Orig. 6

RESOLUTION NO. 2018- 63

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 FLIPPIN' DOGS, LLC; 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 Flippin' Dogs, LLC, 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 License Agreement between the City of Pompano Beach and Flippin' Dogs, LLC.

SECTION 3. This Resolution shall become effective upon passage.

PASSED AND ADOPTED this 9th day of January, 2018.

LAMAR FISHER, MAYOR

ATTEST:

ASCELETA HAMMOND, CITY CLERK

TAL/jmz
12/27/17
I:reso/2018-81

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City of Pompano Beach

LICENSE AGREEMENT

with

Flippin' Dogs, LLC

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THIS LICENSE AGREEMENT ("Agreement"), entered into this 22nd day of January, 2018, by and between:

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

and

FLIPPIN' DOGS, LLC., a Florida Limited Liability Company (hereinafter "LICENSEE").

WHEREAS, LICENSEE desires to utilize the City's East and West Concession Stands located at 920 NE 18th Avenue and 960 NE 18th Avenue respectively (the "Properties") to provide concessionaire services (collectively the "Services" described in Exhibit A, Scope of Authorization);

WHEREAS, CITY has determined that entering into this Agreement with LICENSEE to provide Services at the Properties is in the best interest of the public; and

WHEREAS, 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, 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 supplied by CITY or by others authorized by the CITY's Recreation Program Administrator.

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

1. LICENSEE is a Florida Limited Liability Company 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 LICENSEE 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 LICENSEE 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 LICENSEE 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. CITY shall be entitled to rely upon the professional administrative, management and interpersonal skills of LICENSEE or others authorized by LICENSEE under this Agreement.

7. 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 activities in a professional, reputable manner.

8. LICENSEE agrees to be bound by all terms, conditions, duties, obligations and specifications set forth in this Agreement.

ARTICLE 2
NON-ASSIGNABILITY AND SUBCONTRACTING

A. 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 without prior written approval from CITY.

B. Any attempt by LICENSEE 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.

C. 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. 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.

D. 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 hereunder to anyone other than CITY and LICENSEE.

ARTICLE 3
INSURANCE

LICENSEE shall maintain insurance in the amounts and subject to all conditions set forth in Exhibit B 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 4
TERM AND RENEWAL

The term of this Agreement is for one (1) year and shall commence upon execution by both parties.

In the event City determines the LICENSEE to be in full compliance with this Agreement and LICENSEE's performance to be satisfactory, then City, with City Commission approval, shall have the option to renew this Agreement for an additional four (4) periods of one (1) year(s) upon the written consent of both the City and the LICENSEE, and provided that City will provide notification within sixty (60) days of termination date of its intention.

ARTICLE 5
RECORDKEEPING, INSPECTION, AUDIT AND PUBLIC RECORDS PROCEDURES

A. LICENSEE shall use such accounting methods and procedures as may be prescribed by CITY, in accordance with generally accepted accounting principles, which shall include but not be limited to, those methods and procedures set forth in this Article and in Exhibit C.

B. Public Records.

1. The CITY of Pompano Beach is a public agency subject to Chapter 119, Florida Statutes. The LICENSEE shall comply with Florida's Public Records Law, as amended. Specifically, the LICENSEE 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 LICENSEE 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 LICENSEE, or keep and maintain public records required by the CITY to perform the service. If the LICENSEE transfers all public records to the CITY upon completion of the Agreement, the LICENSEE shall destroy any duplicate public records that are exempt or confidential and exempt from public records disclosure requirements. If the LICENSEE keeps and maintains public records upon completion of the contract, the LICENSEE 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 LICENSEE to provide the above described public records to the CITY within a reasonable time may subject LICENSEE to penalties under 119.10, Florida Statutes, as amended.

PUBLIC RECORDS CUSTODIAN

IF THE LICENSEE HAS QUESTIONS REGARDING THE APPLICATION OF CHAPTER 119, FLORIDA STATUTES, TO THE LICENSEE'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 6
RESPONSIBILITIES OF LICENSEE

A. LICENSEE shall organize and conduct the Services described in Exhibit A consistent with CITY policies which specifically require that LICENSEE at all times perform its obligations hereunder 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 reasonable judgment in discharging its duties hereunder. LICENSEE understands and agrees that LICENSEE shall plan, administer, pay for and coordinate all aspect of the Program, including, but not limited to, all required staffing, tools and materials.

B. LICENSEE's Responsibility for Damage or Loss of CITY Properties. A representative of the CITY and LICENSEE shall inspect and document by photographs the condition of the Properties prior to set up and after cleanup of Program. CITY expects the Properties to be restored to the same condition which existed prior to set up of the Program.

If the Properties or any portion thereof, or any structure attached thereto, or any equipment, fixture, or other item located thereon, including the grass or asphalt, shall be destroyed, damaged, marred, altered, or physically changed during the term in any manner whatsoever by LICENSEE, then CITY will take the necessary remedial action to cause such repair or replacement to occur and LICENSEE shall pay CITY for any such expenditures within two (2) weeks after receipt of CITY's written invoice for same.

C. LICENSEE Responsible for all Contracts. LICENSEE agrees to be solely responsible for all contracts or agreements of any nature for the Program. All contracts shall be negotiated by LICENSEE and secured at LICENSEE's sole expense. CITY shall not be named as a party in any contract and CITY shall have no obligation to ensure payment to any individual or entity for goods and/or services provided in conjunction with the Program.

D. Required Licenses, Permits and Authorizations. LICENSEE, at its sole expense, shall obtain all required federal, state, local and other governmental approvals, as well as all necessary private authorizations and permits required attendant to LICENSEE's performance hereunder and provide CITY a copy of same. Ignorance on LICENSEE's part of any applicable laws, regulations or required authorizations shall not relieve LICENSEE from this responsibility.

If applicable LICENSEE shall provide sanitary and food facilities in accordance with applicable laws and regulations of the Florida Department of Environmental Protection and the Broward County Health Department. If LICENSEE is unable to obtain all necessary licenses, permits or other authorizations in a timely manner, either party may elect to terminate this Agreement and CITY shall be reimbursed for any in-kind services it has incurred to date.

E. Compliance With all Laws. In the conduct of its activities under this License Agreement, LICENSEE 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 LICENSEE's part of any applicable laws and regulations shall in no way relieve LICENSEE from this responsibility.

F. Emergency Access. LICENSEE agrees to provide any and all emergency access required by the CITY and its employees for the safety and welfare of the community and those attending the activities. If, in the course of LICENSEE's operations, CITY or its officers, agents and employees become aware of any condition on the Properties which may be dangerous, upon being notified, LICENSEE shall immediately correct such condition or cease operations so as not to endanger persons or Properties.

G. LICENSEE, its subcontractors, vendor and other agents shall be responsible to pay any and all sales taxes and other charges of any nature or kind, which may be assessed against their provision of goods and services under this Agreement. Proof of such sales tax payments shall be submitted to the CITY's Recreation Program Administrator upon request.

H. LICENSEE is responsible for hiring and managing its own staff, subcontractor and other agents, all of which shall be a minimum of eighteen (18) years old, under LICENSEE's exclusive direction and control and not deemed agents or employees of the CITY. At its sole discretion, and upon request by LICENSEE, the CITY reserves the right to approve LICENSEE's hiring of staff under eighteen (18) years old.

I. LICENSEE shall be solely responsible for compensating its employees, representative and other agents and complying with all federal, state and local laws, ordinances and regulations pertaining to employment of such persons, including, but not limited to, provision of workers' compensation insurance and any other benefits required by law.

J. LICENSEE shall be responsible to ensure that all its employees, staff or other agents are suitable for employment in a municipal facility in terms of general character, knowledge, ability, manner and conduct.

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

L. LICENSEE shall utilize the Properties 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 Properties to be used for any purpose, business, activity, use or function to which the CITY objects, including gambling.

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

N. LICENSEE shall promptly respond to concerns raised by patrons and the CITY's agents hereunder and timely take appropriate action as warranted by the circumstances.

O. LICENSEE is responsible for any fees, taxes or levies imposed as a result of this Agreement.

ARTICLE 7
RESPONSIBILITIES OF CITY

CITY is responsible to maintain the Properties and surrounding outdoor areas, including the building systems (E.g. plumbing, electrical, painting, ceilings, walls, floors, roof, public restrooms, etc.) and general maintenance (E.g. shrubbery and lawn care, garbage pickup, etc.) as described in Exhibit "A"; however, the foregoing provisions are in no way intended to absolve LICENSEE from the responsibilities set forth in Article 6.

ARTICLE 8
MISCELLANEOUS TERMS AND CONDITIONS

A. Articles Left on Premises. LICENSEE understands and agrees that the CITY shall not in any way be responsible for any personal Properties of patrons of the Services or LICENSEE, its sub-contractors or other agents left on the Properties and that LICENSEE bears any and all risk of loss. Any article(s) remaining on the Properties at the conclusion of the Services shall become the Properties of the CITY.

