



**AGENDA REPORT**  
**September 19, 2017**

---

---

**SUBJECT:**

Authorization to advertise Request for Proposals (RFP), RE: Operation of Concession at the Titusville Veterans' Memorial Fishing Pier – District 1

**FISCAL IMPACT:**

The fiscal impact to North Area Parks Operations budget will vary based on the proposed fee to be paid by the County for all services for which the proposer would like their proposal to be considered in response to the RFP.

**DEPT/OFFICE:**

Parks and Recreation

**REQUESTED ACTION:**

It is requested the Board of County Commissioners approve:

- Advertisement of a Request for Proposal for operation of the Concession at the Titusville Veterans' Memorial Fishing Pier
- Establish Selection and Negotiation Committees
- Award contract to the most qualified proposal according to selection committee ranking
- Authorize the Chairman to execute resulting negotiated agreement upon County Attorney and Risk Management approval.

**SUMMARY EXPLANATION and BACKGROUND:**

The Brevard County Parks and Recreation Department entered into an agreement with Capital Seas, Inc. for the operation of a concession at the Titusville Veterans' Memorial Fishing Pier in 2009. The agreement was renewed in 2015 and will expire on June 24, 2018. Capital Seas, Inc. has been notified in writing of the Department's determination of nonrenewal of this agreement.

The intent of this solicitation is to receive proposals to procure the services of the most qualified vendor to provide concession services for the benefit of the citizens of Brevard County.

In addition to authorizing advertisement for and acceptance of proposals, it is requested the Board approve Selection and Negotiation Committees as follows:

Selection Committee: Mary Ellen Donner, Parks and Recreation Department Director, or designee; Jeff Davis, North Area Parks Operations Manager, or designee; Greg Minor, South Area Parks Operations Manager, or designee.

Negotiation Committees: Jim Liesenfelt, Assistant County Manager, or designee; Mary Ellen Donner, Parks and Recreation Department Director, or designee; Hector Lopez, Assistant Parks and Recreation Department Director, or designee.

**ATTACHMENTS:**

**Description**

- Original Agreement with Capital Seas, Inc.
- Renewal with Capital Seas Inc.

**REVIEWERS:**

**Department**

**Parks and Recreation**

**ACM Community Services**

**County Manager**

**Reviewer**

**Donner, Mary Ellen**

**Liesenfelt, Jim**

**Abbate, Frank**

**Action**

**Approved**

**Approved**

**Approved**

9/13/2017

**Parks and Recreation  
ACM Community Services  
County Manager**

**Donner, Mary Ellen  
Liesenfelt, Jim  
Abbate, Frank**

Item Coversheet

**Approved  
Approved  
Approved**

**BREVARD COUNTY  
BOARD OF COUNTY COMMISSIONERS**

**INITIAL CONTRACT REVIEW AND APPROVAL FORM**

**SECTION I - GENERAL INFORMATION**

<b>1. Contractor:</b> TBD	
<b>2. Fund/Account #:</b>	<b>3. Department Name:</b> Parks & Recreation (NAPO)
<b>4. Contract Description:</b> Management Services	
<b>5. Contract Monitor:</b> Shirley Corliss	<b>7. Contract Type:</b>
<b>6. Dept/Office Director:</b> Mary Ellen Donner	SERVICES

**SECTION II - REVIEW AND APPROVAL TO ADVERTISE**

<u>COUNTY OFFICE</u>	<u>APPROVAL</u>		<u>SIGNATURE</u>	<u>DATE</u>
	<u>YES</u>	<u>NO</u>		
User Agency	<input checked="" type="checkbox"/>	<input type="checkbox"/>	Renninger, Melissa <small>Digitally signed by Renninger, Melissa DN: cn=Renninger, Melissa, o=Brevard County, ou=County Office, email=melissa.renninger@brevard.net</small>	_____
Risk Management	<input type="checkbox"/>	<input type="checkbox"/>	_____	_____
County Attorney	<input type="checkbox"/>	<input type="checkbox"/>	_____	_____

**SECTION III - REVIEW AND APPROVAL TO EXECUTE**

<u>COUNTY OFFICE</u>	<u>APPROVAL</u>		<u>SIGNATURE</u>	<u>DATE</u>
	<u>YES</u>	<u>NO</u>		
User Agency	<input checked="" type="checkbox"/>	<input type="checkbox"/>	_____ <small>Digitally signed by Renninger, Melissa DN: cn=Renninger, Melissa, o=Brevard County, ou=County Office, email=melissa.renninger@brevard.net</small>	_____
Risk Management	<input type="checkbox"/>	<input type="checkbox"/>	_____	_____
County Attorney	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<i>MDJ</i>	6/21/18

**SECTION IV - CONTRACTS MANAGEMENT DATABASE CHECKLIST**

<b>CM DATABASE REQUIRED FIELDS</b>	<b>Complete ✓</b>
Department Information	<input type="checkbox"/>
Department	<input type="checkbox"/>
Program	<input type="checkbox"/>
Contact Name	<input type="checkbox"/>
Cost Center, Fund, and G/L Account	<input type="checkbox"/>
Vendor Information (SAP Vendor #)	<input type="checkbox"/>
Contract Status	<input type="checkbox"/>
Contract Title	<input type="checkbox"/>
Contract Type	<input type="checkbox"/>
Contract Amount	<input type="checkbox"/>
Storage Location (SAP)	<input type="checkbox"/>
Contract Approval Date	<input type="checkbox"/>
Contract Effective Date	<input type="checkbox"/>
Contract Expiration Date	<input type="checkbox"/>
Contract Absolute End Date (No Additional Renewals/Extensions)	<input type="checkbox"/>
Material Group	<input type="checkbox"/>
Contract Documents Uploaded in CM database (Initial Contract Form with County Attorney/ Risk Management Approval; Signed/Executed Contract)	<input type="checkbox"/>
"Right To Audit" Clause Included in Contract	<input type="checkbox"/>
Monitored items: Uploaded to database (Insurance, Bonds, etc.)	<input type="checkbox"/>

**BREVARD COUNTY  
BOARD OF COUNTY COMMISSIONERS**

## INITIAL CONTRACT REVIEW AND APPROVAL FORM

**SECTION I - GENERAL INFORMATION**

<b>1. Contractor:</b> TBD	
<b>2. Fund/Account #:</b>	<b>3. Department Name:</b> Parks & Recreation (NAPO)
<b>4. Contract Description:</b> Management Services	
<b>5. Contract Monitor:</b> Shirley Corliss	<b>7. Contract Type:</b>  SERVICES
<b>6. Dept/Office Director:</b> Mary Ellen Donner	

**SECTION II – REVIEW AND APPROVAL TO ADVERTISE**

COUNTY OFFICE	APPROVAL		SIGNATURE	DATE
	YES	NO		
User Agency	<input checked="" type="checkbox"/>	<input type="checkbox"/>	Renninger, Melissa <small>Digitally signed by Melissa Renninger DN: cn=Melissa Renninger, o=Brevard County, ou=County Administration, email=melissa.renninger@brevard.net</small>	_____
Risk Management	<input type="checkbox"/>	<input type="checkbox"/>	_____	_____
County Attorney	<input type="checkbox"/>	<input type="checkbox"/>	_____	_____

**SECTION III – REVIEW AND APPROVAL TO EXECUTE**

COUNTY OFFICE	APPROVAL		SIGNATURE	DATE
	YES	NO		
User Agency	<input checked="" type="checkbox"/>	<input type="checkbox"/>	Melissa Renninger <small>Digitally signed by Melissa Renninger DN: cn=Melissa Renninger, o=Brevard County, ou=County Administration, email=melissa.renninger@brevard.net</small>	_____
Risk Management	<input checked="" type="checkbox"/>	<input type="checkbox"/>	Matt Lairsey <small>Digitally signed by Matt Lairsey DN: cn=Matt Lairsey, o=Brevard County, ou=County Administration, email=matt.lairsey@brevard.net</small>	06/01/2018
County Attorney	<input type="checkbox"/>	<input type="checkbox"/>	_____	_____

**SECTION IV - CONTRACTS MANAGEMENT DATABASE CHECKLIST**

CM DATABASE REQUIRED FIELDS	Complete ✓
Department Information	<input type="checkbox"/>
Department	<input type="checkbox"/>
Program	<input type="checkbox"/>
Contact Name	<input type="checkbox"/>
Cost Center, Fund, and G/L Account	<input type="checkbox"/>
Vendor Information (SAP Vendor #)	<input type="checkbox"/>
Contract Status	<input type="checkbox"/>
Contract Title	<input type="checkbox"/>
Contract Type	<input type="checkbox"/>
Contract Amount	<input type="checkbox"/>
Storage Location (SAP)	<input type="checkbox"/>
Contract Approval Date	<input type="checkbox"/>
Contract Effective Date	<input type="checkbox"/>
Contract Expiration Date	<input type="checkbox"/>
Contract Absolute End Date (No Additional Renewals/Extensions)	<input type="checkbox"/>
Material Group	<input type="checkbox"/>
Contract Documents Uploaded in CM database (Initial Contract Form with County Attorney/ Risk Management Approval; Signed/Executed Contract)	<input type="checkbox"/>
"Right To Audit" Clause Included in Contract	<input type="checkbox"/>
Monitored items: Uploaded to database (Insurance, Bonds, etc.)	<input type="checkbox"/>



Tammy Rowe, Clerk to the Board, 400 South Street • P.O. Box 999, Titusville, Florida 32781-0999

Telephone: (321) 637-2001  
Fax: (321) 264-6972  
Tammy.Rowe@brevardclerk.us

September 20, 2017

MEMORANDUM

TO: Mary Ellen Donner, Parks and Recreation Department Director

RE: Item II.B.4., Permission to Advertise Request for Proposals (RFP) for Operation of Concession at the Titusville Veterans' Memorial Fishing Pier

The Board of County Commissioners, in regular session on **September 19, 2017**, granted permission to advertise RFP for operation of the Concession at the Titusville Veterans' Memorial Fishing Pier; authorized establishing selection and negotiation committees consisting of you, or your designee; Jeff Davis, North Area Parks Operations Manager, or his designee; Greg Minor, South Area Parks Operations Manager, or his designee; Jim Liesenfelt, Interim Assistant County Manager, or his designee; and Hector Lopez, Assistant Parks and Recreation Department Director, or his designee; authorized awarding the contract to the most qualified proposal according to the selection committee ranking; and authorized the Chairman to execute resulting negotiated agreement upon County Attorney and Risk Management approval.

Your continued cooperation is greatly appreciated.

Sincerely yours,

BOARD OF COUNTY COMMISSIONERS  
SCOTT ELLIS, CLERK

*for* *Denna Scott*  
Tammy Rowe, Deputy Clerk  
/ds

cc: Committee Members  
Finance  
Budget





Brevard County Parks and Recreation Department  
**MANAGEMENT SERVICES**  
**AGREEMENT**



**THIS AGREEMENT** made and entered into this 25<sup>th</sup> day of June, 2018 by and between the **BOARD OF COUNTY COMMISSIONERS OF BREVARD COUNTY, FLORIDA**, a political subdivision of the State of Florida, hereinafter referred to as “County”, and **PIER 220 INC**, hereinafter referred to as the “Vendor”.

**WITNESSETH:**

**WHEREAS**, the County is the owner, lessee, or authorized administrator of certain real property located in Brevard County, Florida, commonly known as the Titusville Veterans Memorial Fishing Pier, (hereinafter referred to as “Park” and attached hereto as **Exhibit “A”**), located at 2 A. Max Brewer Memorial Parkway, Titusville, FL 32796 ; and

**WHEREAS**, the Park was constructed for the purpose of a food and beverage service area and recreational activities for the general public; and

**WHEREAS**, the Park is owned by the City of Titusville, hereinafter referred to as “City” and operated by the County pursuant to an Interlocal Agreement (attached hereto as **Exhibit “B”**); and

**WHEREAS**, the County has negotiated with the Vendor for the management and operation of concession services at the Park and desire to set forth the terms and conditions as described in Proposal #P-3-18-05; and

**WHEREAS**, the County may provide parks, preserves, playgrounds, recreation areas, and other recreational and cultural facilities and programs pursuant to Section 125.01(1)(f), Florida Statutes.

