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RESOLUTION NO. 2015- 424

**CITY OF POMPANO BEACH
Broward County, Florida**

A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF POMPANO BEACH, FLORIDA, APPROVING AND AUTHORIZING THE PROPER CITY OFFICIALS TO EXECUTE A LICENSE AGREEMENT BETWEEN THE CITY OF POMPANO BEACH AND THE POMPANO COWBOYS BOOSTER CLUB, INC. TO OPERATE THE CONCESSION STAND AT MCNAIR PARK DURING THE FOOTBALL SEASON; PROVIDING AN EFFECTIVE DATE.

BE IT RESOLVED BY THE CITY COMMISSION OF THE CITY OF POMPANO BEACH, FLORIDA:

SECTION 1. That a License Agreement between the City of Pompano Beach and the Pompano Cowboys Booster Club, Inc., to operate the concession stand at McNair Park during the football season, a copy of which Agreement is attached hereto and incorporated by reference as if set forth in full, is hereby approved.

SECTION 2. That the proper City officials are hereby authorized to execute said Agreement between the City of Pompano Beach and the Pompano Cowboys Booster Club, Inc.

SECTION 3. This Resolution shall become effective upon passage.

PASSED AND ADOPTED this 21st day of September, 2015.



LAMAR FISHER, MAYOR

ATTEST:



ASCELETA HAMMOND, CITY CLERK

FP/ds
9/10/15
l:reso/2015-458f

Aug. 2

City of Pompano Beach

LICENSE AGREEMENT

with

Pompano Cowboys Booster Club, Inc.

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LICENSE AGREEMENT

THIS LICENSE AGREEMENT ("Agreement"), entered into this 25th day of September, 2015, by and between:

CITY OF POMPANO BEACH, a municipal corporation located in Broward County, Florida (hereinafter "CITY"),

and

POMPANO COWBOYS BOOSTER CLUB, INC., a Florida non-profit corporation (hereinafter "LICENSEE").

WHEREAS, LICENSEE is an organized non-profit group which supervises and operates the concession stand at McNair Park including practices and home games during the football season, and also provides those services set forth in Exhibit I attached hereto and made a part hereof ("the "Program") to raise revenue for the primary benefit of the Pompano Cowboys Football and Cheer Program); and

WHEREAS, the CITY recognizes LICENSEE as providing a valuable service to the community through its extensive use of volunteers and attendant resources; and

WHEREAS, LICENSEE is able and prepared to provide the services and the insurance set forth in Exhibits 1 and 2 attached hereto and made a part hereof; and

WHEREAS, subject to the terms of this Agreement, LICENSEE shall staff, stock, operate and supervise the CITY-owned and maintained concession stand at McNair Park (the "Park") during all programs and activities, including practice and at home games during the football season; and

WHEREAS, the CITY has determined entering into this License Agreement with LICENSEE is in the best interest of the public; and

WHEREAS, the CITY and LICENSEE desire to enter into this Agreement setting forth the parties' mutual understandings and undertakings.

NOW, THEREFORE, in consideration of the conditions, covenants and mutual promises herein contained, the CITY and LICENSEE agree as follows.

ARTICLE 1 REPRESENTATIONS

A. **Representations of CITY.** CITY makes the following representations to LICENSEE which CITY acknowledges LICENSEE has relied upon in entering into this Agreement.

1. This Agreement is a valid, binding and permissible activity within the power and authority of the CITY and does not violate any CITY Code, Charter provision, rule, resolution, ordinance, policy or agreement of the CITY or constitute a default of any agreement or contract to which the CITY is a party.

2. The individuals executing the Agreement on behalf of the CITY are duly authorized to take such action, which action shall be, and is, binding upon the CITY.

3. LICENSEE shall be entitled to rely upon the accuracy and completeness of any information or reports supplied by CITY or by others authorized by the CITY's Recreation Programs Administrator.

B. **Representations of Pompano Cowboys Booster Club, Inc.** LICENSEE makes the following representations to CITY which CITY relies upon in entering into this Agreement.

1. Pompano Cowboys Booster Club, Inc. is a Florida non-profit corporation duly organized, existing and in good standing under the laws of the State of Florida with the power and authority to enter into this Agreement.

