to help judge a mural it will commission to be done by a local artist.

A significant amount of commentary centered on the potential of rentals of scooters, kayaks and the like, and that use of such items would be a violation of city codes. While, as noted, the final agreement has removed those items from availability, staff wishes to make clear that the agreement requires UPS to abide by all municipal codes as to all of its activities. However, it should be noted that Holmes Beach's Superintendent of Public Works confirmed to the County in writing on April 29 that the Holmes Beach city code didn't address rentals. Rather, he clarified that the City's resistance to wheeled devices being rented was the Police Chief's concern for safety. While staff recalls that several Commissioners have advocated for more permission to use such devices on County park trails, and thus would likely be in favor of them here, staff and UPS removed them from consideration once the Police Chief stated his concerns.

Many media comments focused on the erroneous contention that the County was not getting the best financial deal (not correct as reviewed above), and that "it ain't broke" and so doesn't need to be "fixed." Of course, there will always be a lack of uniform position when any long-standing system, tradition or facility is examined for possible change. Change can cause much concern, and of course if not done well, may indeed not work. However, in this case, there are two key points to make. First, as hopefully made clear in this report, the County's staff has gone to great lengths to carefully evaluate and select the most qualified provider. It has identified various areas, both in terms of operations and the facility itself that in all honesty really do need improvement. But more fundamentally, this concession already has undergone a change in concessionaire in 2004 when COB acquired the concession from Dee Schaefer and PSB. This transition in operators was virtually unnoticed by local residents and patrons. The County staff is dedicated to ensuring the transition to operation by UPS is just as seamless and sensitive to the community.

CONCLUSION

The Administration believes that it has complied with the Commission's instruction to identify the best proposal for the operation of the Manatee Beach concession, and that it has negotiated an agreement which is in the best interests of all of Manatee County. The agreement has been fully reviewed by the County Attorney's Office per RLS 10-119, and the Administration recommends adoption of the motion.

COUNTY ATTORNEY REVIEW	
Check appropriate box	
<input checked="" type="checkbox"/>	REVIEWED Written Comments: <input checked="" type="checkbox"/> Attached/Included <input type="checkbox"/> Available from Attorney (Attorney's initials:)
<input type="checkbox"/>	NOT REVIEWED (No apparent legal issues.)
<input type="checkbox"/>	NOT REVIEWED (Utilizes exact form or procedure previously approved by CAO.)
<input type="checkbox"/>	OTHER:

ATTACHMENTS: (List in order as attached)		INSTRUCTIONS TO BOARD RECORDS: <i>MA 5/13/10</i>	
CAO memo re RLS 10-119, concession agreement,		Executed PDF of agreement to Cindy Turner, Charlie Bishop and Dan Wolfson	
COST:	n/a	SOURCE (ACCT # & NAME):	n/a
COMMENTS:	n/a	AMT./FREQ. OF RECURRING COSTS: (ATTACH FISCAL IMPACT STATEMENT)	n/a

original to UPS via R. Cuthbert



Office of
**MANATEE COUNTY
ATTORNEY**

Tedd N. Williams, Jr., County Attorney

James A. Minix, Chief Deputy County Attorney
Maureen S. Sikora, Deputy County Attorney*
Robert M. Eschenfelder, Deputy County Attorney
Rodney C. Wade, Deputy County Attorney*
William E. Clague, Deputy County Attorney
James R. Cooney, Deputy County Attorney
Sarah A. Schenk, Deputy County Attorney*

MEMORANDUM

TO: Rob Cuthbert—Purchasing Official

FROM: Robert Michael Eschenfelder—Deputy County Attorney *RM Eschenfelder*

THROUGH: Tedd N. Williams—County Attorney *TNW 4/30/10*

DATE: 30 April 2010

RE: Manatee Beach Concession Agreement (RLS 10-119) (CAO File: 1026-263)

In RLS 10-119, you requested the County Attorney's Office work with your staff and Parks staff to develop a concession agreement for the concession at Manatee Beach.

Pursuant to this request, I have worked extensively over the past few weeks with relevant staff to develop the attached agreement, which incorporated all of the business terms negotiated between the administration and the provider. As usual, we offer no opinion on business terms not raising legal issues. Otherwise, the agreement addresses all relevant legal issues and concerns for an agreement of this type, and it is otherwise in sufficient form to be presented to the County Commission for consideration.

I trust this response addresses your request for service. If I may be of further assistance, please feel free to contact me.

c: Ed Hunzeker—County Administrator
Deputy County Administrators
Cindy Turner—Parks & Recreation Director
Charlie Bishop—Property Management Director

* Board Certified City, County & Local Government Law

FRANCHISE LICENSE AGREEMENT

between

MANATEE COUNTY

and

UNITED PARK SERVICES, INC.

for

CONCESSIONS AT COUNTY FACILITIES AT MANATEE BEACH

This is a Franchise License Agreement by and between MANATEE COUNTY, a political subdivision of the State of Florida, hereinafter referred to as "COUNTY," and UNITED PARK SERVICES, INC., whose address is 1320 8th Avenue, Suite 5, Tampa, Florida 33605, hereinafter referred to as "LICENSEE."

WHEREAS, the COUNTY has concession facilities at Manatee Beach, 4000 Gulf Drive, Holmes Beach, Florida as shown in the attached Exhibit "A" (Site Plan); and

WHEREAS, the COUNTY solicited competitive proposals for operation of concession services pursuant to Manatee County Request for Proposal No. 10-3347MA (hereinafter RFP), and has successfully negotiated this Agreement with LICENSEE, the successful proposer; and

WHEREAS, the LICENSEE possesses the financial, legal, technical and experiential resources to enable it to fully perform the obligations contained herein; and

WHEREAS, Manatee County Code § 2-24-11 authorizes the County Commission to grant this concession license agreement.

NOW, THEREFORE, in consideration of the mutual covenants, provisions, terms, promises, and conditions contained herein, the parties agree as follows:

ARTICLE I

PURPOSE/GRANT OF LICENSE

To enhance and promote Manatee County as a unique community, and provide for the comfort in and enjoyment of the use of Manatee Beach Park by its patrons, the COUNTY hereby grants unto the LICENSEE the right and privilege to provide the County with Exclusive Concession Services in accordance with the terms, conditions and limitations of this Agreement.

It is intended that LICENSEE create an inviting impression at the Manatee Beach Concession facility through the implementation of cosmetic façade improvements on and in the existing building and adjacent areas that will provide visual upgrades and promote a tropical, coastal community feel.

This Agreement and the rights and privileges granted to LICENSEE hereunder for the sale of food and beverages and retail items and rental of specified equipment are exclusive except as follows:

- 1) The COUNTY'S periodic authorization, via Special Event Permit, of the use of the Park use or allowing the use of the Park by others, for the purpose of holding and conducting special events including the vending of food and beverages which may be in direct or indirect competition with the LICENSEE'S right to vend food and beverages as provided under this Agreement.
- 2) The right of COUNTY, upon a determination that it is in the public interest, to establish additional locations for the sale of food and/or beverage or other retail items by obtaining additional vendors or use of its own employees.
- 3) Except as specifically provided for herein with respect to the LICENSEE'S use and operation of the Facilities in the Park under this Agreement, the COUNTY shall at all times continue to retain and have the unqualified right to make any and all determinations concerning or relating to the Park, including but not limited to, establishing operating procedures, safety standards and/or fees or fines.

ARTICLE 2

COMPENSATION

As compensation to the COUNTY, the LICENSEE shall pay COUNTY three hundred forty-two thousand dollars (\$342,000.00) in annual monthly base payments of twenty-eight thousand five hundred dollars (\$28,500.00) inclusive of sales tax and any license fees due on alcohol, as of the fifteenth (15th) business day of the following month (the Due Date), with the interest accruing after 10 calendar days. The first month of the initial term of the contract and the last month will be prorated accordingly.

The LICENSEE shall make a monthly percentage payment to the COUNTY of four percent (4%) of the total gross of all sales less sales tax over two million five hundred thousand dollars and no cents (\$2,500,000.00) per annum. Payment shall be paid by the fifteenth (15th) business day the following month (due date), with interest accruing after ten (10) calendar days.

In addition to applicable sales tax, the LICENSEE shall be solely responsible for any ad valorem, rental or similar taxes levied upon the LICENSEE's equipment or activities arising from this Agreement. LICENSEE shall pay all such taxes directly to the entity or agency assessing the taxes, unless COUNTY is required by law to collect and remit such taxes. LICENSEE shall provide COUNTY with documentation evidencing the payment of any and all taxes paid directly to the entity or agency collecting the taxes.

