

CONCESSION AGREEMENT

BETWEEN

CITY OF POMPANO BEACH

AND

SANDBAR SNACKS INC.

FOR

BEACH KIOSK CONCESSION

ID No. 1953

THIS CONCESSION AGREEMENT (“Agreement”), entered into _____,
by and between:

CITY OF POMPANO BEACH, a Florida municipal corporation,
with offices located at 100 W. Atlantic Boulevard, Pompano Beach,
Florida 33060 (“City”),

and

SANDBAR SNACKS INC., a Florida corporation, with offices
located at 20 Pompano Beach Blvd., Pompano Beach, FL
33062(“Concessionaire”);

collectively referred to as the “Parties.”

WHEREAS, City desires to operate certain concessions within the Concession Areas described in this Agreement including, but not limited to provide the public with food and beverages, at the City’s Beach Kiosk, located at 20 N Pompano Beach Boulevard, just North of the Great Lawn; and

WHEREAS, City desires to enter into this Agreement with Concessionaire to provide the aforementioned beach kiosk concessions and believes such engagement is in the best interest of the public; and

WHEREAS, Concessionaire desires to enter into this Agreement.

NOW, THEREFORE, in consideration of the conditions, covenants and mutual promises contained in this Agreement, the Parties agree as follows.

**ARTICLE 1
TERM**

1.1 This Agreement shall be for an initial term of three (3) months, commencing on the Effective Date (the "Commencement Date"), ("Initial Term"), unless sooner terminated.

1.2 Provided that Concessionaire is not in default under the Agreement, the Concessionaire shall have the option to renew this Agreement for additional one (1) month terms ("Renewal Term" and collectively with the Initial Term, the "Term"), with City Manager approval and without City Commission approval, exercisable by written notice to the Concessionaire. Concessionaire, may choose to decline the option to renew. The total term of this agreement may not exceed twelve (12) months in total.

1.3 For purposes of this Agreement, the "Term" shall be defined as the Initial Term and any Renewal Term, and an "Agreement year" shall be defined as each one (1) month period during the Term.

**ARTICLE 2
CONCESSION RIGHT AND AREA**

2.1 The City grants to Concessionaire the exclusive right, during the Term, to operate certain concessions, as described in this Agreement, in the Concession Area.

2.3 The Concession Area and Uses are limited to the area identified and described in Exhibit A, attached and incorporated into this Agreement ("Property" or "Concession Area", and "Uses").

The Concessionaire agrees that the Concession Areas, and all facilities, equipment, furnishings, and operations, may be inspected at any time during hours of operation by the City Manager or their authorized designee(s), or by any other municipal, County, State agency or official having responsibilities for inspections of such operations. The Concessionaire waives all claims against the City for compensation for loss or damage sustained by reason of any interference (which interference, if by the City, must be reasonable) with the concession operation by the City, or any public agency or official, in enforcing their duties or any laws or ordinances. Any such interference shall not relieve the Concessionaire from any obligation to perform pursuant to this Agreement.

2.4 To the extent permitted by law and City Code, Concessionaire agrees to comply with Exhibit C, City Policy for Alcohol Sales and Consumption.

**ARTICLE 3
CONCESSION FEES**

3.1 Minimum Guarantee (MG). Concessionaire shall pay a monthly fee of two thousand seven hundred and fifty dollars 00/100 (\$2,750.00). Fees are due after the 10th day of any month, and City reserves the right to assess a one hundred dollars (\$100.00) late payment penalty

per day until such a time as the fee and late payment penalties are paid in full and received by the City.

3.2 Sales and Use Tax. Concessionaire shall pay any applicable sales tax or any applicable tax now or subsequently imposed which might be payable, owed, claimed, assessed or due in connection with this Agreement and will indemnify, defend, and hold the City harmless from and against any claims relating to the payment, imposition or collection of such taxes, including reasonable attorneys' fees incurred by the City.

ARTICLE 4 MAINTENANCE AND EXAMINATION OF RECORDS

Concessionaire shall maintain appropriate, current, accurate, and complete financial records on an accrual basis of accounting related to its operations pursuant to this Agreement. Systems and procedures used to maintain these records shall include a system of internal controls and all accounting records shall be maintained in accordance with generally accepted accounting principles and shall be open to inspection and audit by the City Manager or their designee upon reasonable prior request and during normal business hours. Such records and accounts shall include a breakdown of gross receipts, expenses, and profit and loss statements. Concessionaire shall maintain accurate receipt-printing cash registers or a like alternative in all Concession Areas which will record and show the payment for every sale made or service provided in such Areas. Concessionaire shall also maintain such other records as would be required by an independent CPA in order to perform agreed upon procedures of annual gross receipts and profit and loss statement pursuant to generally accepted accounting principles.