**NOW THEREFORE**, in consideration of the covenants herein contained, it is mutually agreed between the parties as follows:

1. **Term.** This Agreement shall be effective for a period of five (5) years and four (4) months from the date of execution. It is mutually agreed the Vendor may request renewal of this Agreement for two (2) additional five (5) year terms. The request for renewal shall be submitted in writing at least ninety (90) days prior to expiration of the Agreement. Each Agreement renewal will be subject to renegotiation, including the monthly rent. Monthly rent shall be negotiated yearly based on the effective date of the Agreement. Monthly rent increases shall not exceed an amount equal to ten percent (10%) of the previous year’s monthly rent. The County shall have no obligation to renew this Agreement. Vendor shall not be entitled to damages for nonrenewal of this Agreement.

In the event, the Interlocal Agreement between the County and the City is no longer in effect, resulting in the County's cessation of operation of the Park, the County's obligations under this Agreement shall be deemed terminated. Such termination shall not constitute a breach by the County.

Upon the last day of this Agreement or any renewal term, the Vendor shall peaceably and quietly leave the Park in good order and repair.

**2. Payments.**

- A. The Vendor shall provide a cash bond in the amount of Eighteen Thousand Dollars (\$18,000) to be conditioned upon the faithful performance of all the provisions herein set forth. The cash bond shall be posted with the County within ten (10) days after execution of this Agreement
- B. Vendor shall pay monthly rent payments of Six Thousand One Dollars (\$6,001) plus any applicable sales or use tax due under state law for the operation of the Park, payable to the Brevard County Board of County Commissioners. Payment shall be due on or before the tenth (10<sup>th</sup>) day of each month to North Area Operations, 475 North Williams Avenue, Titusville, FL 32780.
- C. Monthly rent shall include reasonable utility fees for water, sewer and garbage.
- D. Upon renewal rent shall be increased as provided for in Section 1.
- E. The County may, for a period not to exceed six (6) months, negotiate a reduction in the monthly payment of rent due to the County when unforeseen circumstances including Pier conditions, major equipment breakdown, and acts of Nature, warrant said reduction. The parties agree that the Vendor has no right to a rate reduction, but that any reduction is subject to the sole discretion of the County.

**3. Accounting Procedures and Reports.**

All sales shall be registered on a cash register or computerized POS system with the amount of sale visible to the customer. The cash register/system must be furnished by the Vendor and shall be the responsibility of the Vendor. The County shall approve the type of cash register or computerized POS system to ensure accountability purposes.

Vendor shall furnish to the County, at the Vendor's expense, a monthly attendance report by the tenth (10th) day of each month for the previous month's business. Sales tax reports shall be made to the State of Florida.

**4. Obligations of the Vendor.**

Vendor shall:

- A. Initially open for business no later than one hundred and twenty (120) days after the effective date of this Agreement.
- B. Adequately maintain and offer menu items sufficient to satisfy the demands and needs of the public to include non-alcoholic and alcoholic beverages. All fees and charges for menu items shall be competitive

in nature and will not exceed the average retail prices of the same or comparable items charged by similar commercial establishments within Brevard County, as determined in the sole discretion of the County. Once established, no fees or charges may be changed without prior written approval of the County.

- C. Produce various means of marketing with creative menu items, specials, promotions and activities.
- D. Advertisements be in good taste commensurate with an acceptable family-orientated environment. Advertising of other businesses not related to the operation of the Park are prohibited. All signage must be in compliance with any applicable jurisdiction's code or ordinance.
- E. Provide a regular schedule for service to Park patrons. This schedule shall be subject to approval by the County and shall be posted at all times in full view of the public. Said schedule shall not be modified or altered without prior approval by the County. Proposed schedule changes must be submitted to the County in writing at least fifteen (15) days prior to proposed effective date.
- F. Maintain a "No-Smoking" policy within the indoor service and seating area.
- G. The use of styrofoam is prohibited.
- H. Provide all employees, contractors, subcontractors, agents, representatives and volunteers and other persons providing services at the Park a uniform to be worn at all times. Uniforms shall be conducive to a family-orientated atmosphere.
- I. Maintain a high level of public relations and customer service that promotes a highly favorable family-orientated atmosphere. Conduct said business in a manner which is courteous and fair to the public and be responsive to customer's requests and complaints.
- J. Accept common forms of payment from patrons (cash, debit and credit card). The Vendor shall pay all associated costs for acceptance of these types of payments.
- K. Access to the Park shall remain free with no admission fee.
- L. Park patrons shall be allowed to sit in the outside concession area without charge or a requirement to purchase goods from the Vendor based upon available seating and weather conditions.
- M. Assist the County in enforcing the City's prohibition of alcoholic beverages being brought to the Park by any patron other than those purchased from the Vendor. The County shall provide appropriate signage. The Vendor shall call local law enforcement if a patron refuses to comply with this requirement.
- N. The Vendor may request any person violating any applicable law, rule or regulation to leave the Park. If a patron remains in the Park after such request the Vendor shall immediately notify local law enforcement.
- O. Immediately report to the County any accident or incident requiring emergency response.
- P. Allow the City up to four (4) one day special events per year at the Park as required in the Interlocal Agreement. The City may at its discretion use the patron seating area of the Park for such events and may negotiate with the Vendor for food and beverage service for such special events.

Q. Cooperate fully with County and City officials in all matters relating to the concession and the Park.

5. **County Obligations.**

A. Maintain the outdoor memorials, flag pole and replacement of flags.

B. Capital repairs, except those capital repairs which are the obligation of the Vendor, to the Park to include roof, walls, floors, and foundation.

6. **Improvements.** Any improvements or repairs, to the Park by the Vendor must be requested in writing to the County, and mutually agreed upon by the County and the Vendor, with written permission granted by the County, prior to any actual work commencing. Said request shall state the party responsible for funding such improvements. The plans, specifications, and location for all improvements, structures, landscaping, and facilities made by the Vendor to the Park shall be submitted in writing to and approved by County prior to the construction or installation of such improvement, structure, landscaping or facility. It is hereby mutually agreed and understood that any building, structure, fixture, or facility located thereon and permanently attached thereto shall become the property of the fee simple title holder.

7. **Repairs and Maintenance.** The Vendor shall keep the Park, including the fishing pier and parking lot, clean and free of litter, rubbish, or any obstacles in accordance with any applicable law, regulations or ordinances. The Vendor shall immediately notify the County of maintenance, safety, and/or repair concerns or problems.

The Vendor shall:

A. Perform daily janitorial services and any and all maintenance and repair to the interior and exterior of the Park service and seating areas, porches, fishing pier and parking lot. The Vendor shall be responsible for all aspects of cleanliness in the Park service and seating areas to include but not be limited to the cleaning of porches, tables, chairs, counters, and floors.

B. Provide appropriate trash containers for use in conjunction with the operation of the Park. Trash containers located in public seating shall be kept clean and stain free. Vendor shall provide a dumpster for pick up and disposal of garbage for the Park. Vendor shall practice environmental trash separation by providing recycling containers for patrons use for recycling cans, plastic and glass bottles.

C. Be responsible for disposal of cooking oil in compliance with any applicable laws or ordinances.

D. Be responsible for security of the Park and to take appropriate measures to minimize damage when severe weather or other dangerous conditions are expected. All Inspections, maintenance, repair monitoring and costs associated with a security system shall be the responsibility of the Vendor.

E. Be responsible for all maintenance and repairs associated with Fire alarm phone line and monitoring.

F. Be responsible for all maintenance and repairs to electrical and plumbing associated with the operation of the Park.

G. Adhere to any and all electrical conservation policies established by the County.

H. Purchase, install and maintain any and all equipment required for the successful operation of the Park. Maintain equipment in good working condition. Appearance of equipment must meet standards that will

not conflict with the overall decorum of the Park. Equipment shall include but is not limited to refrigeration equipment, stoves, grills, deep fat fryers, microwaves, sinks, ice machines and associated food and beverage preparation equipment as needed. Where the system is not ventilated to handle or accommodate deep fat fryers, it is the responsibility of the Vendor to provide such ventilation.

- 7.2 Any County owned property or equipment, (described in **Exhibit "C"** and attached hereto), shall not be sold, loaned, rented, used or moved outside of the Park without the written approval of the County.
- 7.3 The County reserves the right to perform, or have performed, periodic inspections of the cleanliness and sanitation conditions maintained at the Park. The Vendor shall maintain the Park in its present condition, ordinary wear and tear excepted.
8. **Background Investigation Check.** The Vendor's employees, contractors, subcontractors, agents, representatives and volunteers and other persons providing services at the Park shall be screened at a High Level (Level I). The Vendor shall be responsible for, and pay the cost of, having background screening checks performed on all of the Vendor's employees, contractors, subcontractors, agents, representatives and volunteers.

The Vendor shall not allow any employees, contractors, subcontractors, agents, representatives or volunteers to work unsupervised with at risk populations prior to such person successfully completing a High Level (Level I) background screening. The Vendor shall be responsible for providing all needed personal identifying information necessary to perform the background screening(s) required to the Department for review/approval and further action by the Director or designee.

The Parks and Recreation Department Director may deny the Vendor the ability to utilize a staff member, volunteer or any other person providing a service at the Park based on the results of the background screening, at the Director's discretion. The Director shall abide by Brevard County's policy, attached hereto as **Exhibit "D"** on background screening in determining if a person shall be disqualified from working/volunteering at the Park.

Upon completion of the initial background screening, a re-screening at the same Level will occur at a minimum of every five (5) years.

High Level (Level I) Background screening includes the following:

- Clerk E-Facts – [www.brevardclerk.us](http://www.brevardclerk.us)
- Fingerprinting (FDLE and National FBI Criminal check through VECHS)
- Department of Juvenile Justice check on individuals under the age of 18 when applicable and allowed in lieu of fingerprinting
- National Sex Offender Public Website – [www.nsopw.gov](http://www.nsopw.gov)

- Reference Checks
- Prior employment check
- Education/Licensing verification (case-by-case)
- Driver's license check (case-by-case)
- Drug Testing (case-by-case)

9. **Statutes, Laws, Rules and Regulations.** The Vendor's use of the Park will be in accordance with all applicable laws, rules, regulations, policies and procedures approved by the Department and/or the County including but not limited to: PRD-4 Background Screening for Volunteers and Contracted Services and AO-26. The County reserves the right to disapprove any and all activities held at the Park, which may be in conflict with the Department's and/or the County's Policies and Administrative Orders, and agrees to furnish the Vendor with a copy of such rules, regulations, policies, procedures, and amendments thereto.

It shall be the Vendor's responsibility to be aware of and comply with all laws, statutes, ordinances, fire codes, rules, orders, regulations and requirements of all local, state, and federal agencies as applicable. Vendor shall provide to the County written evidence of current satisfactory health inspections at all times. The Vendor shall secure and maintain all licenses and/or permits required and pay when due any and all taxes and assessments which may be imposed or assessed by governmental units in connection with the business or operation conducted pursuant to the provisions of this Agreement.

10. **Illegal, Unlawful or Improper Use.** The Vendor shall not make any unlawful, immoral, improper, or offensive use of the Park nor allow said Park to be utilized for any purpose other than that hereinabove set forth. Failure of the Vendor to comply with this provision shall be considered a material breach of this Agreement and subject same to immediate termination by the County, where upon the County shall be entitled to immediately re-enter and retake possession of the Park and terminate this Agreement.