In the event LICENSEE fails to pay COUNTY any of the fees or charges due under the provisions of this Agreement, interest at one and one half percent (1 ½ %) per month shall accrue against each delinquent payment until same is paid. Interest shall be charged from the date payment is due. Neither the inclusion of this provision, nor its implementation, shall preclude the COUNTY from terminating this Agreement for default or from pursuing any other remedies as provided herein or by law. The COUNTY'S acceptance of late payment of any fees or charges shall not constitute a waiver of COUNTY'S right to terminate this Agreement in the event of any subsequent default by LICENSEE in the payment of any fees or charges on the date the same shall be due and payable.

ARTICLE 3

PAYMENT

LICENSEE shall remit monthly payments, fees and charges in the form of an Automatic Clearinghouse (ACH) remittance to the bank account of the Board of County Commissioners of Manatee County, Florida, on or before the due dates specified in Article 2, Compensation. Notification of the total ACH wire amount, the underlying compensation amounts which comprise it, the ACH confirmation number and the settlement date must be provided by the LICENSEE to the COUNTY by e-mail or fax to the Director of Parks and Recreation or designee specified in Article 14, Notices. The bank account number and ACH remittance instructions will be separately provided by the Finance Division of the Clerk of the Court, after this Agreement has been executed.

ARTICLE 4

CASH HANDLING REQUIREMENTS

LICENSEE shall provide, operate and maintain equipment such as cash registers, or any other electronic or mechanical device used for recording sales. Daily register tapes or electronic transaction detail records shall be dated and number referenced and kept as a permanent record for a period of at least five (5) years. The proper functioning and maintenance of the cash register is the responsibility of the LICENSEE. In the event of a need for repair of a cash register machine, such repair shall be required to occur within a forty eight hour period to assure accountability and proper recordkeeping.

All cash registers and devices used in recording sales to customers shall have a non-resettable grand total that accumulates each transaction entered into the device. All transactions devices shall be visibly displayed so that the amount can be viewed by customers from a reasonable distance. No register or device in which cash sales are recorded and deposited may be opened without recording the date and the time of said opening. Cash register or device drawers must be kept closed at all times except when sales are made, change is made, or routine audits are conducted.

Cash registers must have sufficient keys for proper segregation of transactions and meet all accepted standards of accounting systems and cash control.

All persons handling sales shall promptly record said sales (cash or credit) in cash registers and other electronic or mechanical devices immediately upon sale to each paying customer and shall not delay or "gang" register or record such sales.

ARTICLE 5

REPORTS, RECORDS, AUDIT

LICENSEE shall provide a monthly financial accounting report and gross receipts applicable to the quarter for which payment is being made along with the payment that is being made in accordance with the established due date. This report shall be signed by an officer of the LICENSEE certifying to the accuracy of the report and gross receipts.

LICENSEE shall, at its own expense, submit annually to the COUNTY a report in a form approved by COUNTY and prepared in accordance with auditing standards adopted by the American Institute of Certified Public Accountants and attested to by an independent Certified Public Accountant licensed by the state of Florida, as to the correctness of quarterly reports and subsequent gross receipts per month arising from the LICENSEE'S operations under this Agreement.

LICENSEE shall provide an Annual Profit and Loss Statement, including a balance sheet and an income statement to the COUNTY for each calendar year or portion thereof that this Agreement is in effect. The report shall be submitted by January 31st of each calendar year during the term and within ninety (90) calendar days of the termination of this Agreement.

LICENSEE shall maintain during the term of this Agreement, all books of account, reports, and records customarily used in this type of operation and such records as are necessary to document LICENSEE'S activities pursuant to this Agreement and all monies collected by LICENSEE in its operations under this Agreement, not limited to gross receipts. The form of all such records, cash registers, tapes, books, ledgers, journals, sales slips, and invoices, installed or to be used for recording the operations of the LICENSEE under this Agreement shall be subject to the written approval of the COUNTY prior to commencement of operations. The COUNTY reserves the right to reasonably modify reports and records requirements to be provided by LICENSEE.

The term "gross receipts" as used in this Agreement means all monies paid or payable to or considerations of determinable value received by the LICENSEE for sales made, transactions had, or for services rendered from all sources in the operation of the concession under this Agreement regardless of when or where the order is received or the goods delivered or services rendered, whether paid or unpaid, whether for cash or on a credit basis or in consideration of any other thing of value; provided, however, that any sales taxes imposed by law directly payable by the LICENSEE to a taxing authority and sales refunds may be excluded therefrom.

The LICENSEE shall allow the COUNTY or the COUNTY'S auditors to inspect and examine all documents used in the compilation of the aforesaid reports at such reasonable times as may be required by the COUNTY. Records shall be available Monday through Friday between the hours of 9:00 a.m. and 5:00 p.m. at a location within Manatee County.

All records, including tax returns and tax reports, of the LICENSEE necessary to verify any report referred to herein shall be available to the COUNTY and the COUNTY'S auditors at a reasonable location in Manatee County for a period of five years after the end of the Agreement including any extensions thereof.

LICENSEE shall cooperate with and provide the COUNTY, or its duly authorized representative, with any additional information or reports concerning its activities, income, revenues, expenses, and disbursements on request. The LICENSEE shall keep and maintain an accurate accounting system in accordance with Generally Accepted Accounting Principles.

The LICENSEE'S performance shall be reviewed at least annually by the COUNTY at which time a Vendor Performance Report will be completed. Any operational or compliance deficiencies shall be noted in the Report and promptly remedied by LICENSEE. During this annual review period, LICENSEE and COUNTY shall discuss any operational, policy or service modifications one or both Parties identify as desirable to enhance the benefit and value of the concession to the public. However, no such modification may be implemented by LICENSEE without prior COUNTY approval as required by Chapter 2-24 of the Manatee County Code.

ARTICLE 6

TERM AND RENEWAL

The initial term of this Agreement is five (5) years beginning at 12:01 a.m. on the 20th day of July, 2010 (herein the "effective date"), and ending at 11:59 p.m. on the 19th day of July, 2015, unless this term is earlier terminated as herein provided.

Provided there has been no default under this Agreement by LICENSEE prior to the expiration of the initial term, LICENSEE may, by written notice to the COUNTY at least 120 days before the end of the initial term, request renewal for a second five-year term. Unless the COUNTY exercises its right not to renew, the Agreement shall renew automatically.

Provided that there has been no default of this Agreement by LICENSEE, and COUNTY has not given LICENSEE notice of intent to terminate, then, at the end of the second five-year term, LICENSEE may, by written notice to the COUNTY at least 120 days before the end of the second five-year term, request renewal of this Agreement, which again shall result in automatic five year renewal unless the COUNTY exercises its right to decline to renew.

As part of any renewal for a second or third term, either Party may request adjustment of the base fee. However, any such adjustment shall be limited to a 3% change, and must be justified by actual revenue experience during the preceding term which substantially deviates from initial revenue projections. Except for any such adjustment agreed to by the Parties, all other terms and conditions applicable to the initial term shall be applicable to any additional term(s).

Should LICENSEE fail to provide notice 120 days prior to the end of the first or second five-year term as required above, COUNTY shall make written demand upon LICENSEE and LICENSEE shall within 7 days thereafter advise COUNTY of LICENSEE'S desire to renew this Agreement. If LICENSEE should fail to respond within such 7-day period, LICENSEE'S right to any additional term as provided for above shall be forfeited.

ARTICLE 7

THE FACILITIES: EQUIPMENT, MAINTENANCE AND ADDITIONAL IMPROVEMENTS

As used herein, the Facilities are those buildings at Manatee Beach depicted in Exhibit "B" attached hereto and made a part hereof, including the public showers and restrooms.

LICENSEE represents that within a three week due diligence period after the effective date, it had inspected the Facilities and the fixtures and equipment indicated in Exhibit "C", and confirms it is fully familiar with the condition of the Facilities, fixtures and equipment therein and accepts the physical facilities "as is" for the purposes of performing under this Agreement.

Except for the fixtures or equipment listed in Exhibit "C", LICENSEE shall provide all equipment to be used at the Facilities needed to perform under this Agreement. LICENSEE shall bear the cost of all charges and expenses related to any and all improvements in the equipment and fixtures as shall be necessary for the LICENSEE'S performance of this Agreement.