2. LICENSEE's execution, delivery, consummation and performance under this Agreement will not violate or cause Pompano Cowboys Booster Club, Inc. to be in default of any provisions of its governing documents, rules and regulations or any other agreement to which LICENSEE is a party or constitute a default thereunder or cause acceleration of any obligation of LICENSEE thereunder.

3. The individual executing this Agreement and related documents on behalf of Pompano Cowboys Booster Club, Inc. is duly authorized to take such action which action shall be, and is, binding on LICENSEE.

4. There are no legal actions, suits or proceedings pending or threatened against or affecting Pompano Cowboys Booster Club, Inc. or its principals that LICENSEE is aware of which would have any material effect on LICENSEE's ability to perform its obligations under this Agreement.

5. LICENSEE represents it has the ability, skill and resources to complete its requisite responsibilities under this Agreement.

6. The standard of care for all services furnished by LICENSEE and its employees, subcontractors or other agents under this Agreement will be the skill and care used by concessionaire operators currently practicing under similar circumstances in the same locality.

7. The CITY shall be entitled to rely upon the management and operating skills of LICENSEE or by others authorized by LICENSEE under this Agreement.

8. LICENSEE represents and warrants it has and will continue to maintain all licenses and approvals required to conduct business and provide services under this Agreement and that it will at all times conduct its business activities in a reputable manner.

ARTICLE 2 NON-ASSIGNABILITY AND SUBCONTRACTING

This Agreement is not assignable and LICENSEE 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.

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

In addition, this Agreement and the rights and obligations therein shall not be assignable or transferable by any process or proceeding in court, or by judgment, execution, proceedings in insolvency, bankruptcy or receivership, and in the event of LICENSEE's insolvency or bankruptcy, CITY may at its option terminate and cancel this Agreement without any notice of any kind whatsoever, in which event all rights of LICENSEE hereunder shall immediately cease and terminate.

Nothing herein shall be construed to create any personal liability on the part of the CITY or its agent(s) nor shall it be construed as granting any rights or benefits hereunder to anyone other than CITY and LICENSEE.

ARTICLE 3 TERM AND RENEWAL

The City hereby engages LICENSEE to serve as its Program Administrator for the Pompano Cowboys Booster Club, Inc. The terms of the agreement shall be for an initial period of one (1) year from the date of execution by both the City and the LICENSEE. The CITY reserves the right to extend this Agreement with two (2) one-year renewal options provided both parties agree in writing to said extension. Renegotiation should commence at least 180 days prior to normal termination.

ARTICLE 4 RESPONSIBILITIES OF LICENSEE

LICENSEE shall provide the concessionaire services hereunder consistent with policies adopted by CITY which specifically require LICENSEE to at all times perform its obligations under this Agreement in a professional manner and also develop and adhere to written protocols to ensure public resources are properly tracked and appropriated. LICENSEE agrees to follow the policies and directives of the CITY's Recreation Programs Administrator but in the absence thereof, LICENSEE shall exercise its reasonable judgment in discharging its duties hereunder.

LICENSEE shall perform the duties set forth below at the Center, including such other duties as the CITY may, from time to time, require.

1. LICENSEE shall staff, stock and operate the concessionaire stand during all programs and activities held at the Center, including practice times and at all home games during the football season and supervising all LICENSEE's employees, volunteers and other representatives or agents. LICENSEE understands and agrees that its failure to operate and open the concessions site to the public shall be deemed a default of this Agreement.

2. LICENSEE shall be responsible to pay any and all sales taxes and other charges of any nature or kind which may be assessed against LICENSEE's provision of services or sale of merchandise under this Agreement.

3. LICENSEE is responsible for hiring and managing its own concessionaire staff, all of which shall be a minimum of eighteen (18) years old, under LICENSEE's exclusive direction and control and not deemed employees or agents of the CITY.

4. LICENSEE shall be solely responsible for compensating its concessionaire staff and complying with all federal, state and local laws, ordinances and regulations pertaining to employment of such persons including, but not limited to, the provisions of workers' compensation insurance and all other benefits required by law.