B. CITY's Right To Make Improvements, Modify the Properties and the Number and Manner of Streets Closures. Throughout the term of this license and not withstanding any other term or condition herein, CITY retains the right, in its sole discretion, to modify and reconfigure the Properties, including, but not limited to, attendant green and open space areas and the public right-of-way. Specifically, both parties agree that the public right-of-way and open and green space areas may be temporarily or permanently relocated, reconfigured, modified or closed at CITY's sole discretion. LICENSEE agrees to make adjustment to any such changes implemented by CITY.

C. Incorporation by Reference. All Whereas clauses stated above are true and correct and are incorporated herein by reference. The Exhibits attached hereto are also incorporated into and made a part of this Agreement.

ARTICLE 9
INDEMNIFICATION OF CITY

A. LICENSEE shall at all times indemnify, hold harmless and defend the CITY its officials and 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 LICENSEE'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 Properties except that LICENSEE shall not be liable under this Article for damages arising out of injury or damage to persons or Properties arising from the negligence, gross negligence or willful misconduct of the CITY, any of its officers, agents or employees. LICENSEE 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 LICENSEE for any causes of action LICENSEE has or may have for breaches or defaults by the CITY under this Agreement.

B. The parties agree that the value of services provided by CITY under this contract Agreement and the benefits received by LICENSEE under same shall constitute specific consideration by LICENSEE for the indemnification to be provided herein. LICENSEE acknowledges and agrees that neither party would enter into this Agreement without this indemnification of CITY by LICENSEE.

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

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

ARTICLE 10
INDEPENDENT CONTRACTOR

Both CITY and LICENSEE agree that LICENSEE is an independent contractor and not a CITY employee. CITY shall not be liable for any wages, salaries, debts, liabilities or other obligations for LICENSEE's employees, agents or other representatives performing obligations of LICENSEE hereunder. Except as otherwise provided hereunder, neither party is the agent of the other nor is authorized to act on behalf of the other in any matter.

ARTICLE 11
NO DISCRIMINATION

During the performance of this Agreement, LICENSEE 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. However, with justifiable cause, LICENSEE maintains the right to refuse patrons or its agents hereunder from participation in the Program.

ARTICLE 12
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 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 LICENSEE:

Meredith Castellano
Flippin' Dogs, LLC
2100 NE 38th Street, Apt. 243
Lighthouse Point, FL 33064

ARTICLE 14
GOVERNING LAW AND VENUE

A. 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.

B. 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 statue or otherwise.

ARTICLE 15
CONTRACT ADMINISTRATOR

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

B. Meredith Castellano or Jerrold Schucart shall serve as LICENSEE's Contract Administrator during the performance of services under this Agreement.

ARTICLE 16
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 17
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 18
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 19
WAIVER AND MODIFICATION

A. 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.

B. 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 20
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 21
APPROVALS

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

ARTICLE 22
ABSENCE OF CONFLICTS OF INTEREST

Both parties represent they presently have 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 either party in their performance hereunder.

ARTICLE 23
BINDING EFFECT

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

ARTICLE 24
LICENSE NOT LEASE

Both parties acknowledge and agree this Agreement shall not be deemed a lease of the Properties but rather a license granted to LICENSEE by CITY to provide the Services activities, 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 upon the licensed premises. Unless provided in Exhibit "A", LICENSEE understands and agrees that it takes the Properties in "as is" condition.

ARTICLE 25
TERMINATION

A. Termination for Convenience. Upon thirty (30) calendar days written notice in accordance with Article 14 herein delivered by certified mail, return receipt requested, to either LICENSEE or CITY, either party may without cause and without prejudice to any other right or remedy, terminate this Agreement for convenience whenever it determines that such termination is in their best interest . If the Agreement is terminated for the convenience, the notice of termination to either party shall state so and also define the extent of the termination. Upon receipt of such notice, LICENSEE or the CITY shall use commercially reasonable efforts to discontinue all services hereunder to the extent indicated on the notice of termination and neither party shall not be responsible for any costs that the other incurs as a result of said termination for convenience.

B. Termination for Cause. Breach or default of any of the covenants, duties, or terms of this Agreement shall be cause for termination, in whole or in part, of this Agreement. In the event of a breach or default, the defaulting party shall be given written notice in accordance with Article 14 herein which describes in reasonable detail the alleged breach or default and seven (7) calendar days to cure same, and either party may avail itself of the informal Default and Dispute Resolution Procedures set forth below or seek other remedies as provided hereunder or by law. 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.

If there is a default of any covenant or obligation under this Agreement, the defaulting party shall be given seven (7) calendar days to cure said default after written notice from the other in accordance with Article 14 herein.

If the party receiving written notice of default provides written notice denying same within seven (7) calendar days of receipt or the alleged default has not been remedied within seven (7) calendar days after receipt of written notice and is continuing, either party have the right to terminate this Agreement immediately upon delivery of a written notice to the defaulting party of its election to do so.

ARTICLE 26
NO WAIVER OF SOVEREIGN IMMUNITY

Nothing contained in this Agreement is intended to serve as a waiver of the CITY's sovereign immunity as provided for in §768.28, Florida Statutes.

ARTICLE 27
CITY'S RIGHT TO AUTHORIZE USE OF THE CITY PROPERTIES

The CITY, through its Recreation Programs Administrator, reserves the right to authorize use of the CITY Properties for special group and /or City functions upon reasonable written notice to LICENSEE, excluding concessionaire areas.

ARTICLE 28
COUNTERPARTS

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.

ARTICLE 29
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.

THE REMAINDER OF THE PAGE IS INTENTIONALLY LEFT BLANK

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

"CITY":

Witnesses:

Sandra M. Moriarty

Shelly R. Bartholme

CITY OF POMPANO BEACH

By: _____
LAMAR FISHER, MAYOR

By: _____
GREGORY P. HARRISON, CITY MANAGER

Attest:

_____
ASCELETA HAMMOND, CITY CLERK

(SEAL)

Approved As To Form:

_____
MARK E. BERMAN, CITY ATTORNEY

STATE OF FLORIDA
COUNTY OF BROWARD

The foregoing instrument was acknowledged before me this 22nd day of January 2018, by **LAMAR FISHER** as Mayor, **GREGORY P. HARRISON** 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:

JENNETTE FORRESTER WILLIAMS
Notary Public - State of Florida
Commission # FF 993881
My Comm. Expires May 18, 2020
Bonded through National Notary Assn.

_____
NOTARY PUBLIC, STATE OF FLORIDA

Jennette Forrester Williams
(Name of Acknowledger Typed, Printed or Stamped)

FF993881
Commission Number

"LICENSEE":

Witnesses:

Print Name: Shanquanette Walker

Print Name: Cynthia Kitts

Flippin' Dogs, LLC, a Florida Limited Liability Company

By: Meredith E. Castellano
Meredith E. Castellano, Manager

STATE OF FLORIDA
COUNTY OF BROWARD

The foregoing instrument was acknowledged before me this 28 day of Dec, 2017, by Meredith E. Castellano as Manager of Flippin' Dogs LLC, a Limited Liability Company, on behalf of the company. She is personally known to me or who has produced Florida Drivers License (type of identification) as identification.

NOTARY'S SEAL:

ANNE HOLLADY
Notary Public - State of Florida
My Comm. Expires Feb 1, 2019
Commission # FF 166298
Bonded through National Notary Assn.

Anne Hollady
NOTARY PUBLIC, STATE OF FLORIDA

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

FF 166298
Commission Number

Exhibit "A"
Scope of Authorization

Introduction

The City of Pompano Beach, Florida seeks to obtain concession services to the visitors and residents of the City of Pompano Beach. Services will be required at Community Park, Softball and Baseball complexes. This is a non-exclusive contract for City sponsored sports and cultural arts functions in which the company will receive a monthly schedule informing them of said events and/or activities. Services for special events or activities may include other vendors.

A. Scope Of Services:

Prior to start of services Licensee and City shall conduct a walkthrough of the facility and any required repairs by the City shall be conducted at the City's expense. Services shall not start until equipment is functioning at an acceptable level by both parties.
Concession Operations:

a) Licensee shall use concession stands only provided by the City; Trailers/Trucks will not be permitted in any of the City Parks.

b) Licensee will accept the concession areas and City owned equipment, as is, the City will not be required to make any improvements or additions. The City may at its sole discretion, make improvements to the concession area, and/or upgrade equipment.

c) Licensee shall not make any improvements, additions or repairs to concession area without prior written approval from the City.

d) City shall be responsible for any requirements by Florida Professional Business Regulation to the City's equipment and facility.

e) City shall provide Licensee a list of all equipment that is being made available for use by Licensee. Licensee shall accept the City's owned refrigerators and ice machines as is. During the contract term, City will be financially responsible for any maintenance and/or repairs to said equipment. If it is found that said equipment is damaged, broken, etc due to negligence, then Licensee will be financially responsible for repairs.

f) City shall provide an emergency contact list to Licensee for during and off hour operations.

g) Any additional equipment or replacement equipment desired by the Licensee will be acquired and installed at the Licensee's expense.

h) The Licensee will provide signage to be approved by the City prior to installation. Any permit fees required will be at the Licensee's expense.

i) Licensee shall ensure that concession stand is staffed at all times with sufficient qualified personnel in order to handle patron demand. City shall provide a schedule

of City sponsored events at the start of each calendar year and update periodically for rentals and upcoming tournaments. City shall provide all schedules monthly.