So long as this Agreement shall be in effect, LICENSEE shall, except as otherwise provided herein, maintain the Facilities in good order and repair and shall keep the Facilities in a clean and functioning condition at all times, free of all trash, litter and debris. This obligation includes, but is not limited to:

- a. The maintenance and upkeep of the patio, walkways and the areas adjacent to the Facilities measuring a distance of not less than twenty five (25) feet from the perimeter of the Facilities.
- b. Provide adequate County supplied paper stock in the restrooms as needed.
- c. Contracting and arranging for the removal of all garbage, to include the furnishing of at least one 2-1/2 cu. yd. dumpster and providing for regular emptying of same.
- d. Providing trash and recyclables collection receptacles around the perimeter of the building and transferring trash generated by the service's operations to the dumpsters on an as needed basis. Dumpster enclosure doors must be kept closed. Trash receptacles located in areas exposed to the public must be kept clean and stain free and not permitted to overfill.
- e. Maintain surrounding walkways and eating areas.
- f. Maintaining and replacing as needed all internal fixtures, such as ceilings, walls, decorations, furnishings, lighting and floor coverings and any showcases, racks, other display and sales facilities, including concession identification and signage.
- g. Providing and maintaining snack/beverage vending machines, and stocking same, as may reasonably be required by COUNTY in the Park.
- h. Electric utility service to the Facilities.
- i. All plumbing and electrical repair, maintenance, or upgrades pertaining to food and beverage storage and preparation, including, but not limited to, kitchen sinks, dishwashers or disposals, as well as grease trap maintenance and service including pumpdown and cleaning.
- j. Providing and maintaining adequate fire protection and inspections, as required, including kitchen hood systems, sprinkler systems and fire extinguishers, in compliance with all applicable fire, restaurant, or building code requirements.
- k. Providing and maintaining all food and beverage storage and preparation equipment, including but not limited to, stoves, dishwashers, refrigerators, ice machines and sinks.

- l. All interior and exterior maintenance and repair of the Facilities, including but not limited to: replacement of all light bulbs and fixtures, all doors, door closers, locks, windows, floors and floor coverings, vent fans, inspection of fire extinguishers, exhaust fans, all tables and chairs, but excluding maintenance and repair of structural systems such as roof or foundation and air conditioning systems.
- m. External maintenance including landscaping and walkways.
- n. Routine monthly pest control for the Facilities.
- o. Ensure compliance with Florida law concerning smoking in places of public accommodation.
- p. Ensure compliance with Americans with Disabilities Act requirements concerning places of public accommodation.
- q. Ensure all staff act professionally, are clean, well groomed, uniformed and trained in effective customer service. Uniforms must be apparel that is acceptable to the COUNTY.
- r. The monthly replacement of filters in all air conditioning units.
- s. Allow annual termite warranty inspections.
- t. Cleaning and draining of the septic system as needed.
- u. Maintenance of plumbing fixtures in food preparation areas and areas provided for janitorial and cleaning services.
- v. Annual inspections of the hot water system.

The COUNTY shall provide and/or maintain the following:

- a. Monthly water and sewage collection service.
- b. The repair of all public restrooms and showers at the Facilities.
- c. All structural repairs not caused by the negligent or intentional acts of LICENSEE. County's obligation to provide structural repairs is limited to the repair of the existing foundation, walls and roof and the existing portions of the electrical, plumbing and mechanical system within such foundation, walls and roof.

The COUNTY reserves the right to approve all equipment, furnishings, signage, and advertising installed, removed, or replaced by LICENSEE at the Facilities.

All new equipment, furnishings, repairs and improvements provided by LICENSEE shall meet and comply with the requirements of all applicable building, fire, restaurant, pollution, and other applicable codes.

All maintenance, service, and inspections shall be completed by qualified personnel and in compliance with manufacturer guidelines, and state and local laws, if applicable.

LESSEE will maintain records of all maintenance and inspections completed. These records will be made available to the COUNTY upon request.

ARTICLE 8

CAPITAL IMPROVEMENTS BY LICENSEE

The capital improvements and repairs identified in order of the priorities outlined in Exhibit "D" shall be completed by LICENSEE within the timeframes set forth therein.

The capital improvements referred to above which address the physical appearance of the interior and exterior of the Facility shall be made so as to substantially resemble the artistic design renderings of those areas which have been approved by COUNTY.

The LICENSEE shall be solely responsible for ensuring the safety of its staff and customers during the periods in which improvements are occurring.

The LICENSEE shall be solely responsible for insuring, maintaining, repairing, and replacing LICENSEE's improvements during the entire term of the Agreement and any extensions thereof.

LICENSEE shall obtain the prior written approval of the COUNTY for any proposed capital improvements, all of which shall become County owned assets upon termination of the Agreement. All improvements and all new equipment shall meet federal, state, county and local laws. The LICENSEE is responsible for applying for all and paying all costs of any required permits. The LICENSEE shall submit sealed architectural plans for all construction or renovation projects which include details on any affected plumbing, electrical, mechanical or other required utility system, including floor plan and material specifications for COUNTY approval prior to beginning any construction or alterations. All projects shall be required to provide specifics such as timelines, critical paths, methods of construction, approval of plans, amenities, signage, color schemes, advertising, total cost, amortization period for the improvements and other information deemed relevant by the County. The LICENSEE shall pay for all charges for labor, services and materials used in connection with any improvements or repairs to the facility undertaken by the LICENSEE.

All such additions, improvements and fixtures except movable equipment and inventory shall become the property of the COUNTY upon completion and remain in and/or upon the facility and be

surrendered upon termination of the Agreement. Any construction liens against the facility, Contractor's license, or the land and buildings arising out of work performed by or for the LICENSEE are expressly prohibited. In the event of the filing of any claim of lien, LICENSEE shall promptly satisfy same or transfer it to a bond and LICENSEE shall in any event protect the COUNTY's interest in underlying real estate and shall hold COUNTY harmless against any such claims.

The LICENSEE shall not allow activities in the facilities which are prohibited by federal, state or local laws, rules, regulations or ordinances.

Notwithstanding any other provision of this Agreement, COUNTY reserves the right to take such action as may be required to maintain, repair, enhance and improve the Facilities where LICENSEE fails to do so. Any work required as the result of LICENSEE'S failure to comply with LICENSEE'S obligations under this Agreement shall be charged to LICENSEE provided COUNTY has advised LICENSEE in writing of the failure to comply and provided a reasonable time for cure. Any charges assessed against LICENSEE shall be due with LICENSEE'S next due monthly payment. Any work by COUNTY, or COUNTY'S agents shall not be undertaken without a minimum of fifteen (15) days advance notice to LICENSEE and shall be scheduled and provided in a manner that will not substantially interfere with LICENSEE'S use or enjoyment of the Facilities unless such work is required on an emergency basis to preserve the Facilities from imminent harm or correct an unsafe condition endangering the Public.

ARTICLE 9

LICENSEE'S PRODUCTS, OPERATIONS AND SERVICES

The LICENSEE shall offer for sale or use, the food, beverages and other products or services identified on Exhibit "E". Any significant revisions to these categories are subject to pre-approval by the COUNTY.

LICENSEE shall provide the COUNTY with a list of any changes in the products or service and the maximum price that will be charged for each product or service as LICENSEE'S products and prices are from time to time amended. LICENSEE acknowledges that the COUNTY shall be entitled to set price ceilings on sale items deemed core to the Facility's enjoyment by the Public. Such designations shall be made by the County Administrator or designee from time to time. With respect to such "price control" items, LICENSEE shall, during all hours of operation, maintain sufficient stock to provide and offer for sale at least one product of the nature and type shown for a charge not to exceed the amount established, unless LICENSEE can show good cause for such an increase, and a higher charge is approved by the COUNTY.

LICENSEE shall not sell any products in foam containers or cups, shall not provide disposable beverage straws or lids, and shall not sell products that, in the opinion of the COUNTY, pose a safety hazard or health hazard or are inappropriate for sale or display in a publicly owned park. LICENSEE shall utilize biodegradable products where available. LICENSEE shall promote the sale and use of reusable beverage souvenir cups (to be designed with COUNTY input).

The LICENSEE'S performance under this Agreement shall be in conformance with all rules, regulations, laws and ordinances which may be applicable to LICENSEE's operations.

HOURS OF OPERATIONS. The Manatee County Beach Concession shall be open to the public and in operation during Park Open Hours, seven (7) days a week. As provided for in § 2-24-10 of the County Code, the COUNTY may approve closing during periods of severe cold, hurricane warnings or due to other extraordinary circumstances. LICENSEE shall not change the normal hours of operation without the written consent of COUNTY.

The LICENSEE shall have on site a full-time qualified, experienced Manager for its operations at the Facilities. LICENSEE'S Manager will have no other off site duties or responsibilities and will be physically available during reasonable operating hours. Upon COUNTY'S request, the qualifications of LICENSEE'S Manager shall be submitted to the COUNTY. During the hours when the Manager is not on duty or available, there shall be an Assistant Manager on duty designated by the LICENSEE. The Manager and Assistant Manager shall each be an authorized representative of the LICENSEE and be entitled to act in all matters relating to the Services provided hereunder. LICENSEE and its hired Management shall, in addition to their onsite duties, engage in community outreach including establishing relationships with local elected officials, local law and code enforcement staff, the beach business community, and local residents, so as to ensure open lines of communications with these stakeholders, and to improve the concessions status as "good neighbor" in the community. The COUNTY shall be advised in writing of the names and contact information of the Manager(s) and Assistant Manager(s) prior to contract commencement and shall be promptly notified of any changes in Management.