5. LICENSEE shall be responsible to ensure that its entire concessionaire staff, employees, volunteers and other agents or representatives are suitable for employment in a municipal facility in terms of general character, knowledge, ability, public relations potential, manner and conduct.

6. LICENSEE shall promptly respond to complaints from the CITY and patrons of the Center regarding its staff or other representatives and timely take appropriate disciplinary action as warranted by the circumstances.

7. LICENSEE shall immediately inform the CITY's Recreation Program Administrator of any repairs or maintenance necessary to keep the Center in good and safe condition.

8. LICENSEE shall operate and conduct the business covered by this Agreement in accordance with all applicable federal, state and local laws, including the laws of Broward County and the charter, ordinances and other regulations of the City of Pompano Beach as may now exist or as may hereafter be adopted. LICENSEE, at its sole expense, shall purchase all necessary licenses and permits required by the State of Florida, Broward County, and the City of Pompano Beach, and be responsible to pay any and all sales taxes and other charges of any nature or kind, which may be assessed against LICENSEE's provision of goods under this Agreement. Any occupational license or permit required by the CITY or any other governmental agency shall be in addition to the license to occupy the concession site as provided herein. Proof

of such licenses, approvals and sales tax payments shall be submitted to the CITY's Recreation Programs Administrator upon request.

9. LICENSEE shall give the CITY prompt written notice of any accidents occurring on or near the Center in which damage to property or injury to a person occurs.

10. LICENSEE agrees to provide food, drink and services of high standard, equivalent in quality and price to that generally furnished to the public at other concession sites of comparable size and scope in the City of Pompano Beach.

11. LICENSEE shall use the concession site only for the purpose of establishing and supervising its operation. LICENSEE shall not permit the licensed premises to be used for any other purpose.

12. LICENSEE shall keep the licensed premises and its contents in a clean, sanitary and orderly condition at all times and shall conduct the concession in strict compliance with all applicable County and State Health Department rules. In addition, LICENSEE understands and agrees that it shall be responsible for all cleanup of the licensed premises and to remove all debris and trash immediately after each event.

ARTICLE 5 RESPONSIBILITIES OF CITY

A. CITY is responsible to maintain the Center and surrounding outdoor areas, including the building systems (plumbing, electrical, painting, ceilings, walls, floors, roof, public restrooms, etc.) and general maintenance (shrubbery and lawn care, garbage pickup, etc.).

B. CITY shall provide LICENSEE with the use of the Center for the reasons set forth herein at days and times which have been pre-approved in writing by the CITY's Recreation Programs Administrator. Interruptions in availability of the Center due to acts of God or any other circumstance beyond the CITY's control shall not be considered a violation of this paragraph.

ARTICLE 6 ACCOUNTING AND RECORD KEEPING PROCEDURES

A. LICENSEE shall be required to record and preserve complete and accurate records for all activities and revenues generated under this Agreement for a period of five (5) years after its termination or as otherwise required by applicable law(s), including the required retention period of the Florida Public Records Act, Chapter 119, Florida Statutes. 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.

B. LICENSEE shall make available locally at reasonable time for CITY's examination and audit all financial and statistical records; federal/state tax returns; and any other documents attendant to LICENSEE's provision of goods and services under this Agreement.

C. LICENSEE and its employees shall maintain a daily log that provides the names, dates and time of all Pompano Cowboys Booster Club, Inc., members utilizing the Center which shall at all times be available to CITY personnel.

D. LICENSEE shall keep a true and accurate account of all monies received and spent through the operation of the concession granted and the manner in which the funds were spent for the primary benefit of the Pompano Cowboys Booster Club, Inc., and other youth sports.

E. LICENSEE understands and agrees to the following provisions which require LICENSEE to provide the following documentation to the CITY's Recreation Program Administrator within thirty (30) days following the end of each operating season:

1. A report that lists gross receipts and all expenditures which shall adhere to daily statements and list each day's gross receipts on detailed receipt statements which shall be signed and sworn to by LICENSEE's representative in charge of concession operations;

2. A copy of LICENSEE's annual report filed with the Florida Division of Corporations;

3. A copy of LICENSEE's corporate annual financial statement to the Internal Revenue Service; and

4. An itemized accounting of funds generated by LICENSEE under this Agreement which are not spent for the primary benefit of the football program and other youth sports. Any such funds generated under this Agreement which are not spent for the primary benefit of the football program and other youth sports shall either be promptly turned over to CITY or carried forward to the next year and designated by LICENSEE for future enhancement of the subject youth sport Program(s) and subsequently accounted for on the next year's report of concession sales, expenses and use of funds. On termination of this Agreement, and if not renewed, then any funds generated hereunder and not spent shall be turned over to the CITY.