j) Licensee shall provide consistent hours of operation.

k) Licensee is to provide courteous and professional customer service.

l) Licensee is to provide regular extermination services for the interior of the concession area, no less than monthly, and as needed; and keep records of service readily available to the City.

m) Licensee is to dispose of all garbage and waste in designated on-site trash receptacles to be provided by the City upon closing each evening. No garbage may be stored during business hours within sight of the public.

n) Licensee shall meet all Health Department regulations and other applicable laws and regulations.

o) Licensee to provide Property and Liability insurance (certificates of required insurance will be requested prior to commencement of operation of the concession stands).

p) Licensee shall make all reasonable efforts to secure and ensure the concession stands against vandalism. If vandalism is observed, Licensee shall inform the City immediately before beginning operations. Failure to inform the City of any instances of vandalism by the Licensee shall result in the Licensee being responsible for any repairs and clean up required to the property.

q) Licensee is only authorized for the term of this contract to sell foods, beverages, and miscellaneous "snack bar" type items. All foods, beverages, and confectionary refreshments shall be of first quality. The items shall be wholesome, pure, shall conform to all Federal, State, and Municipal Laws, Ordinances, and Regulations, and shall be kept subject to the approval or rejection of the Recreation Administrator or his Designee.

r) Licensee shall also sell healthy choices for the health conscious patron.

s) Menu items and prices will be approved by City prior to sale. Agreed upon menu and prices shall remain posted at all concessions in plain view of patrons standing and waiting for service. Approved pricing and food quality brand names shall remain constant unless a request is made in writing providing reasons for a product change. All posted material shall be clear and printed, not in written format. Licensee shall request approval from the Recreation Program Administrator or Designee. The City shall provide Licensee with Designee contact information upon execution of the contract.

t) Only non-glass items shall be used for beverages and food. No Styrofoam materials only paper or plastic items shall be used.

u) Licensee shall provide bags and ice as needed for program participant injuries. City shall provide bags for ice for City programs as needed.

v) Alcoholic Beverages may be sold at the Four Fields Softball Complex and Baseball Complex. The Licensee agrees to obtain and pay for all permits, licenses, and business taxes, including Alcoholic Beverage Licenses and Broward County Health Department certifications as necessary to conduct the business and agrees to comply with all laws governing the responsibility of the employer with respect to persons employed by the Licensee. Copies of appropriate licenses or proof of application for said licenses shall be provided to the City upon start of services. The Licensee shall comply with all City, County, State and Federal rules, regulations and laws, as related to alcohol sales and distribution, as may be amended from time to time. Alcoholic sales shall be limited to products covered under 2COP license type. The decision to serve or refuse service of Alcoholic beverages to any individual shall be the sole responsibility of the Licensee.

w) Tobacco products will not be allowed for sale.

x) Un-shelled peanuts will not be allowed for sale.

y) Chewing gum will not be allowed for sale.

B. Locations:

920 NE 18th Avenue – East Concession Stand
960 NE 18th Avenue – West Concession Stand

D. License Fees:

For the use of the facility Licensee shall pay a monthly fee to the City of one hundred dollars ($100.00).

Licensee shall negotiate with any independent sports organizations that holds events at the locations for compensation to be provided for the extra business. Licensee may choose not to open the concession if no agreement is reached between the parties. Licensee shall inform the City in writing if negotiations are unsuccessful.

EXHIBIT "B"

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 at (954) 786-4636 or email cindy.lawrence@copbfl.com should you have any questions regarding the terms and conditions set forth in this Article.

LICENSEE is responsible to deliver to the CITY for 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 subcontractors or other agents hereunder, shall, at their sole expense, maintain in full force and effect, the following insurance coverages and limits described herein, including endorsements.

A. Worker's Compensation Insurance covering all employees and providing benefits as required by Florida Statute, Chapter 440. 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 $1,000,000 Per Occurrence and $21,000,000 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
__	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	
__	sexual abuse/molestation	Minimum $1,000,000 Per Occurrence and Aggregate
__ XX	liquor legal liability	Minimum $1,000,000 Per Occurrence and Aggregate

AUTOMOBILE LIABILITY:		Minimum $1,000,000 Per Occurrence and $1,000,000 Per Aggregate. Bodily injury (each person) bodily injury (each accident), property damage, bodily injury and property damage combined.
XX__		comprehensive form
__	owned	
__	hired	
__	non-owned	

REAL & PERSONAL PROPERTY

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

EXCESS LIABILITY		Per Occurrence	Aggregate
__	other than umbrella	bodily injury and property damage combined	$1,000,000	$1,000,000

PROFESSIONAL LIABILITY		Per Occurrence	Aggregate
__	* Policy to be written on a claims made basis	$1,000,000	$1,000,000

(3) If Professional Liability insurance is required, LICENSEE agrees the indemnification and hold harmless provisions set forth in the Agreement shall survive the termination or expiration of the Agreement for a period of three (3) years unless terminated sooner by the applicable statute of limitations.

C. Employer's Liability. If required by law, LICENSEE and all 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 A - Original Agreement

Exhibit B - Insurance - General Liability

ACORD®

CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY) 3/12/2018

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.

IMPORTANT: If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must have ADDITIONAL INSURED provisions or be endorsed. If SUBROGATION IS WAIVED, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

PRODUCER
CoverWallet, Inc.
100 Ave. of the Americas,
Floor 16
New York, NY, 10013

CONTACT NAME: Amaury Rentas
PHONE (A/C, No, Ext): (646) 844-9933 FAX (A/C, No):
E-MAIL ADDRESS: customer.service@coverwallet.com

INSURER(S) AFFORDING COVERAGE	NAIC #
INSURER A: Mount Vernon Fire Insurance Company	26522
INSURER B:	
INSURER C:	
INSURER D:	
INSURER E:	
INSURER F:	

INSURED
Flippin Dogs
1700 Northeast 8th Street
Pompano Beach, FL 33060
United States

COVERAGES CERTIFICATE NUMBER: REVISION NUMBER:

THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

INSR LTR	TYPE OF INSURANCE	ADDL INSD	SUBR WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS	
A	X COMMERCIAL GENERAL LIABILITY CLAIMS-MADE X OCCUR GEN'L AGGREGATE LIMIT APPLIES PER: X POLICY PRO-JECT LOC OTHER:	X		MCP018M00B6	03/12/2018	03/12/2019	EACH OCCURRENCE	$ 300,000
							DAMAGE TO RENTED PREMISES (Ea occurrence)	$ 100,000
							MED EXP (Any one person)	$ 5,000
							PERSONAL & ADV INJURY	$ 300,000
							GENERAL AGGREGATE	$ 600,000
							PRODUCTS - COMP/OP AGG	$ 600,000
								$
	AUTOMOBILE LIABILITY ANY AUTO OWNED AUTOS ONLY HIRED AUTOS ONLY SCHEDULED AUTOS NON-OWNED AUTOS ONLY						COMBINED SINGLE LIMIT (Ea accident)	$
							BODILY INJURY (Per person)	$
							BODILY INJURY (Per accident)	$
							PROPERTY DAMAGE (Per accident)	$
								$
	UMBRELLA LIAB OCCUR EXCESS LIAB CLAIMS-MADE DED RETENTION $						EACH OCCURRENCE	$
							AGGREGATE	$
								$
	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? Y/N (Mandatory in NH) If yes, describe under DESCRIPTION OF OPERATIONS below	N/A					PER STATUTE OTH-ER	
							E.L. EACH ACCIDENT	$
							E.L. DISEASE - EA EMPLOYEE	$
							E.L. DISEASE - POLICY LIMIT	$

APPROVED
By John Mealer at 12:12 pm, Mar 26, 2018

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (ACORD 101, Additional Remarks Schedule, may be attached if more space is required)

CERTIFICATE HOLDER

City of Pompano Beach
100 West Atlantic Blvd.
Pompano Beach, FL

CANCELLATION

SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS.

AUTHORIZED REPRESENTATIVE

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Exhibit A - Original Agreement

Exhibit B - Insurance Liquor Liability

ACORD®

CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY) 12/07/2018

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.