The LICENSEE shall provide goods and services that are currently offered at this Park that have become a part of the local tradition. Such services include all-you-can-eat promotions, including but not limited to: pancakes and sausage. LICENSEE agrees to work with COUNTY to develop additional specialty food items to complement and enhance those within the menu.

Where LICENSEE provides musical entertainment, it shall select performers that appeal to the general population, and shall ensure family friendly performers. Any amplified music shall strictly comply with applicable noise codes.

LICENSEE'S employees, agents, representatives, independent contractors, subcontractors, volunteers, or others involved in the maintenance or operation of the Facilities in contact with the public shall perform their duties in a safe, efficient and courteous manner. All of LICENSEE'S employees shall be distinctively uniformed or appropriately attired so as to be distinguishable as the LICENSEE'S employees and distinguished from the COUNTY Parks employees' attire.

LICENSEE shall properly, adequately and securely store any items for rent in a manner that is compliant with all local ordinances.

The LICENSEE shall not conduct any business or activity not specifically authorized by this Agreement, unless approved in writing by the COUNTY. It is expressly understood and agreed that the LICENSEE'S operations shall not unreasonably interfere in any manner with the use

of public areas or infringe upon the rights of others authorized to conduct business near the location of the Park. The LICENSEE agrees that a determination by the COUNTY will be accepted as final in evaluating LICENSEE'S activities that unreasonably infringe on the rights of others and that LICENSEE will fully comply with any such decisions.

LICENSEE agrees that no person on the ground of race, color, religion, national origin, sex, age, or disability shall be excluded from participation in, be denied the benefits of or be otherwise subjected to discrimination in the hiring of personnel, the performance of this Agreement, or the use of and access to the Facilities.

LICENSEE shall be responsible for obtaining all permits, licenses and approvals required for or in connection with and to enable LICENSEE'S performance under this Agreement.

LICENSEE shall permit and the COUNTY shall have the authority to review any reports, citations or records issued by any governmental entity or agency regulating LICENSEE'S operations and services and to make periodic reasonable inspections of the Facilities during normal operating hours to determine if the Facility is being maintained in accordance with the terms of this Agreement. The LICENSEE shall be required to make any improvements or operational changes resulting from such review.

The Facilities are intended for the general use and enjoyment of all residents and visitors. LICENSEE shall therefore not rent out or otherwise allow the Facility to be occupied by or under the control of any third party group or entity, including but not limited to private parties or political rallies, absent express prior approval of the COUNTY.

In recognition of the unique, one time conditions which will or may be present during the transition of concessionaires, including but not limited to timely vacation of the premises by current concessionaire, condition of fixtures and equipment left behind, remodeling disruption, and the attenuated first month of operations, the base payment for the month of July, 2010 shall be at the prorated amount of \$3,800.00, which shall otherwise be payable under the terms and conditions of Article 2.

ARTICLE 10 **SALE OF ALCOHOLIC BEVERAGES**

LICENSEE'S sale of alcoholic beverages is subject to:

- a. Sales shall be conducted in conformity with any controlling municipal or County ordinance and state laws, rules or regulations;
- b. Sales shall be limited to beer, wine and alcoholic beverages as permitted under a 2COP state beverage license and sold for on-premises consumption only;
- c. Prior to commencing any such sales, LICENSEE shall obtain any required licenses, and shall provide a copy of said license and all renewals to COUNTY;

- d. All alcoholic beverages shall be sold in appropriate containers and LICENSEE shall be responsible for the proper disposal of said containers;
- e. LICENSEE's conduct and operation in connection with any such sales is subject to, and shall be conducted by LICENSEE in compliance with all other applicable terms and conditions of the Agreement; and
- f. The County Commission may withdraw authorization to sell alcoholic beverages by providing notice to LICENSEE at least ninety (90) days prior to the effective date of such action. The Parties agree if this right is exercised, LICENSEE is entitled to open negotiations to discuss revision of the base compensation due to COUNTY.
- g. All employees of LICENSEE may not sell or serve alcoholic beverages unless trained and qualified as required by State law or regulation.

ARTICLE 11

LIABILITY FOR DAMAGE, INDEMNITY, AND INSURANCE

LIABILITY FOR DAMAGE OR INJURY. The LICENSEE shall be liable for damage or injury to any party at the Facilities other than the damage or injury caused by negligence or intentional actions of the COUNTY. LICENSEE shall, at its expense, promptly repair all damage to the Facilities caused by the LICENSEE, its employees, agents, customers, or independent contractors contracting with LICENSEE.

INDEMNIFICATION OF COUNTY. LICENSEE shall at all times indemnify, hold harmless and defend COUNTY, its agents, officers and employees from any and all claims, liability, loss or cause of action of any kind or nature arising out of the actions, omissions, or negligence, in whole or in part of the LICENSEE, its officials, agents, or employees, in the performance of this Agreement. The LICENSEE shall pay all valid claims, losses and judgments of any nature whatsoever in connection therewith, and shall defend all suits, in the name of the COUNTY when applicable, and shall pay all costs and judgments which may result therefrom. COUNTY reserves the right to defend itself with its own counsel or retained counsel at LICENSEE's expense, unless COUNTY is found negligent or otherwise responsible for the occasion of the litigation.

DAMAGE OR DESTRUCTION OF FACILITIES. If the Facility or any structure thereon is partially damaged by fire, flood, wind or other casualty, excluding the negligent or intentional acts of LICENSEE or its Agents, COUNTY may repair the damage at its own costs and expense, and no adjustment shall be made in the monthly license fee.

In the event the Facility is destroyed or so damaged by fire, flood, wind or other casualty, excluding the negligent or intentional acts of LICENSEE, that such of the Facilities is unusable for the purpose of this Agreement, neither the LICENSEE nor the COUNTY shall be under

any obligation to repair or reconstruct the Facilities and the Agreement shall terminate on the date that determination is made by the COUNTY.

INSURANCE. Without limiting any obligation or liability of LICENSEE, LICENSEE, prior to the commencement of operations, shall furnish to the COUNTY evidence of the following insurance, which insurance coverages LICENSEE shall maintain and keep in full force and effect during the term of this Agreement.

Comprehensive General Liability Insurance in an amount not less than One Million Dollars (\$1,000,000) per occurrence combined single limit for bodily injury and property damage. Coverage must be afforded on a form filed and approved by the Federal Department of Insurance (FDI) and must include:

- a. Premises and/or Operations.
- b. Independent Contractors. COUNTY is to be included as an "Additional Insured" in the name of "Manatee County Board of County Commissioners", with respect to liability arising out of Facilities' operations performed for COUNTY by or on behalf of LICENSEE or acts of omissions of COUNTY in connection with general supervision of such Facilities' operations.

Business Automobile Liability Insurance covering all owned, non-owned, and hired vehicles used in connection with the Agreement in an amount not less than \$1,000,000 combined single limit for bodily injury and property damage. Coverage must be afforded on a form filed and approved by the Federal Department of Insurance (FDI).

Worker's Compensation Insurance – as required by the Worker's Compensation Law of the State of Florida.

The insurance coverage required shall include those classifications, as listed in standard liability manuals, which most nearly reflect the operations of LICENSEE. All insurance policies required above shall be issued by companies authorized to do business under the laws of the State of Florida with an A.M. Best rating of A or better. Certificates will provide that no modification or change in insurance shall be made without a 30-day written advance notice to the certificate holder (Manatee County) and approval by the COUNTY.

LICENSEE shall provide to COUNTY prior to commencement of this Agreement, Certificates of Insurance evidencing the insurance coverage as specified above. If the initial insurance period expires prior to the completion of the Agreement, renewal Certificates of Insurance shall be furnished 30 days prior to the date of expiration of any insurance coverage. Insurance shall not be canceled without 30 days prior written notice to COUNTY, and must be endorsed to provide the same. Failure of LICENSEE to obtain and maintain proper amounts and types of insurance under this Agreement shall constitute material breach of this Agreement by LICENSEE.

COUNTY reserves the right to modify the insurance requirements by the issuance of a notice in writing to LICENSEE to the extent reasonably deemed necessary to protect COUNTY from loss damage or liability for the acts, errors and omissions of LICENSEE in the use and operations of the Facilities by LICENSEE.

COUNTY shall have no duty or responsibility to insure, replace or protect LICENSEE'S equipment, furnishings or other personal property or improvements provided or paid for by LICENSEE, and all risk of loss and insurance against such risks shall be the sole responsibility of LICENSEE.

Compliance with the foregoing requirements shall not relieve LICENSEE of any liability or obligation under this section or under any other section of this Agreement.