Concessionaire shall submit a report of gross receipts to the City's Contract Administrator upon request and within fifteen (15) calendar days upon such a request.

ARTICLE 5 INSPECTION AND AUDIT

Concessionaire shall maintain financial records pertaining to its operations pursuant to this Agreement for a period of five (5) years after the conclusion of any Agreement year, or as otherwise required by applicable law(s), including the required retention period of the Florida Public Records Act, Chapter 119, of Florida Statutes as referenced in this agreement, and such records shall be open and available to the City Manager or their designee, as deemed necessary by the City Manager or their designee. However, if an audit has been initiated and audit findings have not been resolved, the records shall be retained until resolution of the audit findings.

LICENSEE shall use such accounting methods and procedures as may be prescribed by CITY, in accordance with generally accepted accounting principles. Records shall include but not be limited to, all business records, bookkeeping/accounting records, receipts, invoices, bank statements, attendance rosters, financial/statistical records including all monies received for gross sales attendant to LICENSEE activities under this agreement.

The City Manager or their designee shall be entitled to audit Concessionaire's records pertaining to its operations pursuant to this Agreement as often as it deems reasonably necessary throughout the Term of this Agreement. The City shall be responsible for paying all costs associated with such audits, unless the audit(s) reveals a deficiency of three percent (3%) or more in Concessionaire's statement of gross receipts for any Agreement year or years audited, in which case the Concessionaire shall pay to the City, within thirty (30) days of the audit being deemed final (as specified below), the cost of the audit and a sum equal to the amount of the deficiency revealed by the audit, plus interest at the rate of 12% per annum; provided, however, the audit shall not be deemed final until Concessionaire has received the audit and has had a reasonable opportunity to review the audit and discuss the audit with the City.

Incomplete and incorrect entries in LICENSEE's records will be grounds for the CITY's rejection of any fees based upon such entries as well as termination of this Agreement

Concessionaire shall submit no later than sixty (60) calendar days after the end of each Agreement year, an annual statement of gross receipts, in a form consistent with generally accepted accounting principles. Additionally, such statement shall be accompanied by a report from an independent CPA.

It is Concessionaire's intent to stay informed of comments and suggestions by the City regarding Concessionaire's performance under this Agreement. Within thirty (30) days after the end of each Agreement year, Concessionaire and the City Manager or the City Manager's designee may meet to review Concessionaire's performance under the Agreement for the previous Agreement year. At the meeting, Concessionaire and City may discuss quality, operational, maintenance and any other issues regarding Concessionaire's performance under the Agreement.

ARTICLE 6 TAXES, ASSESSMENTS, AND UTILITIES

Concessionaire agrees to, and shall pay before delinquency, all taxes and assessments of any kind assessed or levied upon Concessionaire by reason of this Agreement, or by reason of any business or activities conducted by Concessionaire in connection with the Concession Areas. Concessionaire will have the right, at its own expense, to contest the amount or validity, in whole or in part, of any tax and/or assessment by appropriate proceedings diligently conducted in good faith. Concessionaire may refrain from paying a tax or assessment to the extent it is contesting the assessment or imposition of same in a manner that is in accordance with law; provided, however, if, as a result of such contest, additional delinquency charges become due, Concessionaire shall be responsible for such delinquency charges, in addition to payment of the contested tax and/or assessment if so ordered.

Concessionaire shall also pay for any fees imposed by law for licenses or permits for any business(es) or activities of Concessionaire conducted in the Concession Areas.

Concessionaire shall pay before delinquency any and all charges for utilities used by, for, or on behalf of the operations contemplated in this Agreement (including, but not limited to, water, electricity, gas, heating, cooling, sewer, telephone, ice machine, or trash collection).