IMPORTANT: If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must have ADDITIONAL INSURED provisions or be endorsed. If SUBROGATION IS WAIVED, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

PRODUCER
Masl Insurance Inc
8211 113th St N
Seminole, FL 33772
License #: d084372

CONTACT NAME: Sharon Murphy
PHONE (A/C, No, Ext): 7273991900 FAX (A/C, No): 7273982500
E-MAIL ADDRESS: sharon@maslinsurance.com

INSURER(S) AFFORDING COVERAGE	NAIC #
INSURER A: Mt Vernon	
INSURER B:	
INSURER C:	
INSURER D:	
INSURER E:	
INSURER F:	

INSURED
Filippin Dogs LLC
Meredith Castellano
4870 Dockside Dr Unit G
Coconut Creek, FL 33063

COVERAGES CERTIFICATE NUMBER: 00000000-21771 REVISION NUMBER: 2

THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

INSR LTR	TYPE OF INSURANCE	ADDL INSD	SUBR WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS	
	COMMERCIAL GENERAL LIABILITY						EACH OCCURRENCE	$
	CLAIMS-MADE OCCUR						DAMAGE TO RENTED PREMISES (Ea occurrence)	$
							MED EXP (Any one person)	$
							PERSONAL & ADV INJURY	$
	GEN'L AGGREGATE LIMIT APPLIES PER:						GENERAL AGGREGATE	$
	POLICY PRO-JECT LOC						PRODUCTS - COMP/OP AGG	$
	OTHER:							$
	AUTOMOBILE LIABILITY						COMBINED SINGLE LIMIT (Ea accident)	$
	ANY AUTO						BODILY INJURY (Per person)	$
	OWNED AUTOS ONLY / SCHEDULED AUTOS						BODILY INJURY (Per accident)	$
	HIRED AUTOS ONLY / NON-OWNED AUTOS ONLY						PROPERTY DAMAGE (Per accident)	$
								$
	UMBRELLA LIAB / OCCUR						EACH OCCURRENCE	$
	EXCESS LIAB						AGGREGATE	$
	DED / RETENTION $							$
	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY						PER STATUTE / OTH-ER	
	ANY PROPRIETOR/PARTNER/EXEC OFFICER/MEMBER EXCLUDED? (Mandatory in NH)						E.L. EACH ACCIDENT	$
	If yes, describe under DESCRIPTION OF OPERATIONS below						E.L. DISEASE - EA EMPLOYEE	$
							E.L. DISEASE - POLICY LIMIT	$
A	Liquor Liability			APP21499126	12/07/2018	12/07/2019	Liquor	1 mill/ 2 mill

APPROVED
By John Mealer at 7:25 am, Dec 17, 2018

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (ACORD 101, Additional Remarks Schedule, may be attached if more space is required)
Four Fields Complex as Additional Insured

CERTIFICATE HOLDER

City of Pompano Beach/Four Fields Complex
1700 NE 8th St
Pompano Beach, FL 33060

CANCELLATION

SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS.

AUTHORIZED REPRESENTATIVE

(SHM)

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Printed by SHM on December 07, 2018 at 03:57PM

GEICO. FLORIDA AUTOMOBILE INSURANCE
geico.com IDENTIFICATION CARD
GEICO GENERAL INSURANCE COMPANY

C. AR.

Policy Number/Florida Code No. 4502-53-49-46/01288
Effective Date 08-26-18

[X] PERSONAL INJURY PROTECTION BENEFITS/PROPERTY DAMAGE LIABILITY
[X] BODILY INJURY LIABILITY

Named Insured: Jerrold D Schucart
Meredith L Castellano

Year Make	Model	Vehicle ID No.
2018 KIA SOUL PLUS		KNDJP3A57J7581615

Phone Number: **1-800-841-3000**

Not valid more than one year from effective date.

APPROVED
By Danielle Thorpe at 9:27 am, Dec 27, 2018

Exhibit A Original Agreement

Exhibit B - Insurance
Workers Comp Waiver

pompano beach.
Florida's Warmest Welcome

Parks, Recreation & Cultural Arts Department
City of Pompano Beach, Florida
1801 NE 6 Street, Pompano Beach, Florida 33060 | p: 954.786.4111 | f: 954.786.4113

March 22, 2018

Meredith Cestellano
Flipping Dogs LLC
2100 NE 38 Street #243
Lighthouse Point, FL 33064

Dear Meredith,

Your company has fewer than four employees, and you have elected not to purchase Workers' Compensation insurance to cover these employees. The State of Florida allows your company to operate without insurance, however, you are required by the State to "post clear written notice in a conspicuous location at each worksite directed to all employees and other persons performing services at the worksite of their lack of entitlement to benefits" as described in Chapter 440 of the Florida Statues.

The City of Pompano Beach requires: ALL CONTRACTORS MUST AGREE TO BE RESPONSIBLE FOR THE EMPLOYMENT, CONTROL AND CONDUCT OF THEIR EMPLOYEES **AND FOR ANY INJURY SUSTAINED BY SUCH EMPLOYEES IN THE COURSE OF THEIR EMPLOYMENT.**

Please sign the area below acknowledging your compliance with the above requirements. Return this original letter to me at the Emma Lou Olson Civic Center, 1801 NE 6 Street, Pompano Beach, FL 33060. If you have any questions about this letter please telephone me at 954-786-4111.

Very truly yours,

Anne Hollady

APPROVED JM
By John Mealer at 8:31 am, Mar 27, 2018

Anne Hollady
Department Head Secretary

Flipping Dog, LLC has posted notice(s) declaring the absence of Workers' Compensation insurance coverage, as required by the State of Florida **Flipping Dog, LLC**, agrees to be responsible for the employment, control and conduct of our employees and for any injury sustained by such employees in the course of their employment.

Meredith Castellano
Signature

3/22/2018
Date

Meredith Cestellano, Owner/Director
Name and Title (print)

Exhibit C

Accounting and Recordkeeping Procedures:

1. Upon reasonable notice, LICENSEE shall make available locally at a reasonable time for CITY's examination, inspection and audit all financial and statistical records; federal/state tax returns; and any other documents or records directly or indirectly related to LICENSEE's provisions of goods and services . LICENSEE's failure to timely comply with the provisions of this paragraph shall be deemed a material breach which entitles CITY to terminate this Agreement in accordance with Article 25.

2. 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 record shall be retained until resolution of the audit findings.

Exhibit "D", License Agreement Concessionaire Services

pompano beach®

Florida's Warmest Welcome

CITY OF POMPANO BEACH
REQUEST FOR PROPOSALS
P-41-17

CONCESSIONAIRE SERVICES FOR COMMUNITY PARK SOFTBALL AND BASEBALL COMPLEXES

RFP OPENING: August 25, 2017 2:00 P.M.
PURCHASING OFFICE
1190 N.E. 3RD AVENUE, BUILDING C (Front)
POMPANO BEACH, FLORIDA 33060

July 27, 2017

CITY OF POMPANO BEACH, FLORIDA

REQUEST FOR PROPOSALS
P-41-17
CONCESSIONAIRE SERVICES FOR COMMUNITY PARK SOFTBALL AND BASEBALL COMPLEXES

The City of Pompano Beach (City) is seeking proposals from qualified firms to provide concession services at Community Park, Softball and Baseball complexes to the City. **A mandatory site visit will take place on August 3rd at 10:00 a.m. at Community Park, Softball and Baseball complexes located at 1700 8th Street, Pompano Beach, FL 33060.**

The City will receive sealed proposals until **2:00 p.m. (local), August 25, 2017**. Proposals must be submitted electronically through the eBid System on or before the due date/time stated above. Any proposal received after the due date and time specified, will not be considered. Any uncertainty regarding the time a proposal is received will be resolved against the Proposer.

Proposer must be registered on the City's eBid System in order to view the solicitation documents and respond to this solicitation. The complete solicitation document can be downloaded for free from the eBid System as a pdf at: https://pompanobeachfl.ionwave.net/CurrentSourcingEvents.aspx. The City is not responsible for the accuracy or completeness of any documentation the Proposer receives from any source other than from the eBid System. Proposer is solely responsible for downloading all required documents. Responses will be electronically unsealed in a public forum and read aloud.

Introduction

The City of Pompano Beach, Florida seeks to obtain the services of a qualified company to provide valued and affordable concession services to the visitors and residents of the City of Pompano Beach. Services will be required at Community Park, Softball and Baseball complexes. This is a non-exclusive contract for City sponsored sports and cultural arts functions in which the company will receive a monthly schedule informing them of said events and/or activities. Services for special events or activities may include other vendors.

The Parks Recreation and Cultural Arts Department is seeking proposals from Concessionaires to provide a minimum amount per month, payable to the City of Pompano Beach, on a monthly basis to manage and operate concessions at the outdoor parks as needed for vending, food, and beverages to the public. One (1) concessionaire will be awarded the contract.

A. Scope Of Services

Concession Operations:

a) Concessionaire shall use concession stands only provided by the City; Trailers/Trucks will not be permitted in any of the City Parks.

b) Concessionaire will accept the concession areas and City owned equipment, as is, the City will not make any improvements or additions.