NO WAIVER OF IMMUNITY – Nothing herein shall be interpreted as a waiver of the COUNTY of its rights, including the limitations of the waiver of immunity, as set forth in Florida Statutes 768.28, or any other statute, and the COUNTY expressly reserves these rights to the full extent allowed by law.

PERFORMANCE BOND – The LICENSEE shall furnish a Performance Bond with a surety acceptable to the COUNTY, in an amount of twenty five thousand dollars (\$25,000). This Performance Bond will be conditioned solely upon the LICENSEE'S full and faithful performance of the capital improvements required as outlined in Exhibit "D". The Performance Bond will be submitted to the COUNTY before the LICENSEE'S commencement of operations at the Facilities. The LICENSEE may, in lieu of the Performance Bond, deposit with the COUNTY a cash deposit or irrevocable letter of credit in the amount of twenty five thousand dollars (\$25,000). LICENSEE shall be entitled to a release of the Performance Bond, cash deposit or irrevocable letter of credit, as applicable, once it has performed the first and second year work required as outlined in Exhibit "D".

ARTICLE 12

OWNERSHIP OF RIGHTS, SALE OR ASSIGNMENT

The identity of the person or the entity, if not an individual, who or which shall be the owner or holder of the rights granted under this Agreement is very important to the COUNTY.

LICENSEE shall not, without prior written consent of the COUNTY, sell, assign, pledge, transfer or otherwise encumber this Agreement or the rights granted therein. Assignment, pledging, sale, transferring, or encumbering of any interest in or under this Agreement or the rights thereunder, to anyone other than the LICENSEE, without the prior written consent of the COUNTY, shall be grounds for immediate termination of this Agreement.

All terms and conditions of this Agreement shall extend to and be binding on any approved purchaser, assignee, or other successor in interest.

ARTICLE 13

APPROVALS

Except as provided otherwise, whenever any prior approval is required by either party, such approval shall not be unreasonably withheld. COUNTY shall retain broad discretion over matters pertaining to creating and maintaining the unique local character of the Facilities, the protection and preservation of the Facilities and the Park, the public interest and limited purpose for which this concession has been granted, and withholding approvals for the foregoing reasons shall be considered reasonable. Matters requiring the consent of the COUNTY are wholly within the discretion of the COUNTY.

LICENSEE shall not change or alter the following without the written approval of the COUNTY:

Use of any type of vending machines, inside or outside of the building at the Facilities which have been approved pursuant to Article 7, Subsection g. of this Agreement.

COUNTY Modifications to the Facilities.

Equipment LICENSEE installs or plans to install requiring any building modifications.

Any COUNTY or municipally-installed signs or logos.

Vegetation or beach topography.

ARTICLE 14

NOTICES

Whenever either party desires to give notice to the other, it must be given by written notice, by either hand delivery or registered or certified United States mail, with return receipt requested, addressed as noted below. Until notice of change is given, the parties designate the following as the respective individuals and places for giving notice, to wit:

FOR MANATEE COUNTY:

Parks Director
MANATEE COUNTY GOVERNMENT
PO Box 1000
Bradenton, FL 34206

FOR LICENSEE:

Mr. Alan Kahana, President
UNITED PARK SERVICES, INC.
PO Box 260633
Tampa, FL 33685-0633

With a copy to:
County Administrator
MANATEE COUNTY GOVERNMENT
PO Box 1000
Bradenton, FL 34206

With a copy to:
Kay J. McGucken
Kay J. McGucken, P.A.
1320 9th Avenue, Suite 210
Tampa, FL 33605

FOR ACH remittance information:

Email: cindy.turner@mymanatee.org

Fax: 941.742.5972

ARTICLE 15

TERMINATION

AUTOMATIC TERMINATION. The occurrence of any of the following shall cause this Agreement to be terminated automatically:

Institution of proceedings in voluntary bankruptcy by the LICENSEE.

Institution of proceedings in involuntary bankruptcy against the LICENSEE or appointment of Receiver if such proceedings continue for a period of 90 days.

Assignment by the LICENSEE for the benefit of creditors.

Abandonment or discontinuance of operations hereunder.

Unauthorized sale, assignment or transfer of this Agreement or interest thereunder.

TERMINATION BY COUNTY. COUNTY may terminate this Agreement upon fourteen (14) days written notice to LICENSEE of any condition posing a threat to health or safety of the public or patrons and not remedied by LICENSEE within 14 days, or where LICENSEE does not proceed with due diligence to remedy such condition where the condition could not reasonably be remedied in such time.

COUNTY may terminate this Agreement immediately upon notice to LICENSEE of the discovery of any materially false representation in the LICENSEE'S proposal leading to award of this Agreement which, in the determination of COUNTY, significantly affects the LICENSEE'S qualifications to perform.

COUNTY may terminate this Agreement upon ten (10) days notice to LICENSEE of any sum due hereunder after the due date for such payment; provided, however, that such termination

shall not be effective if LICENSEE makes the required payment(s) within the 10-day period following receipt of the notice.

COUNTY may terminate this Agreement upon thirty (30) days notice to LICENSEE with respect to:

Nonperformance of or failure to comply with any provision of this Agreement and failure of LICENSEE to remedy such nonperformance within the thirty (30) day period following delivery or mailing of the written notice.

The conduct of any activity or the sale of any product or service category not authorized herein.

TERMINATION FOR PUBLIC CONVENIENCE. COUNTY shall have the right to terminate this Agreement for public convenience upon at least 120 days notice to LICENSEE.

TERMINATION BY LICENSEE. LICENSEE shall have the right upon 120 calendar days from receipt of notice to COUNTY to terminate this Agreement at any time after the occurrence of one or more of the following events:

Issuance of any court of competent jurisdiction of any injunction or order of taking substantially restricting the use of the Facilities for the purposes set forth herein, and the remaining in force of said injunction or order for a period of more than 30 calendar days.

The assumption by the United States Government or any authorized agency thereof, or any other governmental agency, of substantial part, or parts, thereof in such a manner as to substantially restrict LICENSEE'S operations for a period of 90 calendar days or more.

TERMINATION WITHOUT CAUSE. LICENSEE shall have the right to terminate this Agreement without cause by providing written notice to COUNTY at least 120 days prior to termination. Should LICENSEE elect to terminate this Agreement without cause, LICENSEE'S rights, privileges and obligations as stated in this Agreement shall cease at the termination date provided in the notice.

ARTICLE 16

ENTIRE AGREEMENT AND AMENDMENTS

This Agreement and the exhibits and attachments hereto, and other documents and agreements specifically incorporated herein, constitute the entire, fully integrated agreement between the parties with respect to the subject matter hereof and supersedes all prior or contemporaneous

verbal or written agreements between the parties with respect thereto, excepting any past or contemporaneous written or verbal agreements expressly and clearly incorporated by reference within the four corners of this Agreement. This Agreement may be amended only by written document, properly authorized, executed, and delivered by both parties hereto. This Agreement shall be interpreted as a whole unit and section headings are for convenience only. Any act or delivery that must be completed on a Saturday, Sunday or County holiday shall be adequate if performed or delivered on the following business day. All interpretations shall be governed by laws of the State of Florida.

ARTICLE 17

MISCELLANEOUS PROVISIONS

No Waiver. The indulgence of either party with regard to any breach or failure to perform any provision of this Agreement shall not be deemed to constitute a waiver of the provision of any portion of this License Agreement, either at the time the breach or failure occurs, or at any time throughout the term of this Agreement.

Subcontracting. The LICENSEE shall not sub-contract, sublet, assign or transfer any duty under this Agreement to another party without the prior written consent of the COUNTY.

Dispute Resolution. Disputes shall be resolved as follows: good faith negotiations by the designated agents of the Parties and if not resolved by such designated agents after twenty-one (21) days, LICENSEE shall submit its claim, with the basis for the dispute, in writing to the Manatee County Purchasing Manager for a determination and handling in accordance with the provisions of the Manatee County Procurement Code.

Force Majeure. Neither Party shall be in default of its obligations hereunder to the extent that performance of such obligations or any of them is delayed or prevented by Force Majeure. Force Majeure shall include, but not be limited to, hostility, revolution, civil commotion, strike, epidemic, fire, flood, wind, earthquake, hurricane, or other disruptive event of nature, act of terrorism, explosion, oil spill reaching Manatee County waters, lack of or failure of transportation or bridge/roadway facilities, any law, proclamation, regulation, ordinance or other act of government, or any act of God or any cause whether of the same or different nature, existing or future; provided that the cause, whether or not enumerated in this Article, is beyond the control and without the fault of the party seeking relief under this Article. In the event that an event covered herein and/or the concession site falls under a declared state or local emergency as provided for by Florida Statutes or the Manatee County Code, the only compensation that shall be paid shall be fifteen (15%) of gross daily sales based on a per day calculation.