11. **Right to Audit Records.** In the performance of this Agreement, the Vendor shall keep books, records, and accounts of all activities related to this Agreement in compliance with generally accepted accounting procedures. All documents, papers, books, records and accounts made or received by the Vendor in conjunction with this Agreement and the performance of this Agreement shall be open to inspection during regular business hours by an authorized representative of the County. The Vendor shall retain all documents, books and records for a period of five (5) years after termination of this Agreement, unless such records are exempt from section 24(a) of Article I of the State Constitution and chapter 119, Florida Statutes. All records or documents created by or provided to the Instructor by the County in connection with this Agreement are public records subject to Florida Public Records Law, Chapter 119, Florida Statutes. All records stored electronically must be provided to the County in a format compatible with the information technology systems of the County.

The Vendor shall ensure that public records which are exempt or confidential and exempt from public records disclosure requirements are not disclosed, except as authorized by law, for the duration of the Agreement and following termination of the Agreement if the Vendor does not transfer the records to the public agency. In lieu of retaining all public records upon termination of this Agreement, the Vendor may transfer, at no cost to the County, all public records in possession of the Vendor. If the Vendor transfers all public records to the County upon termination of the Agreement, the Vendor shall destroy any duplicate public records that are exempt or confidential and exempt from public records disclosure requirements.

12. **Florida Public Records Law.** Pursuant to Section 119.0701, a request to inspect or copy public records relating to this Agreement must be made directly to the County. If the County does not possess the requested records, the County shall immediately notify the Vendor of the request and the Vendor must provide the records to the county or allow the records to be inspected or copied within twenty-four (24) hours (not including weekends and legal holidays) of the request so the County can comply with the requirements of Sections 119.07. The Vendor may also provide a cost estimate to produce the requested documents consistent with the policy set forth in Brevard County Administrative Order AO-47, incorporated herein by this reference. A copy of AO-47 is available upon request from the County's public records custodian designated bellows.

If the Vendor fails to provide the requested public records to the County within a reasonable time, the Vendor may face civil liability for the reasonable cost of enforcement incurred by the party requesting the records and may be subject to criminal penalties. Sections 119.0701, 119.110. The Vendor's failure to comply with public records requests is considered a material breach of this Agreement and grounds for termination.

Should the County face any legal action to enforce inspection or production of the records within the Vendor's possession and control, the Vendor agrees to indemnify the County for all damages and expenses, including attorney's fees and costs. The Vendor shall hire and compensate attorney(s) to represent the Vendor and County in defending such action. The Vendor shall pay all costs to defend such action and any costs and attorney's fees awarded pursuant to Section 119.12.

IF THE VENDOR HAS QUESTIONS REGARDING THE APPLICATION OF CHAPTER 119, FLORIDA STATUTES, TO THE VENDOR'S DUTY TO PROVIDE PUBLIC RECORDS RELATING TO THIS AGREEMENT, CONTACT THE CUSTODIAN OF PUBLIC RECORDS – Melissa Renninger at (321) 633-2046 or at [melissa.renninger@brevardfl.gov](mailto:melissa.renninger@brevardfl.gov).

13. **Insurance.**

- A. **General Liability:** Vendor agrees to provide and maintain at all times during the term of this Agreement, without cost or expense to the County or the City, policies of insurance generally known as general liability policies insuring the Vendor against any and all claims, demands and causes of action whatsoever for

injuries received and damages to property in connection with the use, occupation, management or control of the Park and any improvements thereon. The County and City shall be named as an additional insured and as a loss payee. The General Liability Insurance shall be issued by responsible insurance companies and in a form acceptable to the County and City, protecting and insuring against all the foregoing with combined single limits of not less than One Million dollars (\$1,000,000) for Bodily Injury, Property Damage and Sexual Abuse and Molestation Coverage, and Fire Legal Liability in the amount of Seven Hundred Fifty Thousand dollars (\$750,000).

- B. **Workers' Compensation Insurance:** Vendor shall maintain Workers' Compensation Insurance in accordance with Florida Statute.
  - C. All personal property housed or placed at the Park shall be at the risk of the Vendor, whether owned by the County, City or the Vendor, and the County and/or City shall not be liable for any loss or damage to the personal property of the Vendor or others located thereon for any cause whatsoever. The Vendor agrees and understands that the County and the City do not and shall not carry liability, theft or fire insurance on said property to cover the Vendor's interest therein.
  - D. The Vendor shall retain title to all personal property purchased by the Vendor and placed at the Park, unless otherwise agreed to by the parties. The Vendor will obtain approval from the County prior to placing any personal property or equipment at the Park. All personal property belonging to the Vendor will be marked in a manner consistent with the character of the property
14. **Insurance Certificates.** Vendor shall provide the County with Certificate(s) of Insurance on all policies of insurance and renewals thereof in a form(s) acceptable to the County and the City. Said certificates shall provide that the County and the City are an additional insured, and that County and City shall be notified in writing of any reduction, cancellation or substantial change of policy or policies at least thirty (30) days prior to the effective date of said action. All insurance policies shall be issued by responsible companies who are acceptable to the County and City and licensed and authorized under the laws of the State of Florida.
15. **Indemnification.** The Vendor shall indemnify and hold harmless the County and City and its employees from all claims, damages, losses, and expenses, including attorney's fees, arising out of or associated with the use, occupation, management or control of the real property owned by the County and/or the City or any improvements or any furniture, furnishings, equipment and fixtures utilized in connection with the real property owned by the County and/or the City by the Vendor unless such claims, damages, expenses, or losses are caused solely by acts of the County or City, its employees, or other persons not a party to this Lease acting on the County's or City's request. The Vendor agrees that it will, at its own expense, defend any and all such actions, suits, or proceedings which may be brought against the County and/or the City in connection with the Vendor's use, occupation, management or control of said real property owned by the County and/or the City and that it will satisfy, pay and discharge any and all judgments that may be entered against the County and/or the City in such action or proceeding.

16. **ADA Compliance.** The County and Vendor shall conform to current requirements of the Americans with Disabilities Act in the performance of this Agreement, and shall not cause or place at the Park any condition causing the Park to become non-compliant. The parties shall work together to remedy any known violations of the ADA that may occur.
17. **Independent Contractor.** The Vendor shall perform the terms and conditions of this Agreement as an independent contractor, and nothing contained herein shall be construed to be inconsistent with this relationship or status. Nothing in this Agreement shall, in any way, be construed to constitute the Vendor or any of its agents or employees as the representative agents or employees of the County.
18. **Right of Entry by County.** The County or its agents may at any time enter in and on the referenced Park for the purpose of inspection of same and performing such other duties as are required by the terms of this Agreement and the rules, regulations, ordinances and laws of any government body.
19. **Covenants against Assignment.** The Vendor, its successors or assigns, shall not assign any rights under this Agreement nor allow same to be assigned by operation of law without express written approval of the County. The Vendor may not allow any other individual, group, or Vendor to exclusively utilize the Park or any part thereof without prior written consent from the Area Manager. No fees or charges of any kind shall be levied by the Vendor for use of the Park except direct costs as necessary for the operation of the Park. Such fees or charges must be approved in advance by the County.
20. **Emergencies.** In the case of a declared state of emergency in Brevard County by the Board of County Commissioners, the County retains the right to immediately resume occupation, management, and maintenance of the Park, to use the Park to meet any emergency needs of the citizens of Brevard County for the period of that emergency and a reasonable period of time thereafter as deemed necessary by the County.
21. **Attorneys' Fees.** In the event of any legal action to enforce the terms of this Agreement each party shall bear its own attorneys' fees and costs.
22. **Governing Law.** This Agreement shall be deemed to have been executed and entered into within the State of Florida and this Agreement, and any dispute arising hereunder, shall be governed, interpreted and construed according to the laws of the State of Florida.
23. **Venue.** Venue for any legal action brought by any party to this Agreement to interpret, construe or enforce this Agreement shall be in court of competent jurisdiction in and for Brevard County, Florida, and any trial shall be non-jury.
24. **Unauthorized Alien Workers.** Brevard County will not intentionally award publicly-funded contracts to any contractor who knowingly employs unauthorized alien workers, constituting a violation of the employment provisions contained in 8 U.S.C. Section 1324a(e)(Section 274A(e) of the Immigration and Nationality Act "INA"). The County shall consider the employment by the contractor of unauthorized aliens a violation of Section 274A (e) of the INA and such violation shall be grounds for unilateral cancellation of this Agreement by the County.

25. **Public Entity Crimes.** A person or affiliate who had been placed on the convicted vendor list following a conviction for a public entity crime may not submit a bid on a contract to provide any goods or services to a public entity, may not submit a bid on a contract with a public entity for the construction or repair of a public building or public work, may not submit bids on leases of real property to a public entity, may not be awarded or perform work as a contractor, supplier, subcontractor, or consultant under a contract with a public entity, and may not transact business with any public entity in excess of Category Two for a period of thirty-six (36) months from the date of being placed on the convicted vendor list.
26. **Severability.** If any provision of this Agreement is held by a court of competent jurisdiction to be invalid, void, or unenforceable, the remaining provision shall nevertheless continue in full force without being impaired or invalidated in any way.
27. **Copyright.** No reports, data, programs or other materials produced, in whole or in part, for the benefit and use of the County under this Agreement shall be subject to copyright by the Instructor in the United States or any other country.
28. **Music Performance.** The Vendor shall not use, play or perform copyrighted music without appropriate licensing or other permission. The Vendor shall be solely responsible for obtaining appropriate licensing or permission to use, play or perform copyrighted music. The use or performance of copyrighted music without appropriate licensing or other permission shall constitute a breach of this Agreement. The Vendor agrees to indemnify and hold harmless the County from damages for unauthorized use or performance of copyrighted music.
29. **Successors in Interest.** This Agreement and the covenants and conditions hereof apply to and are binding on the heirs, successors, legal representatives, and assigns of the parties.
30. **Force Majeure.** Neither party shall be responsible for damages or delays in performance caused by acts of God, strikes, lockouts or other events constituting force majeure beyond the reasonable control of the parties. Despite the foregoing, Vendor shall timely pay all rent due as otherwise provided herein.
31. **Default and Termination.** The occurrence of one or more of the following events shall constitute a default by the Vendor under this Agreement:
- A. Failure or refusal to pay any amount of rent or any other monetary obligation owed by the Vendor hereunder, when due, where such failure continues for a period of five (5) days after written notice thereof from the County to the Vendor;
  - B. Failure of the Vendor to observe or perform any other covenant, obligation or condition of this Agreement, where such failure shall continue after written notice thereof from the County to the Vendor. If the nature of the default is such that more than fifteen (15) days are reasonably required for its cure, then the Vendor shall not be deemed to be in default if the Vendor shall commence such cure within said fifteen (15) day period and thereafter diligently prosecute such cure to completion, which completion shall not occur no later than thirty (30) days from the date of such notice from the County.

- C. Three (3) or more violations of any local, state or federal law, code or ordinance within a calendar year period of time to include but not be limited to the Florida Department of Business and Professional Regulation (DBPR) food inspections considered a High Priority Violation and/or an Intermediate Violation. DBPR defines a High Priority food violation as those which could contribute directly to a foodborne illness or injury. DBPR defines and Intermediate food service violation as those which, if not addressed, could lead to risk factors that contribute to foodborne illness or injury.
  - D. Any waiver by the County of a breach of covenant of this Agreement by the Vendor shall not be construed as a waiver of subsequent breach of the same covenant. No breach for a covenant of this Agreement shall be deemed to have been waived by the County unless the waiver is in writing signed by the County.
  - E. Upon occurrence of one or more of the foregoing events of default, the County Manager, or designee, as hereby specifically delegated this authority by the Board of County Commissioners of Brevard County, Florida, may elect to terminate this Agreement.
  - F. The County shall in no event be charged with default in any of its obligations hereunder unless and until the County shall have failed to perform contractual obligations thirty (30) days after written notice to the County by the Vendor specifically describing such failure. If the County fails to perform any of its contractual obligations under this Agreement and such failure is not cured within thirty (30) days (or such additional time as is reasonably required to correct any such default) of receipt of written notice of default, the Vendor's sole legal remedy for said default is to, terminate this Agreement upon written notice to the County.
  - G. This Agreement may be terminated for convenience by either party upon sixty (60) days written notice to the other party. Upon expiration or termination of this Agreement, the Vendor shall have thirty (30) days within which to remove any personal property from the Park. Any personal property not removed within said thirty (30) day period shall become the property of the County.
32. **Notice.** Notice under this Agreement shall be given to the County by delivering written notice postage prepaid, to the Brevard County Parks and Recreation, North Area Parks Operations, 475 N. Williams Avenue, Titusville, FL 32796; and notice shall be given to the Vendor by mailing written notice, postage prepaid, to address.
33. **Responsibility.** The Vendor's President shall be responsible for ensuring the Vendor is abiding by the terms of this Agreement. The Area Manager shall be responsible for assuring the contents of this Agreement are properly applied.
34. **Modification and Waiver.** No modification of this Agreement shall be binding on the County or the Vendor unless reduced to writing and signed by a duly authorized representative of County and the Vendor. The waiver by County of any of Vendor's obligations or duties under this Agreement shall not constitute a waiver of any other obligation or duty of Vendor under this Agreement.