**ARTICLE 7
EMPLOYEES AND INDEPENDENT CONTRACTORS**

7.1 In connection with the performance of its responsibilities, Concessionaire shall select, train, and employ (or otherwise retain) such number of employees and/or independent contractors, as is reasonably necessary or appropriate for Concessionaire to satisfy its responsibilities. Concessionaire shall have the authority to hire, terminate and discipline any and all personnel employed (or otherwise retained) by the Concessionaire to satisfy its responsibilities. Concessionaire shall select the number, function, qualifications, compensation, including benefits (if any), and may, at its discretion and at any time, adjust or revise the terms and conditions relating to such employees or independent contractors. None of the employees or contractors of Concessionaire shall be deemed to be employees or contractors of the City for any purpose whatsoever.

7.2 Concessionaire and its employees or independent contractors shall wear uniforms approved by the City and a duty roster of employees on duty at the concession huts, during all hours of operation when such employee or independent contractor are on duty. The Concessionaire shall hire people to work in its concession operation who are neat, clean, well-groomed and who shall comport themselves in a professional and courteous manner. The Concessionaire and any persons hired by it shall never have been convicted of a felony. The Concessionaire shall have an experienced manager(s) overseeing the concession operations and Concession Areas at all times. The name (or names) of the Concessionaire's manager(s) shall be provided to the City Manager or their designee, on or before the Effective Date, and shall be updated, as necessary.

**ARTICLE 8
DEFAULT, TERMINATION AND PENALTIES**

Sections 8.1 through 8.3 shall constitute events of default under this Agreement. An event of default by Concessionaire shall entitle City to exercise any and all remedies described as City's remedies under this Agreement, including, but not limited, to those set forth in Section 8.4.

8.1 Bankruptcy. If the Concessionaire shall be (a) adjudged bankrupt or insolvent, or (b) if any receiver or trustee of all or any part of its business property shall be appointed, or if any receiver of all or any part of its business property shall be appointed and in any such case shall not be discharged within ninety (90) days after appointment, or (c) if it makes an assignment of its property for the benefit of creditors, or (d) files a voluntary petition in bankruptcy or insolvency, or shall apply for reorganization or arrangement with its creditors under the bankruptcy or insolvency laws now in force or later enacted, Federal, State, or otherwise, or (e) if such petitions are filed against it and shall not be dismissed within ninety (90) days after such filing, then the City may immediately, or at any later time, and without further demand or notice, terminate this Agreement without being prejudiced as to any remedies which may be available to the City for breach of contract.

8.2 Default in Payment. In the event Concessionaire fails to submit any payment within five (5) days of its due date, a late charge of per day will be assessed for such late payment, in addition to interest at the highest rate allowable by law. If any payment and accumulated penalties are not received within fifteen (15) days after the payment due date, and such failure continues three (3) days after written notice, then the City may, without further demand or notice, terminate this Agreement without being prejudiced as to any remedies which may be available to it for breach of contract.

8.3 Non-Monetary Default. In the event that Concessionaire fails to perform or observe any of the covenants, terms or provisions under this Agreement, and such failure continues thirty (30) days after written notice of the default from the City, the City may immediately or at any later time, and without further demand or notice, terminate this Agreement without being prejudiced as to any remedies which may be available to the City for breach of contract. Notwithstanding the foregoing, in the event that a default is not reasonably susceptible to being cured within such period, the Concessionaire shall not be considered in default if it shall, within such period, commence with due diligence and dispatch to cure such default and thereafter completes with dispatch and due diligence the curing of such default, but in no event shall such extended cure period exceed ninety (90) days from the date of written notice from the City. In the event Concessionaire cures any default pursuant to this subsection, it shall promptly provide City with written notice of same.

8.4 City's Remedies for Concessionaire's Default. If any of the events of default by Concessionaire as set forth in this Section shall occur, the City may, after notice (if required) and the expiration of applicable cure periods, as provided above, at its sole option and discretion, institute such proceedings as in its opinion are necessary to cure such defaults and to compensate City for damages resulting from such defaults, including, but not limited to, the right to give to Concessionaire a notice of termination of this Agreement. If such notice is given, the Term of this Agreement shall terminate upon the date specified in such notice from City to Concessionaire. On the date so specified, Concessionaire shall then quit and surrender the Concession Area(s) to City. Upon the termination of this Agreement, all rights and interest of Concessionaire in and to the Concession Area(s) and to this Agreement and every part, shall cease and terminate (other than those provisions which by their terms survive such termination) and City may, in addition to any other rights and remedies it may have, retain all sums paid to it by Concessionaire under this Agreement. In addition to the rights set forth above, City shall have the rights to pursue any and all of the following:

8.4.1 the right to injunction or other similar relief available to it under Florida law against Concessionaire; and or

8.4.2 the right to maintain any and all actions at law or suits in equity or other proper proceedings to obtain damages resulting from Concessionaire's default.