F. LICENSEE shall complete daily cash forms for every day the concession stand is in operation and submit same to CITY on a weekly basis.

ARTICLE 7 CITY'S RIGHT TO AUTHORIZE USE OF THE CENTER

The CITY, through its Recreation Programs Administrator, reserves the right to authorize use of the Center for special group functions upon reasonable written notice to LICENSEE

ARTICLE 8 LICENSEE'S INDEMNIFICATION OF CITY

A. LICENSEE shall indemnify, defend and save harmless the CITY from and against all claims, demands, losses, costs, damages, suits, judgments, penalties, expenses and liabilities

of whatsoever kind arising directly or indirectly out of or in connection with the provision of services and merchandise under this Agreement whether same occurs or the cause arises on or away from the Center. The parties agree that one percent (1%) of the total compensation paid to Contractor for the work of the contract shall constitute specific consideration to Contractor for the indemnification to be provided under the contract.

B. LICENSEE shall be solely responsible for insuring all stock and inventory at the Center against damage or loss of any nature or kind. LICENSEE acknowledges and agrees that CITY assumes no responsibility whatsoever for any property placed at the Center and that CITY is hereby expressly released and discharged from any and all liability for any loss, injury or damage to persons or property which may be sustained by reason of LICENSEE's presence and occupancy at the Center.

ARTICLE 9 INSURANCE

LICENSEE shall maintain insurance in the amounts and subject to all conditions set forth on the standardized insurance form attached as Exhibit 2. LICENSEE shall not commence operations under this Agreement until certification or proof of insurance detailing terms and provisions of coverage has been received and approved by the CITY's Risk Manager.

ARTICLE 10 INDEPENDENT CONTRACTOR

Both CITY and LICENSEE agree that LICENSEE is an independent contractor and not a CITY employee.

ARTICLE 11 DEFAULT AND DISPUTE RESOLUTION

A. If either party claims the other is in default of this Agreement, the parties may, but are not required to, timely schedule a conference or meeting and make every reasonable effort to reach an amicable resolution. Both parties shall be entitled to have representatives present at any such meeting or conference.

B. If there is a default of any covenant or obligation under this Agreement, the defaulting party shall be given ten (10) calendar days to cure said default after written notice to the other in accordance with Article 15 herein.

C. If the party receiving written notice of default provides written notice denying same within ten (10) calendar days of receipt or the alleged default has not been remedied within ten (10) calendar days after receipt of written notice and is continuing, either party may appeal in writing to the City Manager for the CITY in accordance with Article 15 herein.

Upon receipt of said written appeal or demand, the City Manager for the CITY may request additional information relating to the dispute from either or both parties which shall

be provided within a reasonable time. Upon the City Manager's receipt and timely review of the disputed matter, the City Manager may make a decision regarding the alleged default as he/she deems appropriate under the circumstances. If the City Manager's decision is not implemented within the deadline set forth therein, the forty-five (45) day advance written notice provision set forth in Article 12 herein shall not apply and it shall be lawful for CITY to immediately terminate this Agreement and in addition to any other remedies provided by law, CITY may possess itself of all rights and privileges heretofore enjoyed by LICENSEE.

ARTICLE 12 TERMINATION

The CITY may terminate this Agreement, in whole or in part, for convenience, cause, default or negligence upon forty-five (45) days advance written notice to LICENSEE in accordance with Article 15 herein. LICENSEE may terminate this Agreement, in whole or in part, for cause, default or negligence upon forty-five (45) day advance written notice to CITY in accordance with Article 15 herein.

ARTICLE 13 EQUAL OPPORTUNITY EMPLOYMENT

LICENSEE agrees not to discriminate against any of its or the CITY's employees under this Agreement because of race, color, religion, sex, age, national origin or disability.