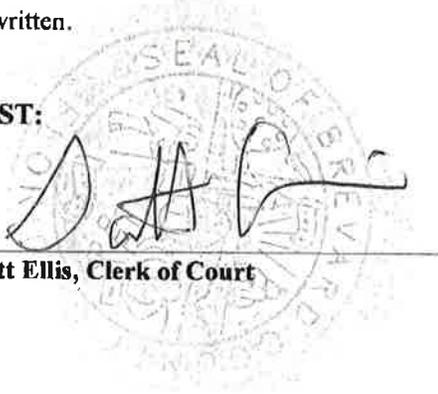
35. **Entire Agreement.** This Agreement shall constitute the entire agreement between the Parties with respect to the matters addressed herein and supersedes any prior agreements or understandings. Any prior understanding or representation of any kind, relating to the matters addressed herein, preceding the date of this Agreement shall not be binding upon either party and is expressly terminated by the execution of this Agreement.

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

ATTEST:

By:

Scott Ellis, Clerk of Court



BOARD OF COUNTY COMMISSIONERS  
OF BREVARD COUNTY, FLORIDA

By:

Rita Pritchett, Chair

As approved by the Board on September 19, 2017.

WITNESS:

Signature & Date

*[Handwritten Signature]* 6/22/18

WITNESS:

Signature & Date

*[Handwritten Signature]* 6/22/18

PIER 220 INC.

(CORPORATE SEAL)

By:

Sachin Shenoy, Vice President

Date:

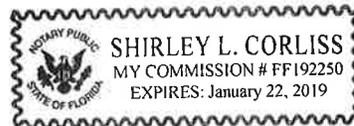
6/22/18

State of Florida  
County of Brevard

The foregoing instrument was acknowledged this 22nd day of June by Sachin Shenoy who personally appeared before me or provided DL#SS00-796-66-294.0 as form of identification and who affirms that he/she signed the instrument voluntarily for the purpose expressed in it.

*[Handwritten Signature]*  
Signature of Notary of Public

Shirley L. Corliss  
Name of Notary of Public (print, type or stamp)  
My Commission Expires: Jan 22, 2019



Reviewed for legal form and content:

*[Handwritten Signature]*  
Assistant County Attorney

Exhibit "A"

# Titusville Veterans Memorial Fishing Pier

2 A. Max Brewer Memorial Parkway  
Titusville, FL 32796



**Brevard County Parks and Recreation**

2017 Aerial

50 25 0 50 100 Feet



2725 Judge Fran Jamieson Way  
Viera, FL 32940



DISCLAIMER: This map is intended for display purposes only and is not intended for any legal representation.

## Exhibit "B"

### INTERLOCAL AGREEMENT

THIS INTERLOCAL AGREEMENT made and entered into this 21st day of July, 1992, by and between the BOARD OF COUNTY COMMISSIONERS OF BREVARD COUNTY, FLORIDA, a political subdivision of the State of Florida, hereinafter referred to as "County," and the CITY COUNCIL OF THE CITY OF TITUSVILLE, FLORIDA, a municipal corporation organized and existing under the laws of the State of Florida, hereinafter referred to as "City," which said Interlocal Agreement terminates and supersedes that prior Agreement between the parties hereto dated February 3, 1987.

#### W I T N E S S E T H :

WHEREAS, the County and the City have previously entered into an Agreement dated February 3, 1987, concerning the joint funding, as well as maintenance, operation, and programming of recreational activities at certain parks and facilities located within the City of Titusville, Florida; and

WHEREAS, the County and City have previously entered into an Agreement involving Rotary Park dated August 2, 1988; and

WHEREAS, the City has determined that a public purpose exists in the establishment, maintenance, and operation of municipal recreational services within the boundaries of the City of Titusville, Florida; and

WHEREAS, the City and the County presently own various parks and recreational facilities used and operated for the purpose of public recreation services, which are more particularly described below; and

WHEREAS, pursuant to the provisions of Section 125.01(1)(g), Florida Statutes, the County established the District One Brevard County Recreation Municipal Service Taxing Unit, through the adoption of Brevard County Ordinance No. 76-29, codified in Article VI, Chapter 18, Code of Brevard County, Florida; and

WHEREAS, pursuant to Section 125.01(1)(g), Florida Statutes, the boundaries of a municipal service taxing unit may include all or part of the boundaries of a municipality located within the boundaries of the municipal service taxing unit, subject to the

consent by ordinance of the governing body of the affected municipality given either annually or for a term of years; and

WHEREAS, the City has indicated a desire to have the incorporated areas of the City of Titusville, Florida, included within the boundaries of the District One Brevard County Recreation Municipal Service Taxing Unit; and

WHEREAS, the County has amended Article VI, Chapter 18, Code of Brevard County, Florida, to reflect the expansion of the boundaries of the District One Brevard County Recreation Municipal Service Taxing Unit to include the incorporated areas of the City of Titusville, Florida, through the adoption of Brevard County Ordinance No. 92-012; and

WHEREAS, the City has consented to the expansion of the boundaries of the District One Brevard County Recreation Municipal Service Taxing Unit to include the incorporated areas of the City of Titusville, Florida, through the adoption of City of Titusville Ordinance No. 11-1992; and

WHEREAS, the City has previously provided funding to the County for recreational services in the City of Titusville; and

WHEREAS, the taxable value of real property in the unincorporated areas of District One County Commission District for 1991 was \$927,419,656 and the taxable value of real property in the corporate limits of the City of Titusville for 1991 was \$974,507,170; and

WHEREAS, the City and County desire to provide for an equitable basis for recreation service in District One; and

WHEREAS, the parties hereto desire to enter into this Interlocal Agreement, terminating and superseding that prior Agreement between the parties dated February 3, 1987, and amendments thereto, including Rotary Park Agreement dated August 2, 1988, to set forth the terms and conditions by which the District One Brevard County Recreation Municipal Service Taxing Unit shall fund, operate, maintain, and program public recreational activities at the parks and recreational facilities located within the

boundaries of said District One Brevard County Recreation Municipal Service Taxing Unit.

NOW, THEREFORE, in consideration of the mutual premises, promises, and covenants hereinafter contained, the parties hereto hereby agree as follows:

SECTION 1. That the prior Agreement between the parties, dated February 3, 1987, and amendments thereto, a copy of which is attached hereto as Exhibit "A", is hereby terminated and superseded by the provisions of this Interlocal Agreement, effective September 30, 1992. The Rotary Park Agreement dated August 2, 1988 is hereby terminated as of September 30, 1992.

SECTION 2. The term of this Agreement shall commence upon the date of execution of this Interlocal Agreement by the parties hereto, and shall continue until such date as the City of Titusville rescinds by ordinance its consent to the inclusion of the incorporated areas of the City of Titusville, Florida, within the boundaries of the District One Brevard County Recreation Municipal Service Taxing Unit, or until otherwise terminated by mutual assent of the parties.

SECTION 3. The various parks and recreational facilities subject to this Agreement are listed in Exhibit "B", which is attached hereto and made a part hereof by this reference. The parties hereby agree that additional properties of the City may be added to the subject property from time to time, upon mutual agreement of the parties. The City may withdraw certain parks from this Agreement upon ninety (90) days prior written notice to the County, which notice must be received by the County on or before July 1 of any given year. The terms and conditions for any withdrawal of parks by the City shall be determined at the time of withdrawal upon mutual agreement of the parties.

SECTION 4. The City hereby grants to the County exclusive use, jurisdiction, and control of those properties listed in Exhibit "B" attached hereto; provided, however, that the County shall not use nor occupy said property, nor any part thereof, nor

permit the same or any part thereof, to be used or occupied, for any purpose other than as herein specified, and shall not assign any rights provided under this Agreement, nor delegate any duties or obligations specified herein to any other agency, public or private, without the prior written consent of the City; provided, however, that the County shall be permitted to enter into separate agreements with sanctioned groups, to include, but not be limited to, little league baseball, youth softball, little league football, youth soccer, square dance groups, and senior citizens' organizations. It is recognized by the County that the City is currently engaged in developing long range development plans for various areas within the municipal boundaries of the City of Titusville, which plans may affect one or more of the various parks and recreational facilities listed in Exhibit "B". The County agrees to take no action in regard to the various parks and recreational facilities listed in Exhibit "B", which are contrary to the City's above referenced planning, without prior consultation with, and consent by, the City.

SECTION 5. The City's share of the funding for the operation, maintenance, and programming of public recreational activities at the parks and recreational facilities located within the boundaries of the City shall be provided through those funds generated by the District One Brevard County Recreation Municipal Service Taxing Unit, on an annual basis. Further, the County is hereby authorized to expend such other funds as may be available for the provision of recreational services and facilities within the boundaries of the City, during the term of this Agreement.

SECTION 6. The County shall maintain the property as listed in Exhibit "B", and all improvements thereon, in good repair and appearance, at all times during the term of this Agreement. Whenever the term "Park" is used in Exhibit "B", it shall include all facilities at that location. The County shall maintain, install improvements on, including capital improvements, and provide recreational programs for the various City-owned parks on a par or

similar basis as County-owned parks within the District One Brevard County Recreation Municipal Service Taxing Unit. Upon termination of this Agreement, or any extension thereof, the County shall return the subject property to the City in as good a state and condition as reasonable use and wear would permit.

SECTION 7. The County shall pay all costs for gas, electricity, fuel, light, heat, power, water, garbage, and trash disposal, and other utilities, for those properties listed in Exhibit "B", utilized by the County, or others under the authority of the County, under the provisions of this Agreement. The City shall be responsible for payment of any and all stormwater assessments or charges levied against those properties listed in Exhibit "B", during the term of this Agreement.

SECTION 8. All personal property placed upon the properties listed in Exhibit "B" shall be at the risk of the County, or other owner thereof, and the City shall not be held liable for any damage thereto or to the County or any other person, which liability arises from any condition of the premises or act of negligence, carelessness, or improper conduct of any person whatsoever. The County hereby agrees to hold the City harmless from any accident which may occur on those properties listed in Exhibit "B", while being utilized by the County under the provisions of this Agreement, or any act, condition, or occurrence from which any liability may arise.

SECTION 9. The County shall maintain a system of self-insurance, which shall maintain a cash reserve in said self-insurance system sufficient to provide coverage in the amount of not less than \$100,000.00 for one injury, \$300,000.00 for one accident, and \$100,000.00 for property damage. The City may request that the County present to the City specific documentation confirming the level of fiscal responsibility required by this section.

SECTION 10. The City shall retain the underlying fee simple title to the properties described in Exhibit "B" and any permanent

improvements constructed thereon, subject to any subsequent agreement between the parties entered into pursuant to Section 3 above. It is recognized that improvements will be installed on City-owned and County-owned parks without distinction as to ownership. The City hereby assigns all other rights and responsibilities for said properties to the County under this Agreement.