8.5 Surrender of Concession Areas. At the expiration of this Agreement, or earlier termination in accordance with the terms of this Agreement, Concessionaire shall surrender the Concession Areas in the same condition as the Concession Areas were prior to the commencement

of this Agreement, reasonable wear and tear excepted (including any beach erosion not directly caused by Concessionaire or its operation). Concessionaire shall remove all its facilities, equipment, fixtures, and personal property, upon seventy-two (72) hours of receipt of written notice from the City Manager or their designee unless a longer time period is agreed to by the City. Concessionaire's obligation to observe or perform this covenant shall survive the expiration or other termination of this Agreement. Continued occupancy of the Concession Area(s) after termination of this Agreement and expiration of such 48-hour period shall constitute trespass by the Concessionaire and may be prosecuted as such. In addition, the Concessionaire shall pay to the City one thousand dollars (,000) per day as liquidated damages for such trespass and holding over.

ARTICLE 9 NON-ASSIGNABILITY AND SUBCONTRACTING

9.1 This Agreement is not assignable and Concessionaire agrees it shall not sell, assign, transfer, merge or otherwise convey any of its interests, rights or obligations under this Agreement, in whole or in part, to any other person, corporation or entity without prior written approval from CITY.

9.2 Any attempt by Concessionaire to assign or transfer any of its rights or obligations under this Agreement without first obtaining City's written approval shall result in City's immediate cancellation of this Agreement. Specifically, no formal assignment of any right or obligation under this Agreement shall be binding on City without the formal written approval of the City Commission of Pompano Beach.

9.3 This Agreement and the rights and obligations expressed in this Agreement shall not be assignable or transferable by any process or proceeding in court, or by judgment, execution, proceedings in insolvency, bankruptcy or receivership.

9.4 Nothing herein shall be construed to create any personal liability on the part of City, its agents, officers or employees nor shall it be construed as granting any rights or benefits to anyone other than City and Concessionaire.

ARTICLE 10 INSURANCE

Concessionaire shall maintain insurance in the amounts and subject to all conditions set forth in Exhibit B, attached and incorporated in this Agreement, and shall not commence operations under this Agreement until proof of insurance detailing the terms and provisions of coverage has been received and approved in writing by the CITY's Risk Manager, which approval shall not be unreasonably withheld.

ARTICLE 11 PUBLIC RECORDS PROCEDURES

Public Records.

1. The City of Pompano Beach is a public agency subject to Chapter 119, Florida Statutes. The Concessionaire shall comply with Florida's Public Records Law, as amended. Specifically, the Concessionaire shall:

a. Keep and maintain public records required by the City in order to perform the service.

b. Upon request from the City's custodian of public records, provide the City with a copy of requested records or allow the records to be inspected or copied within a reasonable time at a cost that does not exceed the cost provided in Chapter 119, Florida Statutes or as otherwise provided by law.

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

d. Upon completion of the Agreement, transfer, at no cost to the City, all public records in possession of the Concessionaire, or keep and maintain public records required by the City to perform the service. If the Concessionaire transfers all public records to the City upon completion of the Agreement, the Concessionaire shall destroy any duplicate public records that are exempt or confidential and exempt from public records disclosure requirements. If the Concessionaire keeps and maintains public records upon completion of the contract, the Concessionaire shall meet all applicable requirements for retaining public records. All records stored electronically must be provided to the City, upon request from the City's custodian of public records in a format that is compatible with the information technology systems of the City.

2. Failure of the Concessionaire to provide the above described public records to the City within a reasonable time may subject Concessionaire to penalties under 119.10, Florida Statutes, as amended.