Environmental Education Initiatives. LICENSEE shall work with relevant COUNTY staff and/or the Manatee County School District, to develop and/or facilitate pre-existing programs aimed at educating residents and visitors, with particular focus on children, of the unique and valuable beach ecosystem and its plant and animal life. To the extent the COUNTY or School District does not

provide such programming, LICENSEE may utilize third parties qualified to provide such educational experiences. LICENSEE shall promote an "Earth Day Birthday" Clean the Beach program involving local community organizations or schools. LICENSEE shall provide a free on site cook out for the participants.

Local Hiring and Buying Preference. In hiring staff for the operation of this concession, LICENSEE shall actively recruit and hire qualified residents with first preference given to residents of the City of Holmes Beach, then to residents of the COUNTY. In purchasing supplies or services for or related to the operation of this concession, where confirmed costs or prices from a local provider (as defined by Manatee County's Purchasing Code) are within five percent (5%) of a provider who is not local, LICENSEE shall give preference to the local provider. LICENSEE shall include a summary of its efforts and the results of those efforts in its annual reporting to the COUNTY.

Chamber Involvement. LICENSEE will become a member of the local area Chamber of Commerce. LICENSEE will create a frequent customer value card offering discounts to returning locals and visitors alike. LICENSEE will offer complimentary use of the Island Ice Cream and Coffee Café room during non peak hours to local community organizations such as Kiwanis Club, Chamber of Commerce, Rotary Clubs, and City of Holmes Beach.

Environmental Sustainability. LICENSEE shall work with COUNTY staff to develop and implement policies and procedures of concession operations aimed at minimizing the production of solid waste, and the use of energy and water resources. LICENSEE shall ensure all staff are trained in and comply with such policies and procedures. LICENSEE shall include a summary of its efforts and the results of those efforts in its annual reporting to the COUNTY.

Facility Name and Logo. COUNTY reserves the right to approve the name of the facility and any related logo design. Said name and logo design shall be property of the COUNTY.

Governing Law, Jurisdiction and Venue. LICENSEE consents and agrees that all legal proceedings related to the subject matter of this Agreement shall be governed by the laws of and maintained in courts sitting within the State of Florida. LICENSEE further consents and agrees that jurisdiction for such proceedings shall lie exclusively with such court and venue shall be in Manatee County, Florida or if in Federal Court the Middle District of Florida, Tampa Division.

Attorneys Fees and Costs. Each Party hereto shall be solely responsible for paying its attorneys fees and costs in any dispute, litigation, dispute resolution proceeding, settlement negotiation or pre-litigation negotiation arising under this Agreement.

No Conflict. By accepting award of this Agreement, LICENSEE, which shall include its directors, officers and employees, represents that it presently has no interest in and shall acquire no interest in any business or activity which would conflict in any manner with the performance of duties or services required hereunder.

Public Records. By accepting award of this Agreement, LICENSEE acknowledges that the portion of its books and records related to its contracting activities with COUNTY may become subject to inspection and copying under the Florida Public Records Act, and that it will in all respects comply with any requirements of that Act.

Public Entity Crimes. LICENSEE has been made aware of the Florida Public Entity Crimes Act, § 287.133, Florida Statutes, specifically section 2(a), and the COUNTY'S requirement that the LICENSEE comply with it in all respects prior to and during the term of this Agreement.


No Third-Party Beneficiaries. This Agreement is solely for the benefit of the Parties hereto, and no right, privilege, or cause of action shall by reason hereof accrue upon, to, or for the benefit of any third party. Nothing in this Agreement is intended or shall be construed to confer upon or give any person, corporation, partnership, trust, private entity, agency, or other governmental entity any right, privilege, remedy, or claim under or by reason of this Agreement or any provisions or conditions hereof.

Legal References. All references to statutory sections or chapters shall be construed to include subsequent amendments to such provisions, and to refer to the successor provision of any such provision. References to "applicable law" and "general law" shall be construed to include provisions of local, state and federal law, whether established by legislative action, administrative rule or regulation, or judicial decision.

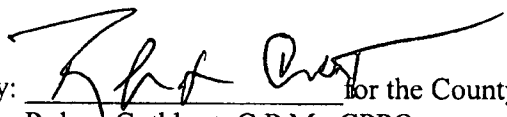
Severability. The provisions of this Agreement are declared by the parties hereto to be severable. In the event any term or provision of this Agreement shall be held invalid by a Court of competent jurisdiction, such invalid term or provision should not affect the validity of any term or provision hereof; and all such terms and provisions hereof shall be enforceable to the fullest extent permitted by law as if such invalid term or provision had never been part of this Agreement; provided, however, if any term or provision of this Agreement is held to be invalid due to the scope or extent here thereof, then, to the extent permitted by law, such term or provision shall be automatically deemed modified in order that it may be enforced to the maximum scope and extent permitted by law.

WHEREFORE, the Parties have made and executed this Agreement for concessions at Manatee Beach as of the effective date stated herein.

UNITED PARK SERVICES, INC.

By: 
Alan Kahana, President

MANATEE COUNTY GOVERNMENT

By: 
for the County
Robert Cuthbert, C.P.M., CPPO
Purchasing Official

EXHIBITS SCHEDULE

Exhibit A - Site Plan


Exhibit B – Floor Plan

Exhibit C – Inventory of Fixtures and Equipment

Exhibit D – Capital Investment/Improvements Plan

Exhibit E – Priced Menu, Categories of Retail or Rental Goods

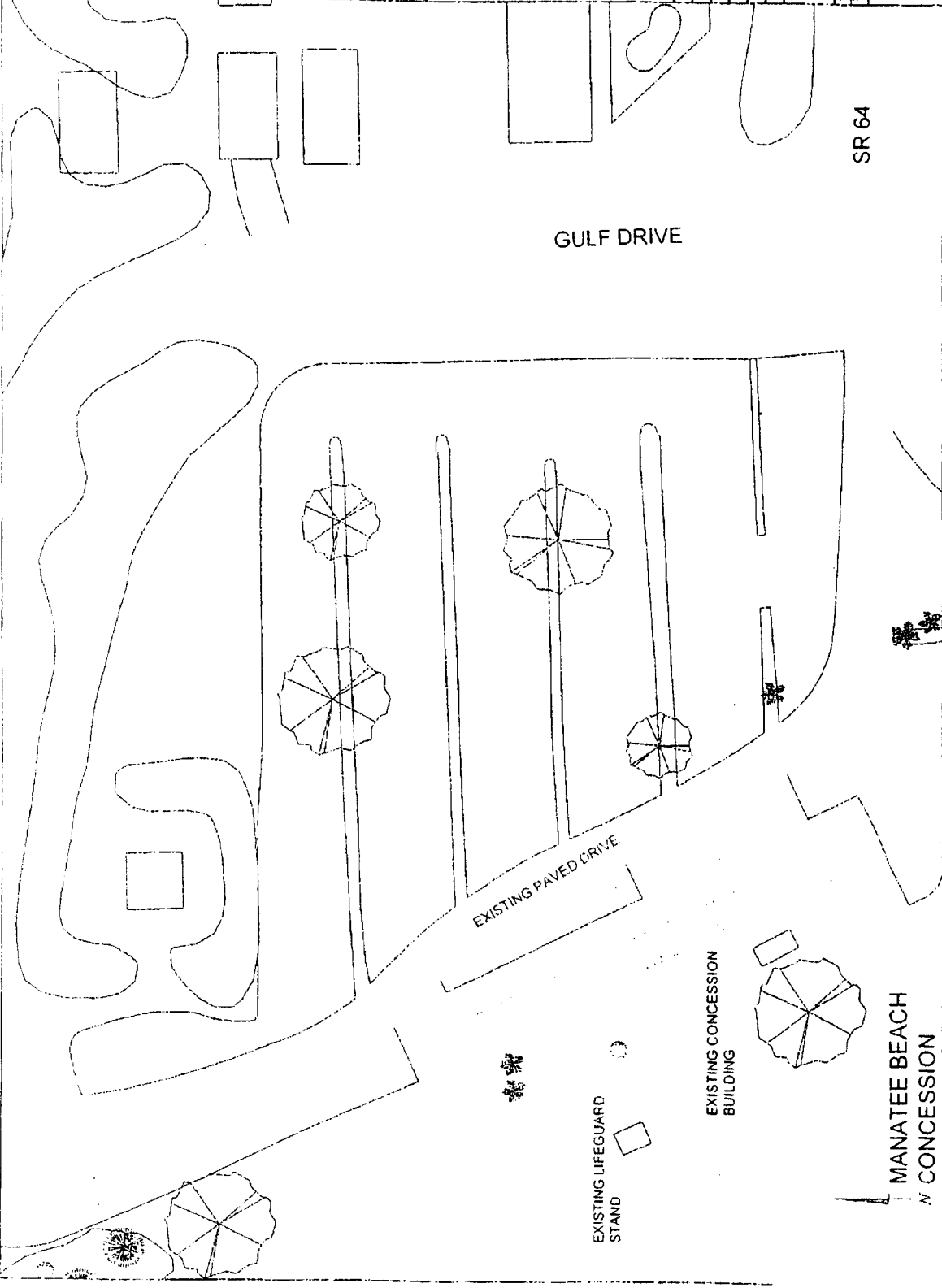
MANATEE COUNTY GOVERNMENT



Project: Manatee Beach
 4900 GULF DRIVE NORTH
 HOLMES BEACH, FLORIDA
 EXISTING SITE PLAN