ARTICLE 14 PUBLIC ENTITY CRIMES ACT

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

ARTICLE 15 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
City of Pompano Beach
P.O. Drawer 1300
Pompano Beach, Florida 33061
dennis.beach@copbfl.com
(954) 786-4601 office
(954) 786-4504 fax

With a copy to:

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

For LICENSEE:

Debra Jones, Secretary
Pompano Cowboys Booster Club, Inc.
P.O. Box 972
Pompano Beach, Florida 33061
jones_debbie@ymail.com
(561) 670-7261 office

**ARTICLE 16
GOVERNING LAW AND VENUE**

The Agreement shall be governed by the laws of the State of Florida, both as to interpretation and performance. CITY and LICENSEE submit to the jurisdiction of Florida courts and federal courts located in Florida. The parties agree that proper venue for any suit at law or in equity attendant to this Agreement shall be instituted and maintained only in courts of competent jurisdiction in Broward County, Florida.

No remedy herein conferred upon any party is intended to be exclusive of any other remedy, and each and every such remedy shall be cumulative and in addition to every other remedy given herein, now or hereafter existing at law or in equity or by statute or otherwise.

**ARTICLE 17
CONTRACT ADMINISTRATOR**

The CITY's Recreation Program Administrator or his/her designee shall serve as the CITY's Contract Administrator during the performance of services under this Agreement.

Debra Jones shall serve as LICENSEE's Contract Administrator during the performance of services under this Agreement.

**ARTICLE 18
NO CONTINGENT FEE**

LICENSEE warrants that it has not employed or retained any company or person, other than a bona fide employee working solely for LICENSEE, 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 LICENSEE 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 LICENSEE'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 19
ATTORNEY'S FEES

In the event of litigation between the parties, the prevailing party shall be entitled to recover all costs of collection, including a reasonable attorney's fees and court costs. The provisions of this paragraph shall survive termination of this Agreement.

ARTICLE 20
FORCE MAJEURE

Neither party shall be obligated to perform any duty, requirement or obligation under this Agreement if such performance is prevented by fire, hurricane, earthquake, explosion, war, civil disorder, sabotage, accident, flood, acts of God 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 CITY or LICENSEE are unable to perform, or are delayed in their performance of any obligations under this Agreement by reason of any event of force majeure, such inability or delay shall be excused at any time during which compliance therewith is prevented by such event and during such period thereafter as may be reasonably necessary for either party to correct the adverse effect of such event of force majeure.

In order to be entitled to the benefit of this Article, a party claiming an event of force majeure shall be required to give prompt written notice to the other party specifying in detail the event of force majeure and also diligently proceed to correct the adverse effect of any force majeure. The parties agree that, as to this Article, time is of the essence.

ARTICLE 21
WAIVER AND MODIFICATION

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.

CITY and LICENSEE 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 22
RELATIONSHIP BETWEEN THE PARTIES

LICENSEE is being contracted by CITY for the purposes and to the extent set forth in this Agreement and, as such, shall be free to dispose of such other portion of its time and skill as does not interfere with its obligations hereunder.

ARTICLE 23
MISCELLANEOUS TERMS AND CONDITIONS

A. LICENSEE shall utilize the Center exclusively for the activities described herein and not allow any part thereof to be used for any immoral or illegal purposes. LICENSEE shall not allow, suffer or permit the Center to be used for any purpose, business, activity, use or function to which the CITY objects, including gambling.

B. For each of LICENSEE's employees, volunteers, staff or other representatives providing services under this Agreement, at LICENSEE's sole expense and prior to allowing any of its representatives to provide services at the Center, LICENSEE shall allow the CITY to conduct its own background check. LICENSEE's failure to comply with the obligations of this paragraph shall be deemed a material breach of this Agreement.

C. LICENSEE, while acting pursuant to this Agreement, shall not discriminate against any worker, employee, patron, or member of the public on the basis of race, creed, religion, age, sex, disability or national origin.