SECTION 11. The County shall operate, maintain, and administer municipal recreation and park services and activities on the properties listed in Exhibits "B", within its budget limitations, consistent with those levels of activities and programming set forth in Exhibit "C" attached hereto and incorporated herein by this reference. The County shall also maintain the same or similar services, activities, and programming as presently offered at Sylvan Park, and its Community Center, and at Rotary Park. All funds generated through the Brevard County District One Recreation Municipal Service Taxing Unit shall be utilized for the provision of the above referenced services and activities within the boundaries of said Brevard County District One Recreation Municipal Service Taxing Unit, pursuant to the provisions of Section 125.01, Florida Statutes.

SECTION 12. The County may construct permanent improvements to the premises of those properties listed in Exhibit "B"; provided, however, that the County shall not construct any facilities for which costs exceed \$5,000.00, except upon submission of applicable plans and specifications to the City Manager for review and approval by the City.

SECTION 13. The County shall maintain, for the term of this Agreement, a system of records and accounts, in a format approved by the County for general funding subject to audit, and shall furnish to the City Manager reports on an annual basis, reflecting disbursement of funds expended for municipal recreation and parks activities under the Brevard County District One Recreation Municipal Service Taxing Unit.

SECTION 14. It is hereby agreed between the parties that the employment of personnel, agents, and any other employees by the County conducting activities governed by this Agreement shall not be construed as the employment of personnel, agents, or employees of the City.

SECTION 15. Notice, where applicable, shall be provided to the City and County as follows:

CITY

City of Titusville, Florida  
c/o City Manager  
Post Office Box 2806  
Titusville, Florida 32781-2806

COUNTY

Board of County Commissioners of Brevard County, Florida  
c/o County Administrator  
2725 St. Johns Street  
Building C, 3rd Floor  
Melbourne, Florida 32940

SECTION 16. Prior to June 15 of each year during the term of this Agreement, the County shall submit to the City a proposed, preliminary budget, reflecting the maintenance, capital improvements, programs, and other services to be offered on the properties listed on Exhibit "B", as well as the other County parks and recreational facilities located within the District One Brevard County Recreation Municipal Service Taxing Unit. The County's proposed, preliminary budget shall reflect the proposed allocation or distribution of MSTU funds. The City Council shall review the proposed preliminary budget and distribution of MSTU funds on or before August 1 of each year, and provide its input and recommendations to the County and the North Brevard Commission on Parks and Recreation, or its subsequent functional equivalent.

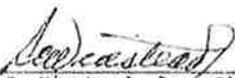
SECTION 17. No funds received or generated by the District One Brevard County Recreation Municipal Service Taxing Unit shall be diverted or transferred to the County's General Fund or any other parks and recreation district within the County.

SECTION 18. The County agrees to annually consult with the North Brevard Commission on Parks and Recreation in the development of the annual budget for the District One Brevard County Recreation

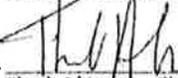
Municipal Service Taxing Unit. The County shall give consideration to the input and recommendation of the North Brevard Commission on Parks and Recreation. Once the budget is adopted, except in an emergency situation, no funds in excess of \$5,000.00 shall be transferred or reallocated from one park or recreational program to another without first being reviewed and receiving the input from the North Brevard Commission on Parks and Recreation. If an emergency occurs, input shall be sought by the County, after-the-fact, from the North Brevard Commission on Parks and Recreation. In the budgeting process, the North Brevard Commission on Parks and Recreation and the County agrees to give consideration to the source of the funds generated and the delivery of the services to the area from which the funds were generated. The City recognizes that the final decision rests with the County after giving consideration to the input from the City and the North Brevard Commission on Parks and Recreation.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the day and year first above written.

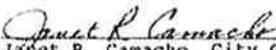
ATTEST:

  
R. C. Winstead, Jr., Clerk

BOARD OF COUNTY COMMISSIONERS  
OF BREVARD COUNTY, FLORIDA

By:   
Thad Altman, Chairman

ATTEST:

  
Janet R. Camacho, City Clerk

CITY COUNCIL OF THE CITY OF  
TITUSVILLE, FLORIDA

By:   
Thomas R. Mariani, Mayor

EXHIBIT "B"

Parks and Recreation Facility

<u>City Owned</u>	<u>Activity/Program</u>
Blanton Park	Category IV
Broad Street	Category IV
Marina Park	Category I, IV, V, VII
Park area along Riverfront Near the Upland Building but excluding the Upland Building	Category IV, VII
Sandpoint Park	Category I, IV, V, VII
Sylvan Park and Community Center	Category I, III, IV, V, VI, VII
Wuestoff Nature Park	Category III, IV
North Brevard Exercise Trail	Category IV

EXHIBIT "C"

ACTIVITY/PROGRAM/CATEGORIES

Athletics - Category I

Softball  
Baseball  
Soccer  
Basketball  
Tennis

Racquetball  
Handball  
Football  
Volleyball

Aquatics - Category II

Public Swim  
Instructional/Lessons  
Community Rental for Groups  
School Use  
Competitive Swim Use

Recreation Centers - Category III

Socials  
Teen Dances  
Sanctioned Group Use  
Playground Games  
Organized Classes for Groups  
Community Meetings

General Parks - Category IV

Picnic Tables/Grill  
Pavilions  
Playground Equipment Areas  
Multi-Purpose Fields  
Building Rentals  
Launching Area  
Multi-Purpose Courts

Special Interest - Category V

Elementary Band  
Exercise Classes  
Bridge  
Crafts  
Summer Family Track  
Special Events/Tournaments  
Open Gym

Summer Recreation - Category VI

Summer organized youth activities/programs with paid staff at school/recreation centers.

Sanctioned Groups Usage - Category VII

Square Dancing  
Round Dancing  
Dancing  
Little League Baseball  
Youth League Softball  
Youth League Football  
Youth Soccer

**Exhibit "C"**  
**County Equipment**

1. Reach-in Refrigerator/Freezer 23 cu. Ft. on Casters-True T-23 OT
2. 1000 watt Microwave oven, 120 volt – Amana RCS10PBDA
3. Microwave shelf 24" x 20" Stainless Steel Wall Mount Microwave Oven Shelf, Custom Fabricated
4. 4 Slice Pop-Up Toaster, Toastmaster TP409
5. Corner Counter 60" x 48" Stainless Steel Custom Fabricated
6. Corner Shelf 60" x 48" Stainless Steel Custom Fabricated
7. 36" Electric Griddle/Grill, Toastmaster TECG7336
8. 15" Electric Counter Model Hot Plates, Toastmaster TECHP1132
9. 2-13" Electric Fryers, Toastmaster TERCF1427
10. French Fry Warmer with Pan and Drain Gate, Hatco GRFF
11. 72" Griddle Stainless Steel Equipment Stand with 1 1/2 " Backsplash on Rear and Sides, Custom Fabricated
12. 30" High X12" Deep Stainless Steel Low Storage Shelving Unit
13. 2-48" Long Sandwich/Salad Prep units with Refrigeration Cases, True TSSU4812
14. Ice Maker with a 380 lb. 24 hour production capability at 90 degree air and 70 degree water temperature. Manitowoc SD-04521A on 8570 Bin
15. 96" x 12" Stainless Steel Wall Mount Shelf Custom Fabricated (over sandwich/salad prep unit)
16. 4 Stainless Steel Counters, 1- 24" x 24", 2 – 30" x 24", 1- 96" x 24" with 4 Backsplash on Rear Custom Fabricated
17. 4 Stainless Steel Shelves, 12" Deep above Counters
18. 96" x 12" Stainless Steel Wall Mount Shelf Custom Fabricated
19. Two Section Reach-In Refrigerator, 49 cu. Ft. on Casters, True T49
20. Two Section Reach-In Freezer, 49 cu. Ft. on Casters, True T49F
21. 24" x 144" x 74" Dry Storage Wire Shelving, Powder Coated, Nexel Poly-Z-Brite Series
22. 16" x 72" x 74" Dry Storage Wire Shelving, Powder Coated, Nexel Poly-Z Brite Series
23. 24" x 24" Stainless Steel Cash Register Stand Custom Fabricated /
24. Under Counter Dishwasher for chemical sanitizing with Chemical Pumps, CMALIX16
25. Exhaust Hood, Captive Aire 4524NC, with a Front Perforated Supply Plenum (BSP) Accessory, with 1 Factory Installed 10" x 30" Exhaust Riser
26. Full Height S/S Diamond Wallsplash
27. Fire System #1 to include:
  - A. Permit
  - B. Hook-Up
  - C. Test
  - D. Ansul – 3.0/1.5, 4.5 Gallon Fire System in Utility Cabinet (includes Pre-Piped Hood with Detection, Tank, Release Mechanism, Micro-switches, Pull Station)

Exhibit "D"



BOARD OF COUNTY COMMISSIONERS

**ADMINISTRATIVE ORDER**

**NUMBER:** AO-05  
**CANCELS:** 04/24/15  
**APPROVED:** 06/12/18  
**ORIGINATOR:** Human Resources  
**REVIEW:** 06/12/21

**Title:** Background Investigation Checks

**I. PURPOSE AND SCOPE**

To establish a consistent, county-wide procedure for conducting background investigation checks.

**II. DEFINITIONS AND REFERENCES**

**Applicant** – An external applicant or volunteer being considered for a position or a current employee being considered for a position with a higher security level as the result of a promotion, transfer or demotion.

- B. At-Risk Population**- Children, elderly, disabled, and those whom cannot defend themselves. Example of settings in which individuals come into contact with at-risk populations include, but are not limited to:
- Daycare: senior citizen centers and community day programs for children.
  - Group Home: placements for children under the care of the State as a result of abuse or neglect or as a consequence of delinquency.
  - Program activities involving children on school property.
  - Shelters: homeless, domestic violence or special needs emergency shelters.
  - Youth development programs.
  - Volunteer programs for the elderly or individuals with disabilities; such as, Meals on Wheels or other community/volunteer programs.
  - Library areas/programs designated for children.
  - Park areas/programs designated for children.
- C. Background Investigation Handbook** – a handbook with detailed information about how to complete and interpret the background checks.
- D. Background Checklist** – a form used to track the results of the background checks performed by the Department/Office.

- E. Conviction – defined as a law violation where there has been a determination of guilt as a result of a trial or the entry of a plea of guilty or nolo contendere, regardless of whether adjudication is withheld.

NOTE: A "yes" answer to the question of law violation on the application will not automatically bar the applicant from employment. The nature, job-relatedness, severity and date of the offense in relation to the position for which they are applying will be considered.

- F. Recertification – Frequency which each Department/Office reinvestigates each employee's or volunteer's criminal history.

G. **SECURITY LEVELS:**

**High Level (Level I)** – Applies to an employee or volunteer who has unsupervised access and/or contact with individuals identified as being in the at-risk population.

**Moderate Level (Level II)** – Applies to an employee or volunteer who has supervised access and/or contact with individuals identified as being in the at-risk population.

**Low Level (Level III)** – All other employees or volunteers who do not fit into the High or Moderate security levels.

- H. VECHS – an acronym for the Volunteer & Employee Criminal History System at the Florida Department of Law Enforcement (FDLE). The VECHS program agreement allows Brevard County to submit state and national checks for employees and volunteers, as needed.
- I. F.S. 112.011 – Felon; removal of disqualifications for employment, exceptions.
- J. F.S. 943.04351 – Search of registration information regarding sexual predators and sexual offenders required prior to appointment or employment.

**III. RESPONSIBILITIES**

- A. Each Department/Office Director shall establish a background investigation check procedure which ensures that the guidelines in this Administrative Order are met.
- B. Each Department/Office will utilize the guidelines in this Administrative Order or will adhere to statutory/contractual requirements, whichever is more stringent.
- C. Each Department/Office shall be responsible for verifying that each applicant

meets the requirements for the job, including educational and/or licensing verification, driver's license check.