Exhibit "D", License Agreement Concessionaire Services

c) Concessionaire shall not make any improvements, additions or repairs without prior written approval from the City.

d) Concessionaire shall accept the City owned refrigerators and ice machines as is. During the contract term, Concessionaire will be financially responsible for any repairs to the said equipment.

e) Any additional equipment or replacement equipment desired by the Concessionaire will be acquired and installed at the Concessionaire's expense. If any public agency having jurisdiction over such matters require safety or other improvements to any of the equipment used by the concessionaire in their operations, for example electrical upgrades or drains installed, Concessionaire shall be required to make these improvements at their sole expense.

f) The Concessionaire will provide signage to be approved by the City prior to installation. Any permit fees required will be at the Concessionaire's expense.

g) Concessionaire shall ensure that concession stand is staffed at all times with sufficient qualified personnel in order to handle patron demand.

h) Concessionaire shall provide consistent hours of operation.

i) Concessionaire is to provide courteous and professional customer service.

j) Concessionaire is to provide regular extermination services, no less than monthly, and as needed; and keep records of service readily available to the City.

k) Concessionaire is to dispose of all garbage and waste in designated on-site dumpsters upon closing each evening. No garbage may be stored during business hours within sight of the public.

l) Concessionaire shall meet all Health Department regulations and other applicable laws and regulations.

m) Concessionaire to provide Property and Liability insurance (certificates of required insurance will be requested prior to commencement of operation of the concession stands).

n) Concessionaire is to secure and insure the concession stands against vandalism. The City shall not be held responsible for repairs due to vandalism.

o) Concessionaire is only authorized for the term of this contract to sell foods, beverages, and miscellaneous "snack bar" type items. All foods, beverages, and confectionary refreshments shall be of first quality. The items shall be wholesome, pure, shall conform to all Federal, State, and Municipal Laws, Ordinances, and Regulations, and shall be kept subject to the approval or rejection of the Recreation Administrator or his Designee.

p) Concessionaire shall also sell healthy choices for the health conscious patron.

q) Menu items and prices will be approved by City prior to sale. Agreed upon menu and prices shall remain posted at all concessions in plain view of patrons

standing and waiting for service. Approved pricing and food quality brand names shall remain constant unless a request is made in writing providing reasons for a product change. All posted material shall be clear and printed, not in written format.

r) Only non-glass items shall be used for beverages and food. No Styrofoam materials only paper or plastic items shall be used.

s) Concessionaire shall provide bags and ice as needed for program participant injuries.

t) Alcoholic Beverages may be sold with approval from the Recreation Administrator or his designee at the Four Fields Softball Complex and Baseball Complex. The Concessionaire agrees to obtain and pay for all permits, licenses, and business taxes, including Alcoholic Beverage Licenses and Broward County Health Department certifications as necessary to conduct the business and agrees to comply with all laws governing the responsibility of the employer with respect to persons employed by the Concessionaire. Appropriate licenses or proof that preliminary paperwork to secure license shall be submitted with this proposal. The Concessionaire shall comply with all City, County, State and Federal rules, regulations and laws, as related to alcohol sales and distribution, as may be amended from time to time. Alcoholic sales shall be limited to products covered under 2COP license type. The final decision as to whether or not Alcoholic Beverages may be sold at an event, or in any area of the facility, shall be at the sole discretion of the City. The decision to serve or refuse service of Alcoholic beverages to any individual shall be the sole responsibility of the Concessionaire.

u) Tobacco products will not be allowed for sale.

v) Un-shelled peanuts will not be allowed for sale.

w) Chewing gum will not be allowed for sale.

Locations:

a) Four Fields Softball Complex: 1300 NE 10th Street, Pompano Bch, FL 33060
- Minimum hours of operation are Monday through Friday 5:00pm to 10:00pm year round; and weekends as designated by rentals, tournaments and recreational activities.
- Estimated 200 patrons per night.

b) Baseball Complex: 1701 NE 8th Street, Pompano Bch, FL 33060
- Minimum hours of operation are Monday through Friday 5:00pm to 10:00pm year round; and weekends as designated by rentals, tournaments and recreational activities.
- Estimated 100 patrons per night

Revenue Proposal

Concessionaire is to provide a minimum amount per month, payable to the City of Pompano Beach on a monthly basis, for the following:

Softball and Baseball Complex

Minimum dollar amount per month payable to the City: $_____

Concessionaire will also agree to give a minimum of _____ % of gross revenue to Independent Sports Agreement organizations or Tournament rentals for tournaments or games that bring extra business to concession. The Tournament organizer will meet and discuss prior to their scheduled event that is scheduled through the Parks department.

B. Tasks/Deliverables

Eligibility

Proposals will be considered only from firms that have been engaged in providing concession services similar to the services specified herein and who are presently engaged in providing these services for a minimum of three (3) years. Proposers will be required to demonstrate proof of experience in the management and administration of an organization for the performance of this contract.

The City of Pompano Beach will determine whether the evidence of ability to perform is satisfactory and will make awards only when such evidence is deemed satisfactory. The City reserves the right to reject proposals when evidence submitted, on investigation and evaluation, is determined by the City to indicate inability of the bidder to perform.

The City of Pompano Beach reserves the right, before recommending any award, to inspect the organization or to take any other action necessary to determine ability to perform in accordance with the contract documents, including the financial ability, organizational ability, experience record and equipment.

Mandatory Site Visit

A mandatory site visit will take place on August 3rd at 10:00 a.m. at Community Park, Softball and Baseball complexes located at 1700 8th Street, Pompano Beach, FL 33060.

Compliance

State Health Department regulations shall be strictly complied with and failure to maintain an above average rating may be reason for terminating any agreement.

Assignment and/or Sub-Contracting

Any resulting agreement may not be assigned without the express permission of the City Commission. A listing of all sub-contractors, if any, and the portion of the contract they will perform must be submitted with the proposal. If sub- contractors are stated, this does not relieve the Vendor from the prime responsibility for full and complete satisfactory and acceptable performance under any awarded contract.

Manner of Performance

The Concessionaire must perform all its obligations and functions under this Contract in accordance with the requirements and standards contained herein and in a professional and businesslike manner. The Concessionaire shall use its best efforts to coordinate and adjust to the needs and requirements of the various users of the City.

Release of Liability

The Concessionaire will release and discharge the City of Pompano from any and all liability for loss of merchandise, health claim resulting from food preparation/quality, etc., goods, equipment or other property of the successful Concessionaire or his agents if lost, damaged or destroyed by fire, theft, rain, water, storm, riot, civil disobedience, vandalism or other causes.

Personnel

The Concessionaire shall be responsible for hiring personnel to adequately operate any resulting agreement. This hiring shall conform to all requirements of the Federal, State and local laws relating to minimum wages, Social Security, Civil Right Act of 1964, unemployment compensation, worker's compensation and Health Department. Employees shall observe all applicable rules and regulations. Concessionaire, at their expense, will provide proof of criminal background screening on all staff and agree that no staff will be assigned to said locations if found guilty of any sexually based offense.

Background Checks

All persons and firms are subject to a local, state, federal and financial background check using appropriate law enforcement procedures. Vendor must notify the City of all change in personnel within forty-eight (48) hours. All persons must be approved prior to their assignment to any City facility.

Accounting Records

The accounting system used should be able to identify all costs, expenses and revenues attributed to this agreement. To that end, the Vendor must keep accurate accounting and records of all operations through use of automatic cash register machine with print out capabilities. All operations covered in this document must have the ability to establish and maintain a system of bookkeeping and accounting, including inventory controls, satisfactory to the Recreation Administrator and City Code. The successful Concessionaire must agree to submit a certified monthly accounting report of gross receipts clearly indicating the revenue derived from each concession stand including location and specific product usage, in a manner acceptable to and approved by the City's Director of Financial Services or his or her designee, and shall provide an annual

profit and loss statement covering all operations covered by this agreement. A copy of the inventory sold receipt printout for each location must be included with the certified monthly accounting report. Audits will be made as often as deemed necessary by the City. Concessionaire shall make available, at reasonable time for City's examination, all financial and statistical records, state sales tax returns, and any other documents pertinent to concessionaire's provision of goods and services under this Agreement.

The successful Concessionaire will be required to establish and use a separate depository account for all sales generated under the agreement resulting from this solicitation. The failure of Concessionaire to produce any of the records described herein following a request by City agents shall be deemed a material breach and the City may terminate the agreement. The Concessionaire shall provide the following accounting report to the Recreation Administrator and Treasury Manager or their designees. **(Concessionaire shall submit examples of report formats to be used with their RFP).**

REPORT	INFORMATION REQUESTED	TIME FRAME
Accounting Report	• Concession stand product description (soda, snack, etc.) • Location • Total units sold monthly	Monthly
Gross sales		Monthly
Amount due to the City		Monthly

Payment

Payment and statement for previous month's gross receipts must be received by the Treasury Department, 100 West Atlantic Blvd, Pompano Beach, FL 33060 by the fifteenth (15th) of the following month with a copy to Recreation Manager or designee. In the event that the Concessionaire fails to make this payment within five (5) days of the due date, there shall be an additional charge of $50.00 payable to the City for such late payment. If the payment and accumulated penalties are not received within thirty (30) days after the normal monthly payment due date, the City may take the necessary steps to cancel the contract. The Concessionaire shall be responsible for collecting and remitting all sales tax to the State of Florida.

Reference To Other Data

Only information that is received in response to the RFP will be evaluated. References to any information submitted previously will not suffice.

Qualification of Respondents

A. Respondents must include a description of current and previous contracts providing the same or similar services called for in this Request for Proposal. List governmental agencies and/or private sector. Provide company name and Government entities, addresses, contact person, phone number, and dollar value of the contract.

B. Concessionaire shall keep current all licenses and permits, whether municipal,

county, state or federal required for the performance of its obligations and functions hereunder and shall pay promptly when due all such fees.

C. Term of Contract

Contract term will be two (2) years, renewable for three (3) additional one (1) year periods.

D. Local Business Program

On March 23, 2010, the City Commission approved a Resolution establishing a Local Business Program, a policy to increase the participation of City of Pompano Beach businesses in the City's procurement process.