D. LICENSEE agrees to use all gross receipts raised for the primary benefit of the football program and other youth sports played at the Center. Gross receipts shall include the total amount of money or equivalent of money received at the concession site by LICENSEE in exchange for goods or service covered under Agreement except that sales or other such taxes, if any, levied directly upon the sale and remitted as such by LICENSEE shall not be included. CITY reserves the right to require the total amount of the gross receipts be recalculated at the end of each operating day by a member of the CITY's Parks and Recreation Department. Gross receipts shall be used for, but not limited to, banquets, trips, T-shirts, jackets and plaques for the primary benefit of the Pompano Cowboys Booster Club, Inc. and other youth sports.

E. Prices of all food, beverage and merchandise sold shall be posted in a conspicuous place at the concession area or other appropriate location and state whether state sales tax is included or additional to the posted price in order to promote compliance with state sales tax regulations. Any and all prices shall be subject to approval by the City's Recreation Program Manager or his designee. The approved price list is attached hereto and made a part hereof as Exhibit 3.

F. Other than listing the price of all food, beverage and merchandise to be sold at the concession site, no other advertising signs shall be permitted without the CITY's written consent.

G. LICENSEE shall not keep, handle, sell, use or give away any alcoholic beverages of any kind or tobacco products of any kind on the licensed premises.

H. LICENSEE shall be responsible to bear all costs associated with activities not required by the Pop Warner League.

I. LICENSEE shall be responsible to bear all referee fees associated with homecoming and play-off games.

J. LICENSEE, its agents and representatives, shall have knowledge of, and act in accordance with, all rules and regulations of the Pop Warner League. As such, LICENSEE (not CITY) shall be responsible to pay all fines levied against LICENSEE for infractions of said League rules and regulations.

K. LICENSEE shall be responsible to bear all planning and operational costs associated with homecoming and coronation events.

ARTICLE 24 SEVERABILITY

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.

ARTICLE 25 APPROVALS

Whenever CITY approval(s) shall be required for any action under this Agreement, said approval(s) shall not be unreasonably withheld.

ARTICLE 26 ABSENCE OF CONFLICTS OF INTEREST

LICENSEE represents it presently has no interest and shall acquire no interest, either direct or indirect, which would conflict in any manner with its performance hereunder. LICENSEE further represents no person having any interest shall be employed or engaged by it for said performance.

LICENSEE shall promptly notify the CITY in writing by certified mail of all potential conflicts of interest for any prospective business association, interest or other circumstance that may influence or appear to influence LICENSEE's judgment or quality of services being provided hereunder. Said notification shall identify the prospective business interest or circumstance and the nature of work that LICENSEE intends to undertake and shall request the CITY's opinion as to whether such association, interest or circumstance would, in the opinion of the CITY, constitute a conflict of interest if entered into by LICENSEE.

ARTICLE 27 BINDING EFFECT

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

ARTICLE 28
NO WAIVER OF SOVEREIGN IMMUNITY

Nothing contained in this Agreement is intended to serve as a waiver of sovereign immunity by CITY.

ARTICLE 29
LICENSE NOT LEASE

Both parties acknowledge and agree this license shall not be deemed a lease of the Center but rather a license granted to LICENSEE by CITY to provide the concessionaire services contemplated herein to the Pompano Cowboys Booster Club, Inc., including the sale of attendant food, beverages and merchandise, under the conditions and purposes expressed herein and shall not be construed to be a license to engage in any other business or occupation upon the licensed premises.

ARTICLE 30
ENTIRE AGREEMENT AND INTERPRETATION

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 CITY and LICENSEE 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.

IN WITNESS WHEREOF, the parties have hereunto set their hands and seals the day and year first above written.

"CITY":

Witnesses:

CITY OF POMPANO BEACH

Betty J. Mones

By:

LAMAR FISHER, MAYOR

Shelley R. Bartholomeu

By:

DENNIS W. BEACH, CITY MANAGER

Attest:

Asceleta Hammond
ASCELETA HAMMOND, CITY CLERK

(SEAL)

Approved As To Form:

Mark E. Berman
MARK E. BERMAN, CITY ATTORNEY

STATE OF FLORIDA

COUNTY OF BROWARD

The foregoing instrument was acknowledged before me this 25th day of September, 2015, by **LAMAR FISHER**, as Mayor, **DENNIS W. BEACH** as City Manager and **ASCELETA HAMMOND**, as City Clerk of the City of Pompano Beach, Florida, a municipal corporation, on behalf of the municipal corporation, who are personally known to me.