PUBLIC RECORDS CUSTODIAN

IF THE CONCESSIONAIRE HAS QUESTIONS REGARDING THE APPLICATION OF CHAPTER 119, FLORIDA STATUTES, TO THE CONCESSIONAIRE'S DUTY TO PROVIDE PUBLIC RECORDS RELATING TO THIS AGREEMENT, CONTACT THE CUSTODIAN OF PUBLIC RECORDS AT:

**CITY CLERK
100 W. Atlantic Blvd., Suite 253
Pompano Beach, Florida 33060**

(954) 786-4611
RecordsCustodian@copbfl.com

ARTICLE 12

INDEMNIFICATION OF CITY

12.1 Concessionaire shall at all times indemnify, hold harmless and defend the City, its officials, its authorized agents and employees hereunder from and against any and all claims, demands, suit, damages, attorneys' fees, fines, penalties, defense costs or liabilities arising directly, indirectly or in connection with this agreement and with Concessionaire's officers, staff or other agents' actions, negligence or misconduct under this Agreement whether same occurs or the cause arises on or away from the Property except that Concessionaire shall not be liable under this Article for damages arising out of injury or damage to persons or Property arising from the negligence, gross negligence or willful misconduct of the City, any of its officers, agents or employees. Concessionaire agrees to investigate, handle, respond to, provide defense for, and defend any such claims at its sole expense and to bear all costs and expenses related thereto, even if the claim(s) is/are groundless, false or fraudulent. The foregoing indemnification shall not be operative as to any claims by Concessionaire for any causes of action Concessionaire has or may have for breaches or defaults by the City under this Agreement.

12.2 The parties agree that the value of services provided by City under this Agreement and the benefits received by Concessionaire under same shall constitute specific consideration by Concessionaire for the indemnification to be provided in this Agreement. Concessionaire acknowledges and agrees that neither party would enter into this Agreement without this indemnification of City by Concessionaire. The parties agree that one percent (1%) of the total compensation paid for the work under this Agreement shall constitute specific consideration for the indemnification to be provided under the Agreement.

12.3 Concessionaire shall be solely responsible for insuring all stock, inventory, monies or other personal Property at the Property against damage or loss of any nature or kind. Concessionaire acknowledges and agrees that City assumes no responsibility whatsoever for any personal property placed at the Property and, with the exception of damages or loss suffered as a result of City's negligence, City is expressly released and forever discharged from any and all liability for any loss, injury or damage to persons or property which may be sustained by reason of Concessionaire's presence and occupancy at the Property.

12.4 The indemnification provisions of this Article shall survive the expiration or early termination of this Agreement.

ARTICLE 13

NOTICES AND DEMANDS

Whenever it is provided herein that notice, demand, request, or other communication shall or may be given to, or served upon, either of the parties by the other, it must be in writing, sent by certified United States mail with return receipt requested, addressed to the party to whom it is intended at the places designated below until changed by written notice in compliance with the

provisions of this Article. For the present, the parties designate the following respective places for giving of notice, to-wit:

For CITY:

CITY Manager
P.O. Drawer 1300
Pompano Beach, Florida 33061
greg.harrison@copbfl.com
(954) 786-4601 office
(954) 786-4504 fax

With a copy to:

Recreation Program Administrator
1801 NE 6th Street
Pompano Beach, Florida 33060
mark.beaudreau@copbfl.com
(954) 786-4191 office
(954) 786-4113 fax

FOR CONCESSIONAIRE:

Maria Ciaramitaro
Sandbar Snacks Inc.
20 Pompano Beach Blvd.
Pompano Beach, FL 33062
mariaciao@comcast.net
(954) 880-4879

**ARTICLE 14
GOVERNING LAW**

This Agreement must be interpreted and construed in accordance with and governed by the laws of the State of Florida. The exclusive venue for any lawsuit arising from, related to, or in connection with this Agreement will be in the state courts of the Seventeenth Judicial Circuit in and for Broward County, Florida. If any claim arising from, related to, or in connection with this Agreement must be litigated in federal court, the exclusive venue for any such lawsuit will be in the United States District Court or United States Bankruptcy Court for the Southern District of Florida. BY ENTERING INTO THIS AGREEMENT, THE PARTIES EXPRESSLY WAIVE ANY RIGHTS EITHER PARTY MAY HAVE TO A TRIAL BY JURY OF ANY CIVIL LITIGATION RELATED TO THIS AGREEMENT.

**ARTICLE 15
CONTRACT ADMINISTRATOR**

16.1 The City's Recreation Program Administrator or their designee shall serve as the City's Contract Administrator during the performance of services under this Agreement.