- D. Each Department/Office shall be responsible for checking and documenting a total of three (3) of the applicant's employment and/or personal references. Document if the applicant has insufficient work history (i.e.; a student with no experience or someone returning to the workforce after a long absence) or is a volunteer. Due diligence must be used in obtaining these references, but if no response is received, documentation should be made of what efforts were made. Reference checks are not mandatory for those temporary employees hired on a seasonal basis.

The Background Investigation Handbook has detailed instructions and reference forms to be used in checking these references.

- E. Each Department/Office shall perform the required minimum criminal background investigation checks at the appropriate security level for applicants under final consideration and document the results on the Background Checklist, which shall be provided to the Office of Human Resources with the background documents.

1. High-Level Security Check (Level I):

- Fingerprints – submit fingerprints to FDLE under the VECHS agreement using digital fingerprint machine or using the fingerprint card provided for FDLE and National FBI criminal investigation check.
- Brevard County Clerk E-Facts: [www.brevardclerk.us](http://www.brevardclerk.us)

2. Moderate-Level Security Check (Level II):

- FDLE: <https://web.fdle.state.fl.us/search/app/default>
- Brevard County Clerk E-Facts: [www.brevardclerk.us](http://www.brevardclerk.us)
- National Sex Offender Public Website: [www.nsopw.gov](http://www.nsopw.gov)
- Out-of-State criminal checks based on past seven (7) years address history (on-line checks may be done, if available), or alternatively a national background check.

3. Low-Level Security Check (Level III):

- Brevard County Clerk E-Facts: [www.brevardclerk.us](http://www.brevardclerk.us)
- National Sex Offender Public Website: [www.nsopw.gov](http://www.nsopw.gov)
- Florida Department of Corrections: [www.dc.state.fl.us](http://www.dc.state.fl.us)
- Out-of-Area criminal checks based on past two (2) years address history (on-line checks may be done, if available).

- F. Applicants under final consideration for positions classified as high security level shall be subject to the following guidelines for criminal background checks.

Consistent with F.S. 112.011, a person shall not be disqualified from employment by the County solely because of a prior conviction for a crime. However, a person may be denied employment by the County by reason of the prior conviction for a crime if the crime was a felony or first degree misdemeanor and directly related to the position of employment sought.

**1. A prior conviction of any of the following criminal offenses, if a felony or first degree misdemeanor, is considered to be directly related to any high level security position, irregardless of when it occurred, and will disqualify an applicant from further consideration:**

- Child Abuse, Neglect or Abandonment
- Extortion
- Extreme Violence (Aggravated Assault/Aggravated Battery, Murder, Attempted Murder, Vehicular Homicide)
- False Imprisonment
- Hate Crime
- Indecent Exposure if Sexual in Nature
- Kidnapping
- Manslaughter
- Child Pornography
- Illegal Possession of Guns or Weapons
- Robbery
- Sale of Controlled Substance
- Sexual Offense (Lewd and Lascivious - Sexual Battery)
- Any Offense of similar nature and severity to those listed above (contact the County Attorney's Office if there is a question)

**2. A prior conviction of any of the following criminal offenses, if a felony or first degree misdemeanor, is considered to be directly related to any high level security position if it occurred within five (5) years of the date of the background check, and will disqualify an applicant from further consideration:**

- Battery/Assault
- Domestic Violence
- Misdemeanor Drug and/or Paraphernalia
- Resisting Arrest with Violence
- Sale of Alcohol or Tobacco to a Minor
- Contributing to the Delinquency of a Minor
- Any Offense of similar nature and severity to those listed above (contact the County Attorney's Office if there is a question)

**A prior conviction of one of the above criminal offenses, if a felony or first degree misdemeanor, that occurred beyond five (5) years of the date of the background check, shall be carefully reviewed by the appointing authority on a case-by-case basis to determine if it is directly related to a high security level position and the applicant is disqualified from further consideration.**

**3. A prior conviction for any of the following criminal offenses, if a felony or a first degree misdemeanor, shall be carefully reviewed by the appointing authority on a case-by-case basis to determine if it is directly related to a high security level position and if the applicant is disqualified from further consideration:**

- Disorderly Conduct/Trespassing
- Driving While Under the Influence (DUI), one incident only (more than one must show proof of rehabilitation)
- Petty Theft
- Worthless Checks
- Other Crimes
- Any Offense of similar nature and severity to those listed above (contact the County Attorney's Office if there is a question)

**G. When determining whether a prior criminal conviction for any of the criminal offenses listed in Section F above are directly related to a high, moderate or low level security position, an appointing authority shall take the following factors into consideration:**

- The classification of the crime as a felony or first degree misdemeanor
- The relationship between the incident and the type of employment or service that the applicant will provide.
- The nature, severity, number, and consequences of the incidents disclosed.
- The amount of time elapsed since the incident(s) occurred.
- The applicant's efforts and success at rehabilitation.
- The age of the applicant at the time of the incident.

**If there is any question about whether the criminal offense is directly related to the position, contact the County Attorney's Office.**

**H. After the background investigation checks are satisfactorily completed, the Department/Office can initiate the request for the applicant to be hired to a paid position or coordinate a start date for a volunteer placement.**

**IV. RESERVATION OF AUTHORITY**

The authority to issue and/or revise this Administrative Order is reserved for the County Manager.

 6/12/18  
Frank Abbate, County Manager / Date

11.8.4

AGREEMENT TO AMEND AND RENEW EXISTING CONTRACT

THIS AGREEMENT made and entered into this 27 day of January 2015, by and between Capital Seas Inc., hereinafter referred to as "Concessionaire" and the Board of County Commissioners of Brevard County, Florida, a political subdivision of the State of Florida, hereinafter referred to as "County".

WITNESSETH:

WHEREAS, the parties hereto have previously entered into an Agreement on December 1, 2009, under Contract No. 401 ("Agreement"); and

WHEREAS, the parties hereto desire to amend and renew the Agreement, ,

NOW, THEREFORE, in consideration of the premises and mutual covenants herein contained, the parties hereby agree, as follows:

1. That the Agreement previously entered into by and between the Concessionaire and the County under Contract No. 401, dated December 1, 2009, shall be amended as reflected in Attachment "A". All the terms and conditions of Contract No. 401, which is incorporated herein by this reference, not inconsistent with the provisions of this Agreement to Amend and Renew Existing Contract, shall remain in full force and effect.

2. That the Agreement will be renewed for an additional term of 36 (thirty-six) months as provided for in Paragraph 1 of the Agreement. The Agreement will be renewed with an increase of ten percent (10%) of the monthly rent as provided for in Paragraph 1 of the Agreement.

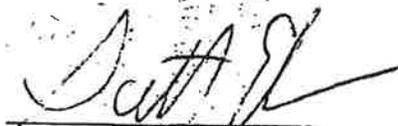
IN WITNESS WHEREOF, the parties hereto have hereunto set their hands and seals on the date first above written.

BOARD OF COUNTY COMMISSIONERS OF  
BREVARD COUNTY FLORIDA

By: \_\_\_\_\_

Robin Fisher, Chairman  
Board of County Commissioners

As approved by the Board on 1-27-2015

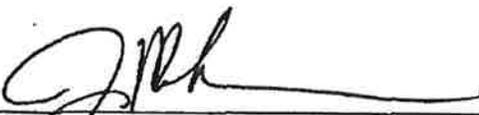


Scott Ellis, Clerk

Reviewed for legal form and content:



Matthew Soss,  
Assistant County Attorney



Jason Reichman, President  
Capital Seas, Inc.

**AGREEMENT**

This Agreement, made and entered into this 1 day of December, 2009, by and between CAPITAL SEAS, INC., hereinafter referred to as "Concessionaire," and the BOARD OF COUNTY COMMISSIONERS OF BREVARD COUNTY, FLORIDA, a political subdivision to the State of Florida, hereinafter referred to as "County."

**WITNESSETH:**

**WHEREAS**, the County operates a recreational complex known as the Titusville Veterans' Memorial Fishing Pier, hereinafter referred to as "Pier," for the purpose of providing fishing activities for the general public, and

**WHEREAS**, the Pier is owned by the City of Titusville, hereinafter referred to as the "City," and operated by the County pursuant to an Interlocal Agreement, and

**WHEREAS**, the County has negotiated with Concessionaire for the operation of the food and beverage concession ~~and bait shop~~, hereinafter referred to as "Concession," located at the Pier; and

Formatted: Font color: Red, Strikethrough

**WHEREAS**, the County has negotiated with Concessionaire for maintenance and repair of the Pier upon completion of the final inspection, approval and acceptance of the rebuilding of the Pier; and

**WHEREAS**, operation of said Concession and Pier will mutually benefit the parties and the residents of Brevard County, Florida; and

**WHEREAS**, the County may provide parks, preserves, recreation areas, and other recreational facilities pursuant to provisions of Section 125.01 (1)(f), Florida Statutes.

**NOW, THEREFORE**, in consideration of the covenants herein contained, it is mutually agreed between the parties as follows:

1. TERM AND RENEWAL. The Concessionaire is hereby authorized to operate the Concession located at the Pier, a public recreational fishing pier, for the period of 60 (sixty) months, computed from the first day of the first calendar month on or after the Rental Commencement Date. The County shall deliver possession of the Concession ("Delivery of the Premises") immediately upon the date of execution of this Agreement. The Rental Commencement Date shall be the earlier of (a) the date Concessionaire initially opens for business or (b) one hundred twenty (120) days after Delivery of the Premises. In the event that the Concessionaire (a) fails to open the Concession to the public for business within one hundred twenty (120) days following Delivery of the Premises, and such failure continues for a period of ten (10) days after the County delivers written notice of such failure to the Concessionaire, or (b) Concessionaire fails to operate its business at anytime during the term of this Agreement, and such failure continues for a period of at least ten (10) days after the County delivers written notice of such failure to the Concessionaire, then the County, in addition to any other remedies available hereunder, shall be entitled to terminate this Agreement by delivery of written notice to the Concessionaire. In the event of such termination, the County shall have the option to (i) take exclusive possession of and title to the Concessionaire's fixtures (including trade fixtures), furniture, equipment, signs, improvements, additions and alterations to the extent any of these items are affixed to the premises, (ii) require Concessionaire to remove the same, at its sole cost and expense, and immediately repair any damage occasioned to the premises by reason of such removal so as to leave the premises in a neat and clean condition, or (iii) remove the same, at Concessionaire's sole cost and expense.

The County Manager or designee, as hereby specifically delegated this authority by the Board of County Commissioners, shall have the option to renew this Agreement for two (2) additional terms of 36 (thirty-six) months each, upon request of the Concessionaire received 90 days prior to termination of the current term. Each Agreement renewal will be subject to the same

terms and conditions contained herein, except monthly rent, which shall increase at the commencement of each new Agreement term by an amount equal to ten percent (10%) of the monthly rent in effect prior to such increase.

Should the City of Titusville terminate its Interlocal Agreement with the County, resulting in the County's cessation of operation of the Pier, the County's obligations under this Agreement shall be deemed to have terminated. Such termination shall not constitute a breach by the County.

## 2. PAYMENTS.

(a) The Concessionaire shall provide a cash bond in the amount of ONE THOUSAND DOLLARS (\$1,000.00), to be conditioned upon the faithful performance of all the provisions herein set forth. The cash bond shall be posted with the County at time of execution of this Agreement.

(b) Concessionaire shall pay monthly rent payments of One Thousand Five Hundred Dollars (\$1,500.00), plus any applicable sales or use tax due under state law for the rental of this property, to the Board of County Commissioners of Brevard County, Florida, by the fifth (5<sup>th</sup>) of each month to the North Area Parks Operations Manager, hereinafter referred to NAPO Manager, or designee. The first month's rent may be prorated based on the Rental Commencement Date.

(c) The Concessionaire rent for the two (2) thirty-six (36) month renewal periods will be increased as provided hereinabove.

(d) The Concessionaire, in transmitting payments to the County hereunder shall make all checks payable to Brevard County Board of County Commissioners, in care of North Area Parks Operations, 475 North Williams Avenue, Titusville, Florida 32796.