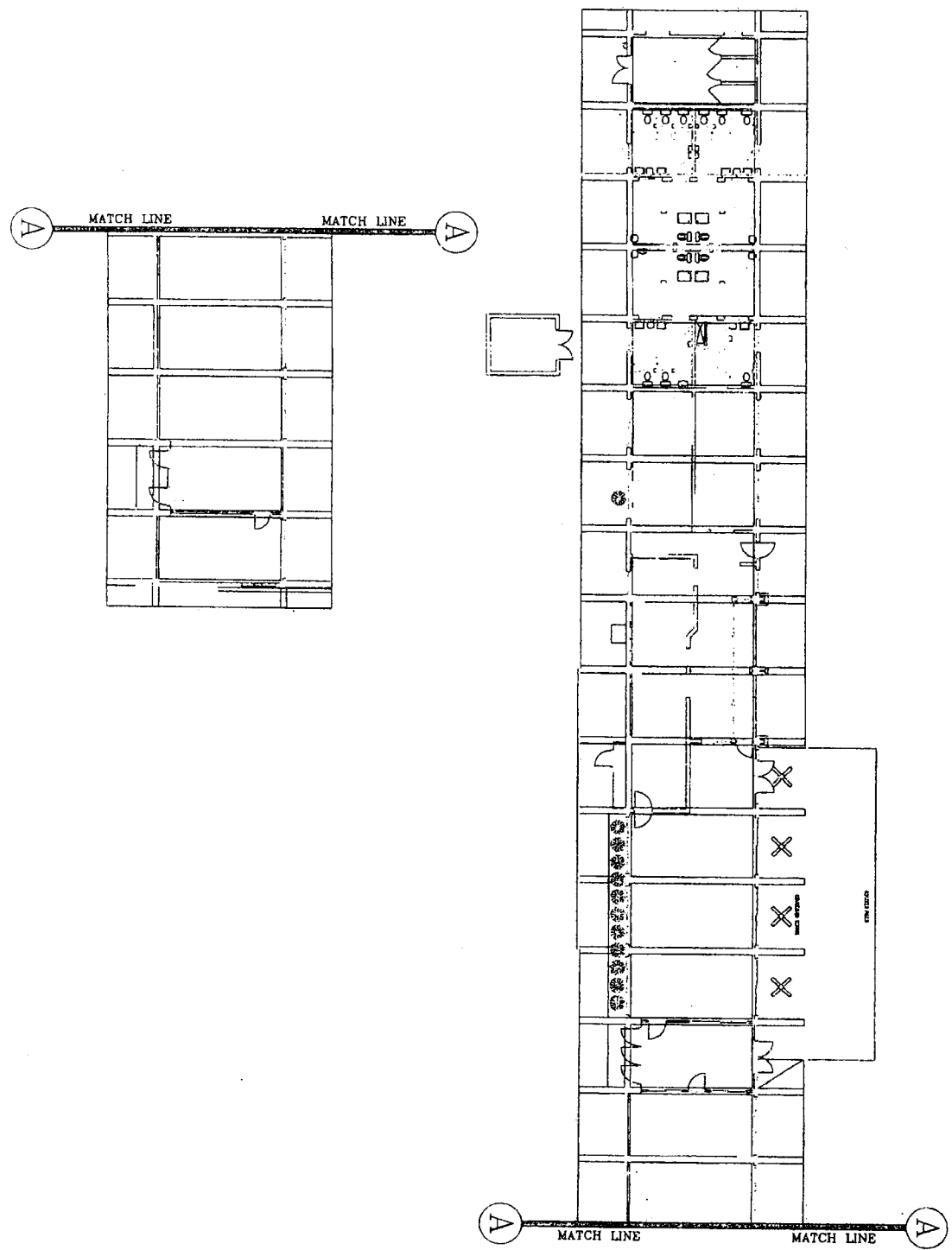
Project Number	11-001-00
Drawn By	11-001-00
Checked By	11-001-00
Date	11-001-00
Scale	1" = 30'-0"
Sheet Number	11-001-00

COVER SHEET





EXISTING CONDITIONS PLAN
SCALE: 1/8" = 1'-0"



Project Number: _____
 Drawn by: _____
 Checked by: _____
 Date: 07-11-05
 Approved by: _____
 Date: 11-01-06

K C BEACH PAVILLION BUILDING
 4000 GULF DRIVE NORTH
 HOLMES BEACH, FLORIDA
 EXISTING STRUCTURE

REV	DATE	REMARKS

Facilities Management
 1100 Manatee Avenue North, Suite 100
 Manatee County, Florida 34688
 (813) 748-3300
 FAX (813) 748-3300



MANATEE COUNTY GOVERNMENT

COVER SHEET

EXHIBIT C

INVENTORY OF FIXTURES AND EQUIPMENT

Stainless steel exhaust hood

Range guard fire suppression system

Wall mounted fire extinguisher

EXHIBIT D

CAPITAL INVESTMENT AND IMPROVEMENTS PLAN

Months 1 – 3

Gift Shop	\$20,000.00
Ice Cream Café	\$10,000.00
Outdoor Furniture Package	\$25,000.00

Months 1 – 6

Signage	\$10,000.00
Front Entrance Improvements (including landscaping and utility relocates)	\$30,000.00

Months 6 - 12

Beverage Station	\$13,000.00
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Subtotal – Months 1 - 12:

\$108,000.00

Months 12 – 24

Bathroom Refurbishment	\$10,000.00
Landscaping (additional)	\$ 5,000.00
Pancake Hut Refurbishment (mo 3 – 24)	\$25,000.00
Improvements to Patio Flooring/Pavers	<u>\$10,000.00</u>

Subtotal – Months 13-24:

\$50,000.00

Months 25-60

In the remaining 36 months of the Agreement, an additional **\$50,000.00 per year** will be expended on capital improvements based on the desires of the community and the Parks and Recreation Department.

SAMPLE MENU - MANATEE BEACH

Menu items:

Pricing:

Breakfast:

All You Can Eat Pancakes and Sausage Special	\$5.99
Add fresh fruit or chocolate chips	\$1.50
Belgian Waffle - Plain	\$5.29
with Strawberry or Blueberry	\$6.29
French Toast w/ powdered sugar	\$5.29
with Strawberry or Blueberry	\$6.29
2 eggs, any style, w/ toast, home fries or grits	\$3.99
2 eggs, any style w/ choice of bacon, sausage, ham or smoked sausage.	
Choice of home fries, grits or fruit	\$5.99
Eggs Benedict w/ choice of home fries, grits or fruit	\$7.50
3 Egg Omelette w/ choice of home fries, grits, or fruit & toast:	
Cheese Omelette	\$5.99
Spinach, Mushroom, & Swiss Omelette	\$6.99
Veggi Omelette w/ onions, tomato, peppers & mushrooms	\$6.99
Denver Omelette w/ diced ham, onions & green peppers	\$6.99
Create Your Own Omelette: Add any ingredient to a Plain Omelette to make it the way you like it! Choose from: ham, cheese, spinach, mushroom, onions, peppers, tomatoes	\$5.49 + \$0.50 per item
Corned Beef Hash w/ 2 eggs any style, home fries & toast	\$7.99
Biscuits & Gravy w/ sausage	\$5.49
Biscuits & Gravy w/ sausage and 2 eggs	\$6.49
<i>Beverages:</i>	
Surf Side Soda or Iced Tea Small	\$1.99
Surf Side Soda or Iced Tea Large	\$2.99
Coffee, Tea, Hot Chocolate, Milk	\$1.80
V-8	\$1.50
Bottled Water	\$1.99
Gatorade	\$2.00
Fresh Squeezed Orange Juice	\$3.00
Fresh Squeezed Island Lemonade	\$2.50 & \$3.79
Fresh Fruit Smoothies	\$4.99
<i>Side Items:</i>	
Bagel	\$1.99
w/ cream cheese	\$.50
Hash	\$3.99
Fresh Fruit Bowl	\$4.29
Bacon or Sausage	\$2.99