16.2 James Boucher shall serve as Concessionaire's Contract Administrator during the term of this Agreement.

**ARTICLE 16
NO CONTINGENT FEE**

Concessionaire warrants that it has not employed or retained any company or person, other than a bona fide employee working solely for Concessionaire, to solicit or secure this Agreement and that it has not paid or agreed to pay any person, company, corporation, individual, or firm, other than a bona fide employee working solely for Concessionaire any fee, commission, percentage, gift, or any other consideration contingent upon or resulting from the award or making of this Agreement.

In the event of Concessionaire's breach or violation of this provision, the City shall have the right to terminate this Agreement without liability and, at City's sole discretion, to recover the full amount of such fee, commission, percentage, gift or consideration.

**ARTICLE 17
ATTORNEY'S FEES**

In the event of litigation between the parties, the prevailing party shall be entitled to recover attorney's fees and court costs including at trial or on appeal, and all costs for collection of same. The provisions of this paragraph shall survive termination of this Agreement.

**ARTICLE 18
FORCE MAJEURE**

Neither party shall be obligated to perform any duty, requirement or obligation under this Agreement if such performance is prevented, delayed or stopped by fire, hurricane, earthquake, explosion, war, civil disorder, sabotage, accident, flood, acts of God, or act or order of a governmental instrumentality, failure of technical facilities, interruption or delay of transportation service, epidemic, pandemic, or public health emergencies (including any resurgence or re-occurrence) or by any reason of any other matter or condition beyond the control of either party which cannot be overcome by reasonable diligence and without unusual expense ("Force Majeure"). In no event shall economic hardship or lack of funds be considered an event of force Majeure.

If either party is unable to perform or is prevented, delayed or stopped in performing any obligations under this Agreement because of any event of force majeure including an event that prevents the use or ability to use the Property for its intended purpose to the benefit of the public,

such inability to perform or delay shall be excused and any associated charges or payment suspended until such time as the event of force majeure ends or as long as may be reasonably necessary for either party to correct the adverse effect of such event of force majeure, to the extent and in the form as mutually agreed by the Parties.

In order to be entitled to the benefit of this Paragraph, a party claiming an event of Force Majeure shall be required to give prompt written notice to the other party after commencement or discovery of the event of force majeure, specifying in detail the event of force majeure, the estimated length of the event of force majeure, diligently proceed to correct the adverse effect of any force majeure, where possible, and, upon request from the non-claiming party, provide an update until the event of force majeure ends. The parties agree that, as to this Paragraph, time is of the essence.

ARTICLE 19 WAIVER AND MODIFICATION

20.1 Failure to insist upon strict compliance with any terms, covenants or conditions of this Agreement shall not be deemed a waiver of such, nor shall any waiver or relinquishment of such right or power at any time be taken to be a waiver of any other breach.

20.2 The Parties may request changes to modify certain provisions of this Agreement, including increasing or decreasing the scope of services to be provided. However, unless otherwise provided for herein, any such changes must be contained in a written amendment executed by both parties with the same formality of this Agreement.

ARTICLE 20 NO WAIVER OF SOVEREIGN IMMUNITY

Nothing in this Agreement shall constitute a waiver by the City of its sovereign immunity limits as set forth in section 768.28, Florida Statutes. Nothing herein shall be construed as consent from either party to be sued by third parties.

ARTICLE 21 MISCELLANEOUS

21.1 *Compliance With all Laws.* In the conduct of its activities under this Agreement, Concessionaire shall comply with all applicable federal and state laws and regulations and all applicable county and city ordinances and regulations, including, but not limited to, compliance with the Americans with Disabilities Act. Ignorance on Concessionaire's part of any applicable laws and regulations shall in no way relieve Concessionaire from this responsibility.

21.2 Concessionaire shall maintain, and be required to verify, that it operates a "Drug Free Workplace" as set forth in § 287.087, Florida Statutes.

21.3 Concessionaire shall verify that its employees are authorized to work in the U.S. and certifies that a good faith effort has been made to properly identify employees by timely reviewing and completing appropriate documentation, including but not limited to the

Department of Homeland Security, U.S. Citizenship, and Immigration Services Form I-9. Answers to questions regarding E-Verify as well as instructions on enrollment may be found at the E-Verify website: www.uscis.gov/e-verify.