NOTARY'S SEAL:



KRYSTAL AARON
NOTARY PUBLIC
STATE OF FLORIDA
Comm# EE874866
Expires 2/14/2017

Krystal Aaron
NOTARY PUBLIC, STATE OF FLORIDA

Krystal Aaron
(Name of Acknowledger Typed, Printed or Stamped)

Commission Number

"LICENSEE":

Witnesses:

**POMPANO COWBOYS BOOSTER CLUB,
INC., a Florida non-profit corporation**

[Signature]
Print Name: Donna Nasser

By: [Signature]

[Signature]

Type or Printed Name: Debra Jones

Title: Treasurer/Secretary

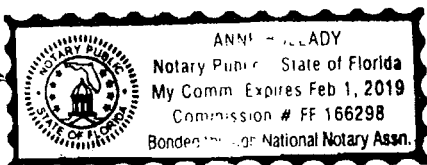
Print Name: SCOTT MOORE

STATE OF FLORIDA

COUNTY OF BROWARD

The foregoing instrument was acknowledged before me this 10 day of Sept., 2015, by **DEBRA JONES**, Secretary of Pompano Cowboys Booster Club, Inc., a Florida non-profit corporation. She is personally known to me or who has produced FL Drivers License (type of identification) as identification.

NOTARY'S SEAL:



Anne Hollady
NOTARY PUBLIC, STATE OF FLORIDA

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

FF 166298
Commission Number

FP/ds
L:\agr\recr\2015-1360f
9-9-15

Exhibit 1

Scope of Services
Booster Club Agreements

- Ordering and payment of participation trophies (individual)
- Operation and cleanup of Concession Stand and surrounding area
- Volunteers for Chain Crew
- Any outside activities: Raising Money, Special Trips, Competitions and all costs associated with these types of events
- Post season activities or trips (Approved by City)
- Additional costs for official fees for homecoming games and playoff games
- Booster Club must submit 30 days after end of season a financial report showing concession stand gross receipts and expenditures.
- On a daily basis when concession stand is in operation Booster Club must complete daily cash forms.
- Booster Club Members must have knowledge of League Rules. The City will not pay fines for Booster Club rule infraction.
- The Booster Club will be responsible for the planning of Homecoming and Coronation events and any costs associated with the two events.

EXHIBIT 2

INSURANCE REQUIREMENTS

LICENSEE shall not commence services under the terms of this Agreement until certification or proof of insurance detailing terms and provisions has been received and approved in writing by the CITY's Risk Manager who can be reached by phone (954 786-5555) or email (eddie.beecher@copbfl.com) should you have any questions regarding the terms and conditions set forth in this Article. Proof of the insurance coverage required hereunder shall be mailed to Risk Management, PO Box 1300, Pompano Beach, FL 33061.

LICENSEE is responsible to deliver to the CITY's Risk Manager for his timely review and written approval/disapproval Certificates of Insurance which evidence that all insurance required hereunder is in full force and effect and which name on a primary basis, the CITY as an additional insured on all such coverage.

Throughout the term of this Agreement, CITY, by and through its Risk Manager, reserve the right to review, modify, reject or accept any insurance policies required by this Agreement, including limits, coverages or endorsements. CITY reserves the right, but not the obligation, to review and reject any insurer providing coverage because of poor financial condition or failure to operate legally.

Failure to maintain the required insurance shall be considered an event of default. The requirements herein, as well as CITY's review or acceptance of insurance maintained by LICENSEE, are not intended to and shall not in any way limit or qualify the liabilities and obligations assumed by LICENSEE under this Agreement.

Throughout the term of this Agreement, LICENSEE and all other agents, subcontractors hereunder, shall, at their sole expense, maintain in full force and effect, the following insurance coverages and minimum limits described herein, including endorsements.

A. Worker's Compensation Insurance covering all employees and providing benefits as required by Florida Statute, Chapter 440, regardless of the size of the company (number of employees) or the state in which the work is to be performed or of the state in which LICENSEE is obligated to pay compensation to employees engaged in the performance of the work. LICENSEE further agrees to be responsible for employment, control and conduct of its employees and for any injury sustained by such employees in the course of their employment.