3. ACCOUNTING PROCEDURES AND REPORTS. All sales shall be registered on a cash register with the amount of sale visible to the public. Daily cash register tapes shall be dated and kept as a permanent record during the duration of the Agreement period. The cash register

must be furnished by the Concessionaire and shall be the responsibility of the Concessionaire. The County shall approve the type of cash register to ensure accountability purposes.

Concessionaire shall furnish to the County, at the Concessionaire's expense, a monthly attendance report in a form acceptable, as shown in Exhibit "A," to the NAPO Manager or designee, by the fifth (5<sup>th</sup>) day of each month for the previous month's business. Sales tax reports shall be made to the State of Florida.

Concessionaire shall cooperate with and provide the County, or its duly authorized representative, with any additional information or reports concerning its activities, income, revenues, expenses, and disbursements when so requested.

4. RIGHT TO AUDIT RECORDS. In the performance of the Agreement, the Concessionaire shall keep books, records, and accounts of all activities, related to the Agreement, in compliance with generally accepted accounting procedures. Books, records and accounts related to the performance of this Agreement shall be open to inspection during regular business hours by an authorized representative of the Office upon reasonable advance notice and shall be retained by the Concessionaire for a period of three years after termination of this agreement. If material accounting discrepancies are found, the cost of any such audit shall be borne by the Concessionaire. All records, books and accounts related to the performance of this Agreement shall be subject to the applicable provision of the Florida Public Records Act, Chapter 119, Florida Statutes.

All records or documents created by the Concessionaire, or provided to the Concessionaire by the County in connection with the activities or services provided by the Concessionaire under the terms of this Agreement are public records and the Concessionaire agrees to comply with any request for such public records or documents made in accordance with Section 119.07 Florida Statutes.

5. COPYRIGHT. No reports, data, programs or other material produced, in whole or in part for the benefit and use of the County, under this Agreement, shall be subject to copyright by Concessionaire in the United States or any other Country.

6. SEVERABILITY. If any provision of this Agreement is held by a court of competent jurisdiction to be invalid, void, or unenforceable, the remaining provisions shall nevertheless continue in full force without being impaired or invalidated in any way.

7. OPERATION AND MAINTENANCE. Concessionaire shall provide and adequately arrange to offer the public a quality Concession operation consistent with good food and beverage ~~and bait shop business practices and management, maintaining a level of public~~ relations and customer service that promotes a highly favorable family-oriented atmosphere. Access to the Pier has always been free and is to remain so with no admission fee charged. Pier patrons shall be allowed to sit in the Concession area without charge or a requirement to purchase from the Concession based upon available seating and weather conditions. Concessionaire shall furnish the following merchandise and services at the Pier for the needs and convenience of the public:

Formatted: Font color: Red, Strikethrough

(a) Post a menu of, but not limited to, hamburgers, hot dogs, hot entrees, delicatessen-style sandwiches, chips, popcorn, candy, salads, and condiments. The Concessionaire, coordinating with the NAPO Manager or designee, will consider if the business warrants a breakfast menu. The intention is to provide a casual, family-oriented atmosphere.

(b) Explore various means of marketing with creative menu items, specials and promotions.

(c) A variety of non-alcoholic beverages and alcoholic beverages. The Concessionaire shall assist the County in enforcing the City of Titusville's requirement to prohibit alcoholic beverages being brought on the Pier by any patron other than purchases of alcoholic beverages from the concession located at the Pier. The County shall provide appropriate

signage. The Concessionaire shall call the City of Titusville Police Department if a patron refuses to comply after being informed of the requirement as posted.

(d) ~~A variety of live and frozen bait and a variety of fishing tackle for sale and rental of tackle and equipment including chumming lights to serve the needs of the public.~~

Formatted: Font color: Red, Strikethrough

(e) ~~Maintain a sufficient inventory of all menu and bait shop items to satisfy the demands and needs of the public.~~

Formatted: Font color: Red, Strikethrough

(f) Insure that the NAPO Manager or designee is provided a current menu and bait shop schedule documenting all fees and charges. All fees and charges shall be competitive in nature and will not exceed the average retail prices of the same or comparable items charged by commercial establishments within Brevard County, Florida, as determined in the sole discretion of the County. Once established, no fees and charges may be changed without written approval of the NAPO Manager or designee.

Formatted: Font color: Red, Strikethrough

(g) Secure and maintain all licenses and/or permits required and pay when due all taxes and assessments which may be imposed or assessed by governmental units in connection with the business or operation conducted pursuant to the provisions of this Agreement and to otherwise comply with all applicable laws, ordinances, rules, fire codes, regulations or policies established by the County or any local, state, or federal governmental unit or authority. Concessionaire shall provide written evidence to the NAPO Manager or designee of current satisfactory health inspections at all times.

(h) Keep buildings and Pier premises including finger pier and parking lot clean and orderly in accordance with any applicable federal, state, and local regulatory agencies' laws or ordinances. The County reserves the right to perform, or have performed, periodic inspections of the cleanliness and sanitation conditions maintained on the premises. Brevard County Public Health Department reviews may be conducted. Final determination shall rest with the County. The Concessionaire shall provide all aspects of cleanliness in the Concession service and seating area, including porches, tables, chairs, counters, floors, and continuous removal of debris, rubbish

or litter. The Concessionaire shall provide daily janitorial services and maintenance and repair to the interior and exterior of the Concession service and seating area, bait shop, porches, finger pier, parking lot and Pier as defined by the County during the initial briefing period, prior to the execution of the contractual Agreement. The Concessionaire will be responsible for dusting the plaques related to donations for Pier repairs and leaving space for future plaques. Existing and future plaques will be installed by the County. Area for future plaques will be designated by the County. Concessionaire display areas will be coordinated and approved in advance by the NAPO Manager. Advertisements in the Concession area shall be in good taste commensurate with acceptable family-oriented environments. Advertising of other businesses not related to the Pier Concession operation such as business cards and signs are not acceptable.

(i) Maintain a "Non-Smoking" policy within the indoor service and seating areas.

(j) Service the patrons pursuant to a set schedule during all periods of the year, giving consideration to seasonal fishing and shrimping hours. This schedule shall be subject to the approval of the NAPO Manager or designee, and shall be posted at all times in full view of the public. Said schedule of service shall not be modified or altered without the written approval of the NAPO Manager or designee. A copy of any proposed revised schedule of operating hours shall be submitted to the NAPO Manager or designee at least fifteen (15) days prior to the proposed effective date of the desired changes. The Concessionaire shall not open the Concession late or close it early without the approval of the NAPO Manager or designee.

(k) Be responsible for hiring staff of high moral character that are clean in appearance and dress appropriately for public food service, and shall train Concession employees in the art of effective customer service and establish customer service procedures which will develop loyal clientele. The Concessionaire will ensure staff wears apparel acceptable to the County and approved by the NAPO Manager. All employees shall wear a polo, collared or T-shirt with the name of the Concessionaire on the shirt. No sleeveless shirts or tank tops allowed. Women may wear slacks, skirts extending to at least mid-thigh, culottes or Bermuda-length shorts with a

minimum six-inch inseam and extending to mid-thigh. Men may wear slacks or Bermuda-length shorts with a minimum six-inch inseam and extending to at least mid-thigh. Short shorts, tennis, gym or bathing-type shorts and cut-off pants or jeans are not allowed. Name tags shall be worn indicating at least the first name of the employee. The Concessionaire will ensure a drug-free work place. The Concessionaire and all employees will be subject to a Level III Background Check, as described in Exhibit "C" hereto. Employees may be disqualified on the basis of the results of the Level III Background Check. Neither the Concessionaire, nor any employee, subcontractor, agent, and/or volunteer, may perform services hereunder until that individual has satisfactorily completed the Level III Background Check. The Concessionaire shall provide to the NAPO Manager or designee a letter stating the names of employees, subcontractor, agent, and/or volunteer that have passed the Level III Background Check.

(l) Employ good public relations in a manner which is courteous and fair to the public and responsive to customer requests and complaints received by the Concessionaire, and/or the County.

(m) Cooperate fully with County officials in all matters relating to the Concession, the fishing public, and Pier patrons.

(n) ~~Operation of the bait shop may be subcontracted out by the Concessionaire,~~ however, the Concessionaire shall not enter into any agreements with other parties to delegate or subordinate any of the responsibilities or right there under except with the prior written approval of the County. The County will not deal directly with any subcontractor or sub-subcontractor or materials supplier of the awarded Concessionaire. Nothing contained in the bidding documents or any subsequent agreement with the awarded Concessionaire is intended to, nor shall it create any contractual relationship between the County, or any of its agents, employees, or representatives and any subcontractor, sub-subcontractor, supplier or vendor of the Concessionaire, but the County shall be entitled to performance of all obligations intended for the County's benefit, and to enforcement thereof, including requirements in paragraph 7(k).

Formatted: Font color: Red, Strikethrough

(1) Prior to award of a contract resulting from this solicitation, the Concessionaire shall furnish the County, in writing, the names, contact name, addresses and telephone numbers of any subcontractors proposed by the Concessionaire to perform any portion of the work under this solicitation.

(2) The County shall promptly reply to Concessionaire in writing stating whether or not the County, after due investigation, has reasonable objection to any proposed person or entity. Failure of the County to reply within five (5) business days shall constitute notice of no reasonable objection.

(3) The Concessionaire understands and agrees that no contractual agreement exists for any part of the work resulting from this solicitation between the County and any of the Concessionaire's subcontractors or sub-subcontractors. Further, the Concessionaire understands and agrees that the Concessionaire alone is responsible to the County for all of the work under this solicitation and that any review of subcontractors or sub-subcontractors by the County will not in any way make the County responsible to any subcontractor, nor responsible for the actions or failures of any subcontractor or sub-subcontractor.

(4) The Concessionaire shall not contract with any such proposed person or entity to which the County has made reasonable objection.

(5) If the County has reasonable objection to any proposed person or entity under paragraph 7(n)(2), the Concessionaire shall name a substitute to whom the County has no reasonable objection. Any proposed prices, rental rates and user fee rates must remain the same as originally proposed.

(o) Adhere to any and all electrical conservation policies established by the County.

(p) Is responsible for all electrical and plumbing support associated with the Concession operation. Concessionaire shall pay for all electrical, water, and sewer services for the Pier and Concession operations. Except as otherwise provided herein, this shall include all interior and exterior maintenance of the Concession building. Upon completion of the final

inspection, approval and acceptance of the rebuilding of the Pier by the County, the County will turn the responsibility of the maintenance and routine repairs to the Concessionaire.

(q) Provide appropriate trash containers for use in conjunction with the operation of the Concession. Trash containers located in the public seating in view of the public shall be kept clean and stain free. Concessionaire shall provide a dumpster for pick up and disposal of garbage for the Pier and Concession and to practice environmental trash separation by recycling cans, plastic and glass bottles, providing recycling containers for patrons' use, and arranging for transporting of such to a recycling center. The Concessionaire is responsible for properly disposing of cooking oils.

(r) Install and maintain, at its expense, all required equipment, including refrigeration equipment, stoves, grill, deep fat fryers, microwaves, sinks, ice machines and associated food and beverage preparation equipment as needed to operate the facility, tables and chairs and repairs thereof. ~~The Concessionaire agrees to install and maintain all required equipment for the bait shop.~~ This is to include any required safety or fire prevention equipment necessary for proper operations as well as maintenance and mandatory inspections of the same. Where the facility is not ventilated to handle or accommodate deep fat fryers it is the responsibility of the Concessionaire to provide for such ventilation.

Format: Font color: Red, Strikethrough

(1) The Concessionaire will be provided Concession equipment owned by Brevard County for the Concessionaire's use. A listing of County-owned equipment is provided as Exhibit "B." The Concessionaire will regularly service and maintain all Brevard County Concession equipment. The Concessionaire shall advise the NAPO Manager or designee when County equipment is being repaired and if equipment will not be repaired or is no longer required by the Concessionaire. Brevard County equipment, which is too costly or beyond repair, shall be the responsibility of the Concessionaire to replace.