You can view the list of City businesses that have a current Business Tax Receipt on the City's website, and locate local firms that are available to perform the work required by the bid specifications. The business information, sorted by business use classification, is posted on the webpage for the Business Tax Receipt Division: www.pompanobeachfl.gov by selecting the Pompano Beach Business Directory in the Shop Pompano! section.

Please note that, while no voluntary goals have been established for this solicitation, the City encourages Local Business participation in *all* of its procurements.

E. Small Business Enterprise Program

The Pompano Beach City Commission has established a voluntary Small Business Enterprise (SBE) Program to encourage and foster the participation of certified Small Business Enterprises in the central procurement activities of the City. The City of Pompano Beach is **strongly committed** to ensuring the participation of certified Small Business Enterprises (SBE's) as contractors and subcontractors for the procurement of goods and services, including labor, materials and equipment. The definition of a SBE, for the purpose of the City's voluntary program, is taken from the State of Florida Statute 288.703(1).

As of the date of publication of this solicitation, a small business means an independently owned and operated business concern that employs 200 or fewer permanent full-time employees and that, together with its affiliates, has a net worth of not more than $5 million or any firm based in Florida that has a Small Business Administration 8(a) certification. As applicable to sole proprietorships, the $5 million net worth requirement shall include both personal and business investments.

The City encourages all firms to undertake good faith efforts to identify appropriate certified Small Business Enterprise partners. Sources of information on certified Small Business Enterprises include the Broward County Small Business Development Division, the State of Florida Office of Supplier Diversity, South Florida Water Management District, and other agencies throughout the State. The City includes links to these organizations from the City's website www.pompanobeachfl.gov. Please indicate in your response if your firm is a certified Small Business Enterprise.

Please note that, while no voluntary goals have been established for this solicitation, the City encourages small business participation in *all* of its procurements.

F. Required Proposal Submittal

Submission/Format Requirements

Sealed proposals shall be submitted electronically through the eBid System on or before the due date/time stated above. Proposer shall upload response as one (1) file to the eBid System. The file size for uploads is limited to 100 MB. If the file size exceeds 100 MB the response must be split and uploaded as two (2) separate files.

Information to be included in the proposal: In order to maintain comparability and expedite the review process, it is required that proposals be organized in the manner specified below, with the sections clearly labeled:

Title page:
Show the project name and number, the name of the Proposer's firm, address, telephone number, name of contact person and the date.

Table of Contents:
Include a clear identification of the material by section and by page.

Letter of Transmittal:
Briefly state the Proposer's understanding of the project and express a positive commitment to provide the services described herein. State the name(s) of the person(s) who will be authorized to make representations for the Proposer, their title(s), office and E-mail addresses and telephone numbers. Please limit this section to two pages.

Fees & Costs:
Include a concise narrative with sufficient detail indicating the proposed approach to providing the required services, including a description of the types and qualities of service that would be provided. Provide a cost for each of the major services provided along with the estimated number of expected work hours for each qualified staff.

Proposer shall itemize all costs to complete all and necessary tasks as described under Scope of Services. Costs associated with travel as well as miscellaneous expenses should be adequately described.

Schedule:
Proposer shall provide a timeline that highlights proposed tasks that will meet all applicable deadlines.

References:
Submit a client reference list, including name of contact, firm and/or governmental entity, address, telephone number and type of service provided to each reference.

Litigation:
Disclose any litigation within the past five (5) years arising out your firm's performance.

City Forms:
The RFP Proposer Information Page Form and any other required forms must be completed and submitted electronically through the City's eBid System.

G. Insurance

The insurance described herein reflects the insurance requirements deemed necessary for this contract by the City. It is not necessary to have this level of insurance in effect at the time of submittal, but certificates indicating that the insurance is currently carried or a letter from the Carrier indicating upgrade ability will speed the review process to determine the most qualified Proposer.

The successful Proposer(s) shall not commence operations until certification or proof of insurance, detailing terms and provisions of coverage, has been received and approved by the City of Pompano Beach Risk Manager.

If you are responding to a bid and have questions regarding the insurance requirements hereunder, please contact the City's Purchasing Department at (954) 786-4098. If the contract has already been awarded, please direct any queries and proof of the requisite insurance coverage to City staff responsible for oversight of the subject project/contract.

CONTRACTOR is responsible to deliver to the CITY for 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 CONTRACTOR, are not intended to and shall not in any way limit or qualify the liabilities and obligations assumed by CONTRACTOR under this Agreement.

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

1. 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 Contractor is obligated to pay compensation to employees engaged in the performance of the work. Contractor 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.

2. Liability Insurance

Exhibit "D", License Agreement Concessionaire Services

a. 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 Contractor's negligent acts or omissions in connection with Contractor's performance under this Agreement.

b. 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 $1,000,000 Per Occurrence and $2,000,000 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
__ 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 contractors	personal injury
XX personal injury	
__ sexual abuse/molestation	Minimum $1,000,000 Per Occurrence and Aggregate
AUTOMOBILE LIABILITY:	Minimum $1,000,000 Per Occurrence and $1,000,000 Per Aggregate. Bodily injury (each person) bodily injury (each accident), property damage, bodily injury and property damage combined.
XX comprehensive form	
__ owned	
__ hired	
__ non-owned	
REAL & PERSONAL PROPERTY	
__ comprehensive form	Agent must show proof they have this coverage.

EXCESS LIABILITY		Per Occurrence	Aggregate
__ other than umbrella	bodily injury and property damage	$1,000,000	$1,000,000

combined

PROFESSIONAL LIABILITY	Per Occurrence	Aggregate
__ * Policy to be written on a claims made basis	$1,000,000	$1,000,000

c. If Professional Liability Insurance is required, Contractor agrees the indemnification and hold harmless provisions of the Agreement shall survive the termination or expiration of the Agreement for a period of three (3) years unless terminated sooner by the applicable statute of limitations.

3. Employer's Liability. CONTRACTOR and all 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.

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

   a. Certificates of Insurance evidencing the required coverage;

   b. Names and addresses of companies providing coverage;

   c. Effective and expiration dates of policies; and

   d. A provision in all policies affording CITY thirty (30) days written notice by a carrier of any cancellation or material change in any policy.

5. 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.

6. Waiver of Subrogation. CONTRACTOR 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 CONTRACTOR 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 CONTRACTOR enter into such an agreement on a pre-loss basis.

The successful proposer shall furnish to the City the certification or proof of insurance required by the provisions set forth above, within ten (10) days after notification of award of contract. Certificate(s) to be issued to City of Pompano Beach, Attention Risk Manager, 100 West Atlantic Boulevard, Pompano Beach, Florida, 33060.

H. Selection/Evaluation Process

A Selection/Evaluation Committee will be appointed to select the most qualified firm(s). The Selection/Evaluation Committee will present their findings to the City Commission.

Proposals will be evaluated using the following criteria.

	Criteria	Point Range
1.	**Experience and Qualifications of the Proposer and Project Team** Experience and qualifications of the firm in successfully operating concession stands. Proposer should demonstrate experience provide similar services to at least three other similar entities to the City. The Proposer's project team should have experience operating similar concession stands.	0-30
2.	**Resources and Methodology** Proposer should demonstrate a clear understanding of the scope of work and other technical and legal issues related to the project. Proposer should have a detailed explanation of how it plans to be financially successful while providing quality products and services.	0-30
3.	**Cost** Minimum monthly amount payable to the City. Proposer shall demonstrate feasibility of this amount through their proposal.	0-40
	Total	**0-100**

The Committee has the option to use the above criteria for the initial ranking to short-list Proposers and to use an ordinal ranking system to score short-listed Proposers following presentations (if deemed necessary) with a score of "1" assigned to the short-listed Proposer deemed most qualified by the Committee.

Each firm should submit documentation that evidences the firm's capability to provide the services required for the Committee's review for short listing purposes. After an initial review of the Proposals, the City may invite Proposers for an interview to discuss the proposal and meet firm representatives, particularly key personnel who would be assigned to the project. Should interviews be deemed necessary, it is understood that the City shall incur no costs as a result of this interview, nor bear any obligation in further consideration of the submittal.

When more than three responses are received, the committee shall furnish the City Commission (for their approval) a listing, in ranked order, of no fewer than three firms deemed to be the most highly qualified to perform the service. If three or less firms respond to the RFP, the list will contain the ranking of all responses.

The City Commission has the authority to (including, but not limited to); approve the recommendation; reject the recommendation and direct staff to re-advertise the solicitation; or, review the responses themselves and/or request oral presentations and determine a ranking order that may be the same or different from what was originally presented to the City Commission.

Value of Work Previously Awarded to Firm (Tie-breaker) - In the event of a tie, the firm with the lowest value of work as a prime contractor on City of Pompano Beach projects within the last five years will receive the higher ranking, the firm with the next lowest value of work shall receive the next highest ranking, and so on. The analysis of past work will be based on the City's Purchase Order and payment records.

I. **Hold Harmless and Indemnification**

Proposer covenants and agrees that it will indemnify and hold harmless the City and all of its officers, agents, and employees from any claim, loss, damage, cost, charge or expense arising out of any act, action, neglect or omission by the Proposer, whether direct or indirect, or whether to any person or property to which the City or said parties may be subject, except that neither the Proposer nor any of its subcontractors will be liable under this section for damages arising out of injury or damage to persons or property directly caused by or resulting from the sole negligence of the City or any of its officers, agents or employees.