B. Liability Insurance.

(1) Naming the City of Pompano Beach as an additional insured as City's interests may appear, on General Liability Insurance only, relative to claims which arise from LICENSEE's negligent acts or omissions in connection with LICENSEE's performance under this Agreement.

(2) Such Liability insurance shall include the following checked types of insurance and indicated minimum policy limits.

Type of Insurance**Limits of Liability**

GENERAL LIABILITY: Minimum \$200,000 Per Occurrence and \$300,000 Per Aggregate

* Policy to be written on a claims incurred basis

XX	comprehensive form	bodily injury and property damage
XX	premises - operations	bodily injury and property damage
XX	explosion & collapse hazard	
—	underground hazard	
XX	products/completed operations hazard	bodily injury and property damage combined
XX	contractual insurance	bodily injury and property damage combined
XX	broad form property damage	bodily injury and property damage combined
XX	independent LICENSEES	personal injury
XX	personal injury	
—	alcohol sales	

AUTOMOBILE LIABILITY: Minimum \$200,000 Per Occurrence and \$300,000 Per Aggregate. Bodily injury (each person) bodily injury (each accident), property damage, bodily injury and property damage combined.

XX comprehensive form
XX owned
XX hired
XX non-owned

REAL & PERSONAL PROPERTY

XX comprehensive form Agent must show proof they have this coverage.

EXCESS LIABILITY Minimum per Occurrence and Aggregate

—	other than umbrella	bodily injury and property damage combined	\$1,000,000	\$1,000,000
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PROFESSIONAL LIABILITY

		Per Occurrence	Aggregate
—	* Policy to be written on a claims made basis	\$1,000,000	\$1,000,000

C. Employer's Liability. LICENSEE, agents, subcontractors shall, for the benefit of their employees, provide, carry, maintain and pay for Employer's Liability Insurance in the minimum amount of One Hundred Thousand Dollars (\$100,000.00) per employee, Five Hundred Thousand Dollars (\$500,000) per aggregate.

D. Policies: Whenever, under the provisions of this Agreement, insurance is required of the LICENSEE, the LICENSEE shall promptly provide the following:

- (1) Certificates of Insurance evidencing the required coverage;
- (2) Names and addresses of companies providing coverage;
- (3) Effective and expiration dates of policies; and
- (4) A provision in all policies affording CITY thirty (30) days written notice by a carrier of any cancellation or material change in any policy.

E. Insurance Cancellation or Modification. Should any of the required insurance policies be canceled before the expiration date, or modified or substantially modified, the issuing company shall provide thirty (30) days written notice to the CITY.

F. Waiver of Subrogation. LICENSEE hereby waives any and all right of subrogation against the CITY, its officers, employees and agents for each required policy. When required by the insurer, or should a policy condition not permit an insured to enter into a pre-loss agreement to waive subrogation without an endorsement, then LICENSEE shall notify the insurer and request the policy be endorsed with a Waiver of Transfer of Rights of Recovery Against Others, or its equivalent. This Waiver of Subrogation requirement shall not apply to any policy which includes a condition to the policy not specifically prohibiting such an endorsement, or voids coverage should LICENSEE enter into such an agreement on a pre-loss basis.

Exhibit 3
POMPANO COWBOYS
CONCESSION PRICES

HOT FOOD

CHICKEN WINGS & FRIES	\$5.00
CHICKEN WINGS	\$4.00
HAMBURGER	\$2.00
SAUSAGE SANDWICH	\$2.00
HOT DOG	\$1.00
FRIES	\$1.00

DRINKS

WATER	\$1.00
GATORADE (LG/SM)	\$2.00 / \$1.00
SODA	\$1.00
HUGS JUICE	\$.25
FREEZE CUPS	.25 / \$.50

SNACKS

HOT SAUSAGE	\$1.00
PICKLES	\$1.00
SNICKERS	\$1.00
PICKLED EGGS	\$.50
CHIPS	\$.50

Menu Submitted to City 9/9/15



Prices are subject to change...Proceeds to benefit the Pompano Cowboys Booster Club