By entering into this Agreement, the Concessionaire becomes obligated to comply with the provisions of Section 448.095, Fla. Stat., "Employment Eligibility." This includes but is not limited to utilization of the E-Verify System to verify the work authorization status of all newly hired employees, and requiring all subcontractors to provide an affidavit attesting that the subcontractor does not employ, contract with, or subcontract with, an unauthorized alien. Failure to comply will lead to termination of this Contract, or if a subcontractor knowingly violates the statute, the subcontract must be terminated immediately. Any challenge to termination under this provision must be filed in the Circuit or County Court no later than 20 calendar days after the date of termination. If this contract is terminated for a violation of the statute by the Concessionaire, the Concessionaire may not be awarded a public contract for a period of 1 year after the date of termination.

21.4 Concessionaire represents that the Concessionaire presently has no interest and shall acquire no interest, either direct or indirect, which would conflict in any manner with their performance under this Agreement and that no person having any conflicting interest shall be employed or engaged by Concessionaire.

21.5 *Articles Left on Premises.* Concessionaire understands and agrees that the City shall not in any way be responsible for any personal property of patrons or Concessionaire, its subcontractors or other agents left on the Property and that Concessionaire bears any and all risk of loss.

21.6 This Agreement may be executed in one or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument. A photocopy, email or facsimile copy of this Agreement and any signatory hereon shall be considered for all purposes as original.

21.7 This Agreement incorporates and includes all prior negotiations, correspondence, conversations, agreements, or understandings applicable to the matters contained herein and both parties agree there are no commitments, agreements or understandings concerning the subject matter herein that are not contained in this Agreement. Accordingly, both parties agree no deviation from the terms herein shall be predicated upon any prior representations or agreements, whether oral or written.

Regardless of which party or party's counsel prepared the original draft and subsequent revisions of this Agreement, both parties and their respective counsel have had equal opportunity to contribute to and have contributed to its contents, and this Agreement shall not be deemed to be the product of, and therefore construed against either party.

It is further agreed the omission of a term or provision contained in an earlier draft of this Agreement shall have no evidentiary significance regarding the contractual intent of the parties and that no modification, amendment or alteration in the terms or conditions contained herein shall

be effective unless contained in a written document agreed to and executed by authorized representatives of both parties with the same formality of this Agreement.

21.8 During the performance of this Agreement, Concessionaire agrees not to discriminate against any person on the basis of race, color, religion, sex, age, national origin, ancestry, marital status, physical or mental disability.

21.9 Through execution of this Agreement and in accordance with Section 287.133, Florida Statutes, Concessionaire certifies that it is not listed on the convicted vendors list maintained by the State of Florida, Department of General Services.

21.10 Should any provision of this Agreement or the application of such provisions be rendered or declared invalid by a court action or by reason of any existing or subsequently enacted legislation, the remaining parts or provisions of this Agreement shall remain in full force and effect.

21.11 The benefits and obligations imposed pursuant to this Agreement shall be binding and enforceable by and against the parties hereto.

THE REMAINDER OF THE PAGE IS INTENTIONALLY LEFT BLANK

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed the day and year hereinabove written.

Attest:

CITY OF POMPANO BEACH

KERVIN ALFRED, CITY CLERK

By: _____
REX HARDIN, MAYOR

By: _____
GREGORY P. HARRISON, CITY MANAGER

APPROVED AS TO FORM:

MARK E. BERMAN, CITY ATTORNEY

(SEAL)

"CONCESSIONAIRE"

Witnesses:

Sandbar Snacks Inc.

[Signature]

Print Name: SCOTT MOORE

[Signature]

Print Name: Kate Pelletier

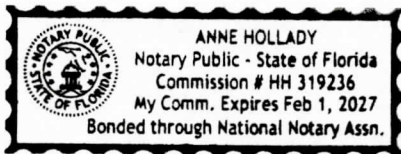
By: [Signature: Maria Ciaramitaro]
Maria Ciaramitaro, President

STATE OF FLORIDA

COUNTY OF BROWARD

The foregoing instrument was acknowledged before me, by means of physical presence or online notarization, this 16 day of May, 2023, by Maria Ciaramitaro as the President of Sandbar Snacks Inc. a Florida corporation on behalf of the corporation. She is personally known to me or who has produced Florida Drivers License (type of identification) as identification.

NOTARY'S SEAL:



[Signature: Anne Hollady]

NOTARY PUBLIC, STATE OF Florida

Anne Hollady
(Name of Acknowledger Typed, Printed or Stamped)

HH 319236
Commission Number