J. **Retention of Records and Right to Access**

The selected firm shall maintain during the term of the contract all books of account, receipt invoices, reports and records in accordance with generally accepted accounting practices and standards. The form of all records and reports shall be subject to the approval of the City's Internal Auditor. The selected firm must comply with the Internal Auditor's recommendation for changes, additions, or deletions. The City's Internal Auditor must be permitted during normal business hours to audit and examine the books of account, reports, and records relating to this contract. The selected firm shall maintain and make available such records and files for the duration of the contract and retain them until the expiration of three years after final payment under the contract.

K. **Communications**

No negotiations, decisions, or actions shall be initiated or executed by the firm as a result of any discussions with any City employee. Only those communications, which are in writing from the City, may be considered as a duly authorized expression on behalf of the City. In addition, only communications from firms that are signed and in writing will be recognized by the City as duly authorized expressions on behalf of firms.

L. **No Discrimination**

There shall be no discrimination as to race, sex, color, age, religion, or national origin in the operations conducted under any contract with the City.

M. **Independent Contractor**

The selected firm will conduct business as an independent contractor under the terms of this contract. Personnel services provided by the firm shall be by employees of the firm and subject to supervision by the firm, and not as officers, employees, or agents of the

City. Personnel policies, tax responsibilities, social security and health insurance, employee benefits, purchasing policies and other similar administrative procedures applicable to services rendered under this agreement shall be those of the firm.

N. Staff Assignment

The City of Pompano Beach reserves the right to approve or reject, for any reasons, Proposer's staff assigned to this project at any time. Background checks may be required.

O. Contract Terms

The contract resulting from this RFP shall include, but not be limited to the following terms:

The contract shall include as a minimum, the entirety of this RFP document, together with the successful Proposer's proposal. Contract shall be prepared by the City of Pompano Beach City Attorney.

If the City of Pompano Beach defends any claim, demand, cause of action, or lawsuit arising out of any act, action, negligent acts or negligent omissions, or willful misconduct of the contractor, its employees, agents or servants during the performance of the contract, whether directly or indirectly, contractor agrees to reimburse the City of Pompano Beach for all expenses, attorney's fees, and court costs incurred in defending such claim, cause of action or lawsuit.

P. Waiver

It is agreed that no waiver or modification of the contract resulting from this RFP, or of any covenant, condition or limitation contained in it shall be valid unless it is in writing and duly executed by the party to be charged with it, and that no evidence of any waiver or modification shall be offered or received in evidence in any proceeding, arbitration, or litigation between the parties arising out of or affecting this contract, or the right or obligations of any party under it, unless such waiver or modification is in writing, duly executed as above. The parties agree that the provisions of this paragraph may not be waived except by a duly executed writing.

Q. Survivorship Rights

This contract resulting from this RFP shall be binding on and inure to the benefit of the respective parties and their executors, administrators, heirs, personal representative, successors and assigns.

R. Termination

The contract resulting from this RFP may be terminated by the City of Pompano Beach without cause upon providing contractor with at least sixty (60) days prior written notice.

Should either party fail to perform any of its obligations under the contract resulting from this RFP for a period of thirty (30) days after receipt of written notice of such failure, the non-defaulting part will have the right to terminate the contract immediately upon delivery of written notice to the defaulting part of its election to do so. The foregoing rights of termination are in addition to any other rights and remedies that such party may have.

S. Manner of Performance

Proposer agrees to perform its duties and obligations under the contract resulting from this RFP in a professional manner and in accordance with all applicable local, federal and state laws, rules and regulations.

Proposer agrees that the services provided under the contract resulting from this RFP shall be provided by employees that are educated, trained and experienced, certified and licensed in all areas encompassed within their designated duties. Proposer agrees to furnish the City of Pompano Beach with all documentation, certification, authorization, license, permit, or registration currently required by applicable laws or rules and regulations. Proposer further certifies that it and its employees are now in and will maintain good standing with such governmental agencies and that it and its employees will keep all license, permits, registration, authorization or certification required by applicable laws or regulations in full force and effect during the term of this contract. Failure of Proposer to comply with this paragraph shall constitute a material breach of contract.

T. Acceptance Period

Proposals submitted in response to this RFP must be valid for a period no less than ninety (90) days from the closing date of this solicitation.

U. RFP Conditions and Provisions

The completed proposal (together with all required attachments) must be submitted electronically to City on or before the time and date stated herein. All Proposers, by electronic submission of a proposal, shall agree to comply with all of the conditions, requirements and instructions of this RFP as stated or implied herein. All proposals and supporting materials submitted will become the property of the City.

Proposer's response shall not contain any alteration to the document posted other than entering data in spaces provided or including attachments as necessary. By submission of a response, Proposer affirms that a complete set of bid documents was obtained from the eBid System or from the Purchasing Division only and no alteration of any kind has been made to the solicitation. Exceptions or deviations to this proposal may not be added after the submittal date.

All Proposers are required to provide all information requested in this RFP. Failure to do so may result in disqualification of the proposal.

The City reserves the right to postpone or cancel this RFP, or reject all proposals, if in its sole discretion it deems it to be in the best interest of the City to do so.

The City reserves the right to waive any technical or formal errors or omissions and to reject all proposals, or to award contract for the items herein, in part or whole, if it is determined to be in the best interests of the City to do so.

The City shall not be liable for any costs incurred by the Proposer in the preparation of proposals or for any work performed in connection therein.

V. Standard Provisions

1. Governing Law

Any agreement resulting from this RFP shall be governed by the laws of the State of Florida, and the venue for any legal action relating to such agreement will be in Broward County, Florida.

2. Licenses

In order to perform public work, the successful Proposer shall:
Be licensed to do business in Florida, if an entity, and hold or obtain such Contractor' and Business Licenses if required by State Statutes or local ordinances.

3. Conflict Of Interest

For purposes of determining any possible conflict of interest, each Proposer must disclose if any Elected Official, Appointed Official, or City Employee is also an owner, corporate officer, or an employee of the firm. If any Elected Official, Appointed Official, or City Employee is an owner, corporate officer, or an employee, the Proposer must file a statement with the Broward County Supervisor of Elections pursuant to §112.313, Florida Statutes.

4. Drug Free Workplace

The selected firm(s) will be required to verify they will operate a "Drug Free Workplace" as set forth in Florida Statute, 287.087.

5. Public Entity Crimes

A person or affiliate who has been placed on the convicted vendor list following a conviction for public entity crime may not submit a proposal on a contract to provide any goods or services to a public entity, may not submit a proposal on a contract with a public entity for the construction or repair of a public building or public work, may not submit proposals on leases of real property to public entity, may not be awarded or perform work as a contractor, supplier, subcontractor, or consultant under a contract with any public entity, and may not transact business with any public entity in excess of the threshold amount provided in Florida Statute, Section 287.017, for CATEGORY TWO for a period of 36 months from the date of being placed on the convicted vendor list.

6. Patent Fees, Royalties, And Licenses

If the selected Proposer requires or desires to use any design, trademark, device, material or process covered by letters of patent or copyright, the selected Proposer and his surety shall indemnify and hold harmless the City from any and all claims for infringement by reason of the use of any such patented design, device, trademark, copyright, material or process in connection with the work agreed to be performed and shall indemnify the City from any cost, expense, royalty or damage which the City may be obligated to pay by reason of any infringement at any time during or after completion of the work.

7. Permits

The selected Proposer shall be responsible for obtaining all permits, licenses, certifications, etc., required by federal, state, county, and municipal laws, regulations, codes, and ordinances for the performance of the work required in these specifications and to conform to the requirements of said legislation.

8. Familiarity With Laws

It is assumed the selected firm(s) will be familiar with all federal, state and local laws, ordinances, rules and regulations that may affect its services pursuant to this RFP. Ignorance on the part of the firm will in no way relieve the firm from responsibility.

9. Withdrawal Of Proposals

A firm may withdraw its proposal without prejudice no later than the advertised deadline for submission of proposals by written communication to the General Services Department, 1190 N.E. 3rd Avenue, Building C, Pompano Beach, Florida 33060.

10. Composition Of Project Team

Firms are required to commit that the principals and personnel named in the proposal will perform the services throughout the contractual term unless otherwise provided for by way of a negotiated contract or written amendment to same executed by both parties. No diversion or substitution of principals or personnel will be allowed unless a written request that sets forth the qualifications and experience of the proposed replacement(s) is submitted to and approved by the City in writing.

11. Invoicing/Payment

All invoices should be sent to City of Pompano Beach, Accounts Payable, P.O. Drawer 1300, Pompano Beach, Florida, 33061. In accordance with Florida Statutes, Chapter 218, payment will be made within 45 days after receipt of a proper invoice.