EXHIBIT E: Priced Menu, Categories of Rental or Retail Goods

Side Items, cont'd:

Thick Ham Slice	\$2.99
Smoked Sausage	\$2.99
Blueberry or Banana Nut Muffin	\$2.29
English Muffin	\$1.35
Toast(white, wheat or rye)	\$1.25
Grits	\$1.50
Home Fries	\$2.29
Oatmeal	\$2.99
Onion Rings	\$3.79
Cole Slaw	\$1.99
French Fries	\$2.50

Island Salads:

House Salad	\$ 4.99
Caesar Salad	\$ 6.99
Grilled Chicken Caesar	\$ 8.99
Island Chef Salad	\$ 8.99
Grilled Calypso Chicken Salad	\$ 8.99
Greek Salad	\$ 8.99
Greek Salad w/ Chicken	\$10.99
Taco Salad	\$ 8.99
Tuna Salad Platter	\$ 8.99
Chicken Salad Platter	\$ 8.99
Grilled Chicken Spinach Salad	\$ 8.99
Caesar Salad w/ Coconut Chicken	\$10.99
Caesar Salad w/ Coconut Shrimp	\$10.99
Island Catch Salad(grilled, fried or blackened)	\$13.99

Platters Served w/ french fries & cole slaw:

Fish & Chips Platter	\$ 9.99
Clam Strips Platter	\$ 9.99
Conch Fritter Platter	\$10.99
Calamari Platter	\$10.99
Shrimp Platter 8 pieces	\$11.99
Seas Scallop Platter	\$11.99
Seafood Platter	\$13.99
Coconut Chicken Platter	\$11.99
Coconut Shrimp Platter	\$11.99
Seaside Salmon w/ pineapple chutney	\$11.99
Island Catch Platter(grilled, fried or blackened)	\$10.99

Sandwiches, Wraps and Tacos:

Hamburgers	\$ 4.29
Cheeseburgers	\$ 4.99
Bacon Cheeseburgers	\$ 6.29
Hot Dogs	\$ 3.30
w/ Chili or Kraut	\$.50
Chicago Style Hot Dog w/onions, relish, peppers, pickles, tomatoes	\$ 3.99
Corn Dog	\$ 3.50
Island Wrap - mango chutney & lettuce w/choice of fish or chicken	\$ 6.99
Tuna Wrap w/ lettuce & tomato	\$ 6.99
Chicken Wrap w/ lettuce & tomato	\$ 8.99
Grilled Chicken Sandwich	\$ 7.99

EXHIBIT E: Priced Menu, Categories of Rental or Retail Goods

Grilled Cheese	\$ 3.99
Grilled Cheese & Bacon	\$ 6.29
BLT	\$ 5.99
Turkey Club	\$ 6.99
Turkey Sandwich	\$ 6.50
Chicken Salad Sandwich	\$ 5.99
Tuna Salad Sandwich	\$ 5.99
Chicken or Fish Tacos (two)	\$ 6.99
Fish Sandwich	\$ 6.99

Boats:

Chicken Tender w/ fries	\$ 7.99
Philly Cheese w/ fries	\$ 8.99
Clam Strips w/ fries	\$ 7.99
Shrimp Boat w/ fries	\$ 7.99
Fish Boat w/ fries	\$ 7.99

All You Can Eat – Weekly Specials

\$9.95



Kids Meal: Choice of Grilled Chicken Tenders, Grilled Cheese Sandwich, Corn Dog, or Fried Chicken Nuggets and choice of fries or fruit \$ 4.99

BEER & WINE

Domestic Beer: \$2.99

- Budweiser
- Bud Light
- Amberbock
- Michelob Ultra
- Miller
- Miller Lite

Imported Beer: \$3.99

- Guinness
- Bass
- Heineken

Non-Alcoholic Beer:

- Exported - O'Doul's \$2.99

Wine: Chardonnay , Merlot, Pinot Noir, Cabernet, including: \$4.99 - \$7.99

Sample Selection:

- Edna Valley Chardonnay
- Heron Chardonnay
- Bolani Pinot Grigio
- BV Cabernet Sauvignon(Napa)
- Acacia Pinot Noir

* EXHIBIT E: Priced Menu, Categories of Rental or Retail Goods

- o BV Merlot(Napa)
- o Peachy Canyon Incredible Red

Champagne:

- o Napa Chandon Split: \$ 9.99
- o Bottle: \$54.99

Wine Based Frozen Coolers: \$ 5.99

- o Strawberry Daiquiris
- o Pina Coladas
- o Margaritas

Wine based Frozen drinks offered in a Fresh cut Pineapple: \$ 7.99/\$3.99 refills

Virgin Daiquiris: \$ 4.99

- o Virgin Strawberry
- o Virgin Pina Colada

Homemade Sangria: Glass/\$ 5.99 and \$ 15.99/Pitcher

- o Spiced berry
- o Melon
- o Mango
- o Blackberry

Chiladas - Beer cocktail w/ lime juice and melon, or mango or grapefruit syrup

Budweiser Chilada \$3.99 Corona Chillada \$4.99
Tranquil Breeze wine cocktail: \$5.99 Smirnoff's Ice \$3.99

TROPICAL ICE CREAM, YOGURT, SHERBET, AND HAWAIIAN ICE:

- o Pina Colada
- o Mango
- o Coconut
- o Mango Berry
- o Banana
- o Wild Blueberry
- o Passion Fruit
- o Pineapple

EDY'S GRAND HAND DIPPED ICE CREAM

- o One scoop regular cones or cups \$2.99
- o Two scoops regular cones or cups \$4.50
- o One scoop fresh baked waffle cones \$3.75
- o Two scoops fresh baked waffle cones \$5.25
- o Copa Banana Splits \$5.99
- o Milkshakes(hand dipped) \$5.99
- o The Castle: Brownie w/ ice cream \$5.99
- o Root Beer Floats \$5.99
- o Sundaes 1 scoop \$4.99 Two Scoops \$5.99
- o Fresh Fruit Toppings \$1.50
 - o Toppings: Chocolate syrup, hot fudge; strawberry; pineapple; marshmallow; raspberry; cherries, mango; caramel; walnut

EXHIBIT E: Priced Menu, Categories of Rental or Retail Goods

<u>Coffee/Tea Offerings:</u>	Short	Tall
Coffee	\$1.80	\$2.45
Café Au Lait	\$2.45	\$3.15
Red-Eye	\$2.45	\$3.15
Tea	\$1.80	\$2.45
Herbal or Organic Tea	\$1.95	\$2.65

Specialty Coffee:

Espresso	\$1.65	
Extra Shot	\$.50	
Americano or Long	\$1.80	\$2.45
Macchiato	\$2.00	\$2.65
Cappuccino	\$2.75	\$3.45
Latte	\$2.95	\$3.75
Island Café Mocha	\$3.45	\$4.35
Mocha Latte Macchiato	\$3.45	\$4.35
Caramel Latte Macchiato	\$3.45	\$4.35
Vanilla Bean Latte Macchiato	\$3.45	\$4.35
Hot Chocolate	\$1.80	\$2.45
Add any flavoured shot to any drink	\$.50	\$.50
Add Whipped Cream	\$.50	\$.50

DELIGHTS:

Fresh Baked Cookies	\$.99/each
Donuts	\$.99/each
Muffins	\$2.25/each
Key Lime Pie	\$3.99

Prices do not include sales tax

CATEGORIES OF RETAIL/RENTAL GOODS

Beach Towels (\$9.99-\$19.99)

Beach bags(\$3.99 & up)

Sunglasses(7.99 & up)

General sundry items(I.e. sunscreen and lotions, \$5.99-\$12.99)

Clothing, hats(\$7.99 & up); T-shirts(\$7.99 & up)

Swim apparel, shorts, sarongs, sundresses(\$9.99 & up)

General beach themed merchandise & souvenirs (i.e. blown glassware, etc) (3.99 & up)

Boogie boards, floats, goggles, water toys(\$3.99 & up)

Children's books, puzzles, toys(\$3.99 & up)

Souvenir sea shell basket area(1.99 & up)

Books, including those by local authors, Fishing, Shell, and Bird Guides(\$5.99 & up)

Beach shoes, flip flops, etc.(\$6.99 & up)

Fishing items(\$1.99 & up)

Candles(\$5.99 - \$19.99)

Jewelry(\$2.99 & up)

Magnets, key chains(\$1.99 & up)

Framed beach art(\$14.99 & up)

Umbrella Rentals:

Umbrellas \$10.00

Chairs \$ 6.00

Umbrella with 2 chairs \$19.99

Cabanas \$14.99

Cabanas with 2 chairs \$24.99

Prices do not include sales tax