12. Public Records

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

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

ii. 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;

iii. 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 Contractor does not transfer the records to the City; and

iv. Upon completion of the contract, transfer, at no cost to the City, all public records in possession of the Contractor, or keep and maintain public records required by the City to perform the service. If the Contractor transfers all public records to the City upon completion of the contract, the Contractor shall destroy any duplicate public records that are exempt or confidential and exempt from public records disclosure requirements. If the Contractor keeps and maintains public records upon completion of the contract, the Contractor 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.

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

PUBLIC RECORDS CUSTODIAN

IF THE CONTRACTOR HAS QUESTIONS REGARDING THE APPLICATION OF CHAPTER 119, FLORIDA STATUTES, TO THE CONTRACTOR'S DUTY TO PROVIDE PUBLIC RECORDS RELATING TO THIS CONTRACT, 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

W. Questions and Communication

All questions regarding the RFP are to be submitted using the Questions feature in the eBid System. Questions must be received at least seven (7) calendar days before the scheduled solicitation opening. Oral and other interpretations or clarifications will be without legal effect. Addenda will be posted to the RFP solicitation in the eBid System, and it is the Proposer's responsibility to obtain all addenda before submitting a response to the solicitation.

X. Addenda

The issuance of a written addendum or posting of an answer in response to a question submitted using the Questions feature in the eBid System are the only official methods whereby interpretation, clarification, or additional information can be given. If any addenda are issued to this RFP solicitation the addendum will be issued via the eBid System. It shall be the responsibility of each Proposer, prior to submitting their response, to contact the City Purchasing Office at (954) 786-4098 to determine if addenda were issued and to make such addenda a part of their proposal. Addenda will be posted to the RFP solicitation in the eBid System.

Y. Contractor Performance Report

The City will utilize the Contractor Performance Report to monitor and record the successful proposer's performance for the work specified by the contract. The Contractor Performance Report has been included as an exhibit to this solicitation.

COMPLETE THE PROPOSER INFORMATION FORM ON THE ATTACHMENTS TAB IN THE EBID SYSTEM. PROPOSERS ARE TO COMPLETE THE FORM IN ITS ENTIRITY AND INCLUDE THE COMPLETED FORM IN YOUR PROPOSAL THAT MUST BE UPLOADED TO THE RESPONSE ATTACHMENTS TAB FOR THE RFP IN THE EBID SYSTEM.

PROPOSER INFORMATION PAGE

RFP _____, _____
(number) (RFP name)

To: The City of Pompano Beach, Florida

The below named company hereby agrees to furnish the proposed services under the terms stated subject to all instructions, terms, conditions, specifications, addenda, legal advertisement, and conditions contained in the RFP. I have read the RFP and all attachments, including the specifications, and fully understand what is required. By submitting this proposal, I will accept a contract if approved by the City and such acceptance covers all terms, conditions, and specifications of this proposal.

Proposal submitted by:

Name (printed) _____ Title _____

Company (Legal Registered) _____

Federal Tax Identification Number _____

Address _____

City/State/Zip _____

Telephone No. _____ Fax No. _____

Email Address _____

Exhibit – Contractor Performance Report

City of Pompano Beach, Purchasing Division
1190 N.E. 3rd Avenue, Building C
Pompano Beach, Florida, 33060

CITY OF POMPANO BEACH
CONTRACTOR PERFORMANCE REPORT

1. Report Period: from _____ to _____
2. Contract Period: from _____ to _____
3. Bid# & or P.O.#: _____
4. Contractor Name: _____
5. City Department: _____
6. Project Manager: _____
7. Scope of Work (Service Deliverables): _____

_____

_____

_____

_____

_____

_____

_____

_____

_____

Exhibit – Contractor Performance Report

1. Quality Assurance/Quality Control - Product/Services of high quality - Proper oversight - Communication	Poor =1 Satisfactory =2 Excellent =3	
2. Record Keeping -Accurate record keeping -Proper invoicing -Testing results complete	Poor =1 Satisfactory =2 Excellent =3	
3. Close-Out Activities - Restoration/Cleanup - Deliverables met - Punch list items addressed	Poor =1 Satisfactory =2 Excellent =3	
4. Customer Service - City Personnel and Residents - Response time - Communication	Poor =1 Satisfactory =2 Excellent =3	
5. Cost Control - Monitoring subcontractors - Change-orders - Meeting budget	Poor =1 Satisfactory =2 Excellent =3	
6. Construction Schedule - Adherence to schedule - Time-extensions - Efficient use of resources	Poor =1 Satisfactory =2 Excellent =3	

RATINGS

Poor Performance (1.0 – 1.59): *Marginally responsive, effective and/or efficient; delays require significant adjustments to programs; key employees marginally capable; customers somewhat satisfied.*

Satisfactory Performance (1.6 – 2.59): *Generally responsive, effective and/or efficient; delays are excusable and/or results in minor program adjustments; employees are capable and satisfactorily providing service without intervention; customers indicate satisfaction.*

Excellent Performance (2.6 – 3.0): *Immediately responsive; highly efficient and/or effective; no delays; key employees are experts and require minimal direction; customers expectations are exceeded.*

Exhibit "D", License Agreement Concessionaire Services

Would you select/recommend this contractor again? _____ Yes _____ No

Please attach any supporting documents to this report to substantiate the ratings that have been provided.

Ratings completed by (print name)	Ratings completed by signature	Date
Department Head (print name)	Department Head Signature	Date
Vendor Representative (print name)	Contractor Representative Signature	Date

Comments, corrective actions etc., use additional page if necessary:

Exhibit "D", License Agreement Concessionaire Services

Concessionaire services for community park softball and baseball complexes P-41-17
Flippin' Dogs
2100 NE 38th street Pompano Beach, FL 33065
561-558-6815
Meredith Castellano
8/30/17
Table of Contents:
Bid
Business history
Our dedication
Menu
Customer appreciation card

Letter of Transmittal
Our bid of $100.00 monthly, in good faith, is based on the fact we lack prior financials demonstrating sales performance in order to do an accurate financial projection.

For us, this is an unknown business in an unknown location with unknown traffic and unknown profit, so this new opportunity presents a huge gamble with start up costs that will not be recovered. Even so, we are willing to give it a try.

Flippin' Dogs has a historic excellent in food service. We are the perfect choice for your concession stands. With over 35 years experience, we bring a blend of professionalism, reliability, parenting skills and fun to all who play and attend the activities at Pompano Park. Our uniforms, name tags, customer appreciation cards, recycling abilities add a level of professionalism and fun to the stands.

Our menu is attached and we will be adding fresh fruits, Gatorade, energy bars and more to fulfill our guests needs.

We are dedicated to the schedule. We will improve the concession reputation. We will support the needs of teams and players and guests. We are open to assisting in individual team fund raisers and sponsorship of teams as profits allow.

Fees & Cost: Expected work hours for staff is unclear due to a lack of a firm schedule. Flippin' Dogs will fulfill the hours of operation at all time to ensure teams, players and guests needs are met.

References
Michael Emerson
Huntington Bank
603-852-6767
food service
Jordan Schucart
Jozak Jewelers
603-209-8350
Bob and Brenda Cruz
Broward Sheriff Citizen Patrol
386-623-4191

Exhibit E

City of Pompano Beach ("City") Policy
For Distribution and Consumption of Alcoholic Beverages on City Properties

The distribution and consumption of sale of beer, wine and spirits (collectively "alcohol") shall be allowed at activities on City Properties subject to the following rules and procedures.

1. The distribution of alcohol shall be prohibited on City Properties during any Event intended for children under age 21.
2. Only alcohol distributed by Contractor's approved vendors may be allowed or consumed on City Properties; no outside alcohol shall be allowed.
3. All Contractor's vendors authorized to provide alcohol on City Properties shall be required to indemnify and hold harmless the City, its officers, agents, employees, and volunteers, from any and all claims for liability arising directly or indirectly out of alcohol sales or consumption. Proof of insurance acceptable to the City's Risk Manager shall be required to satisfy this indemnification obligation prior to any alcohol sales taking place.
4. Prior to any activities taking place on City Properties, all Contractor's approved vendors authorized shall have received written approval from the City's Risk Manager that their Certificate of Liability Insurance includes the requisite coverage for alcohol sales.
5. Police or security officers shall be authorized to prohibit the distribution or consumption of alcohol to any person that appears intoxicated. Police or security officers are also authorized to order persons that appear intoxicated to immediately leave the City Properties.
6. Persons serving alcohol shall be at least 21 years old, properly trained in such service, and not be allowed to consume alcohol immediately before, during, or following a activity. Any server violating this policy shall be immediately ordered to leave the City Properties by Contractor, police or a security officer.
7. Servers shall be responsible to verify that persons attempting to purchase alcohol are of legal drinking age. Alcohol sales shall be denied to persons who are not able to provide photo identification evidencing proof of legal drinking age upon request. Servers shall be required to refuse to provide alcohol to any person who appears intoxicated.
8. Signs shall be posted at the concession areas on the City Properties which state that all persons must be of legal drinking age to receive and consume alcohol, that alcohol sales are limited to two (2) drinks per person per transaction, and that servers reserve the right to refuse service to any person who appears intoxicated.
9. The distribution of alcohol shall cease at least thirty (30) minutes before the official end of all activities on the City Properties. The cutoff of alcohol sales shall be determined according to the schedule of activities Contractor provided to, and approved by, City.