(2) Brevard County Asset Management office manages all County equipment. The NAPO Manager or designee must be notified of any excess or beyond repair equipment.

The NAPO Manager or designee will then arrange for relocation or disposal of the equipment per County requirements for Asset Management. Failure to do so on the part of the Concessionaire shall result in the determination of an assessed value by the County that shall be paid by the Concessionaire.

(s) The Concessionaire is responsible for the security of the Concession area and to take appropriate measures to minimize damage when severe weather or other dangerous conditions are expected.

(t) Allow the City of Titusville up to four (4) one-day special events per year at the Pier as is required by Inter-local Agreement between the County and the City. The City may at its discretion use the patron seating area of the Concession for such events and may negotiate with the Concessionaire for food and beverage service for such special events.

(u) Accept major credit cards (VISA, Master Card). The Concessionaire shall pay all costs associated with these forms of payment. The Concessionaire may set a minimum purchase amount of ten dollars (\$10) on credit card purchases.

(v) ~~Provide vending machines containing various snacks and drinks on the Pier.~~

Formatted: Font color: Red, Strikethrough

~~The Concessionaire has the option to provide bait vending machines. Said vending machines are to be operated and maintained by the Concessionaire.~~

(w) Cooperate with Brevard County officials in all matters pertaining and relating to the Pier and Concession operations.

(x) The County hereby authorizes the Concessionaire to request that any person violating an applicable rule or regulation leave the Concession and/or Pier. If a person remains in the Concession and/or Pier after such a request has been made, the Concessionaire shall call the Titusville Police Department.

8. **COUNTY OBLIGATIONS.** The Parks and Recreation Department Director and NAPO Manager shall administer Brevard County's interest in the Pier and Concession. The County agrees to provide as follows:

(a) Phone service for patrons in the patron eating area with long distance and toll calls blocked.

(b) Fire alarm phone line and monitoring.

(c) Maintenance, other than janitorial, of the outdoor memorials, flag pole and replacement of flags.

(d) Provide to the Concessionaire copies of "Compliments, Concerns, Evaluation Cards" submitted by customers and the Concessionaire shall provide the NAPO Manager or designee copies of such received directly at the Concession.

(e) Maintenance in a good state of repair and leak-free condition the roof and walls, and all structural portions of the roof, walls, floors and foundations of any structures on the Pier, as well as the structural portions of the Pier, including, the finger pier and the docks appurtenant thereto.

9. **IMPROVEMENTS.** The Concessionaire agrees that all requests for improvements and/or changes will be submitted, in writing, for prior approval, to the NAPO Manager or designee, the City of Titusville Planning Department, and if necessary, the Brevard County Public Health Department, or other governmental agency whose approval is needed. The Concessionaire agrees that any and all improvements and/or changes once approved will be at the expense of Concessionaire.

It is hereby mutually agreed and understood that all fixtures permanently attached to the rental property hereto shall likewise become and remain the property of the County. At the time that the County approves the improvements, the County and the Concessionaire shall agree

as to whether the improvements are fixtures, which shall remain the County's property at the end of the Agreement, or any extension of it.

The Concessionaire shall ensure that any contractor which the Concessionaire may hire to perform any construction, renovation, or repairs to the facility, shall not be entitled to file any liens, mechanic's or otherwise, against the facility involved or any County property to secure the contractor's interests or payments. Any contract which the Concessionaire signs or executes with a contractor shall include a provision which requires the contractor to waive the right to file any such liens against County property and a provision which requires the contractor to include the same waiver by any subcontractor which the contractor may hire in an agreement/contract the contractor executes with the subcontractor.

**10. INDEMNIFICATION AND INSURANCE.** The Concessionaire agrees that it will indemnify and save harmless the County and the City from any and all liability claims, damages, losses, expenses, (including attorney's fees), proceedings, and causes of action of every kind and nature, arising out of or in connection with the use, occupation, management, or control of the Concession and Pier, or any improvements thereon, or the furniture, furnishings, equipment and fixtures used in connection with the Concession. The Concessionaire agrees that it will, at its own expense, defend any and all actions, suits, or proceedings, which may be brought against the County and/or the City in connection with the Concession. The Concessionaire agrees that it will satisfy, pay and discharge any and all judgments that may be entered against the County and/or the City in any such action or proceeding. The parties agree that specific consideration has been paid for this hold harmless/indemnification agreement. Notwithstanding the above, Concessionaire shall not be liable for any claims, damages, losses or expenses caused solely by the willful or negligent acts or omissions of the County, its agents, employees, contractors and invitees, or which are the result of the County's failure to perform the County's obligations under the terms of this Agreement.

The Concessionaire further agrees to provide and maintain at all times during the term of this Agreement without cost or expense to the County or the City policies of insurance generally known as General Liability policies insuring the Concessionaire against any and all claims, demands or causes of action whatsoever for injuries received or damage to property relating to its use, occupation, management or control of the Concession and Pier or improvements thereon. Such policies of insurance shall insure the Concessionaire in an amount not less than One Million Dollars (\$1,000,000.00) for Bodily Injury, One Million Dollars (\$1,000,000.00) for Products Liability, One Million Dollars (\$1,000,000.00) for Property Damage, and either an endorsement to the General Liability policy or a separate stand alone insurance policy for the Concessionaire Liquor Liability with policy limits equal to that of the General Liability policy requirements, to cover any and all claims connected with any accident or occurrence that may arise or be claimed to have arisen against the Concessionaire. Concessionaire shall also obtain Fire Damage Liability insurance insuring the Concessionaire in an amount not less than Seven Hundred Fifty Thousand Dollars (\$750,000.00) to cover claims of any person or persons from a single or specific act that results in alleged damage to the rented premises.

Said insurance policies shall provide that the County and the City shall be entitled to thirty (30) days prior written notice of any changes or cancellation in such policies and shall name the County and the City as an additional insured.

The Concessionaire shall notify the County immediately, in writing, of any potentially hazardous condition existing on or about the Concession building.

A certificate of insurance indicating that the Concessionaire has coverage in accordance with the requirements of this Agreement shall be furnished by the Concessionaire to the NPO Manager or designee, 475 North Williams Avenue, Titusville, Florida 32796, and to the City Manager or designee, Post Office Box 2806, Titusville, Florida 32781-2806, within ten (10) days from the date of the execution of this Agreement. The certificate shall include an

endorsement specifically providing coverage for the Concessionaire liability for indemnifying the County and the City under Section 10 of this Agreement.

All personal property housed or placed on the premises by the Concessionaire or others shall be at the risk of the Concessionaire or others, and the County or the City shall not be liable for any loss or damage to the Concessionaire's personal property located therein for any cause whatsoever. Concessionaire agrees and understands that the County or the City does not and shall not carry liability, theft, or fire insurance on the operation of these facilities to cover the Concessionaire's interest.

The Concessionaire shall provide and maintain all required Worker's Compensation and Employers Liability Insurance covering all persons conducting operations on the County's or the City's premises or on behalf of the County or the City, pursuant to the provisions of Chapter 440, Florida Statutes.

11. **ASSIGNMENT.** Concessionaire, its assigns, or representative, shall not enter into any agreements with third parties to delegate any or all of the responsibilities or rights herein set forth without prior written approval of the NAPO Manager.

Continuation of the Agreement is contingent on the continued management of the Concession by the named parties or the County may terminate this contract, in its sole discretion, if there is a change in principal(s) of the corporation.

12. **INDEPENDENT CONTRACTOR.** The Concessionaire shall perform the conditions of this Agreement as an independent contractor and nothing contained herein shall be construed to be inconsistent with this relationship of status. Nothing in this Agreement shall be, in any way, construed to constitute the Concessionaire, or any of its agents or employees, as the agent, employee or representative of the County.

13. **DEFAULT AND TERMINATION.** The occurrence of one or more of the following events shall constitute a default by Concessionaire under this Agreement: (a) failing or refusing to

pay any amount of rent, or any other monetary obligation owing by Concessionaire hereunder, when due, where such failure shall continue for a period of five (5) days after written notice thereof from the County to the Concessionaire; or (b) the failure of Concessionaire to observe or perform any other covenants, obligations or conditions of this Agreement, where such failure shall continue for a period of fifteen (15) days after written notice thereof from the County to the Concessionaire. If the nature of Concessionaire's default is such that more than fifteen (15) days are reasonably required for its cure, then Concessionaire shall not be deemed to be in default if Concessionaire shall commence such cure within said fifteen (15) day period and thereafter diligently prosecute such cure to completion, which completion shall not occur later than thirty (30) days from the date of such notice from the County. Any waiver by the County of a breach of a covenant of this Agreement by Concessionaire shall not be construed as a waiver of subsequent breach of the same covenant. No breach of a covenant of this Agreement shall be deemed to have been waived by the County unless the waiver is in writing signed by the County.

Upon the occurrence of one or more of the foregoing events of default, the County Manager or designee, as hereby specifically delegated this authority by the Board of County Commissioners. County, may elect to terminate this Agreement. In such event, the County may recover from Concessionaire, as damages, the following: (a) the worth at the time of award of the unpaid rental which had been earned at the time of the termination; plus (b) the worth at the time of award of the amount by which the unpaid rental which would have been earned after termination until the time of award exceeds the amount of such rental loss Concessionaire proves could have been reasonably avoided; plus (c) the worth at the time of award of the amount by which the unpaid rental for the balance of the term after the time of award exceeds the amount of such rental loss that Concessionaire proves could be reasonably avoided; plus (d) any other amount necessary to compensate the County for all the detriment proximately caused by Concessionaire's failure to perform its obligation under this Agreement, including, but not limited to, any costs or expenses incurred by the County in (i) retaking possession of the premises, (ii)

maintaining or preserving the premises after any such default, (iii) preparing the premises for reletting to a new tenant, including repairs or alterations to the premises, and (iv) any other costs necessary or appropriate to relet the premises.

Upon termination of this Agreement, the Concessionaire shall have fifteen (15) days within which to remove his/her personal property from the Pier and Concession. Any personal property not removed within said fifteen (15) day period shall become the property of the County.

The County shall in no event be charged with default in any of its obligations hereunder unless and until the County shall have failed to perform such obligations within thirty (30) days (or such additional time as is reasonably required to correct any such default) after written notice to the County by the Concessionaire specifically describing such failure. If the County fails to perform any of its obligations under this Agreement and such failure is not cured within thirty (30) days (or such additional time as is reasonably required to correct any such default) as provided hereinabove, Concessionaire may, and at its option, terminate this Agreement upon written notice to the County, or Concessionaire may incur and deduct from the monthly rent the expense necessary to perform said obligation of the County.

14. **ATTORNEY'S FEES.** In the event of any legal action to enforce the terms of this contract, each party shall bear its own attorney's fees and costs.

15. **VENUE.** Venue for any legal action brought by any party to this Agreement to interpret, construe, or otherwise enforce this Agreement shall be in a court of competent jurisdiction in and for Brevard County, Florida, and any trial shall be non-jury.

16. **GOVERNING LAW.** This Agreement shall be deemed to have been executed and entered into within the State of Florida, and this Agreement and any dispute arising hereunder, shall be governed, interpreted, and construed according to the laws of the State of Florida.

17. **NOTICE.** Notice under this Agreement shall be given to the County by delivering written notice to the North Area Parks Operations Manager, Brevard County Parks and Recreation

Department, North Area Parks Operations, 475 North Williams Avenue, Titusville, Florida 32796 and notice shall be given to Concessionaire by delivering written notice to Jason Reichman, President, Capital Seas, Inc., 125 Harrison Street, Titusville, Florida 32780.

18. UNAUTHORIZED ALIEN WORKERS. The County shall consider the employment by the Concessionaire of unauthorized aliens a violation of Section 274A(e) of the INA. Such violation by the Concessionaire of the employment provisions contained in Section 274A(e) of the INA shall be grounds for unilateral cancellation of this Agreement by the County.

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

20. MODIFICATION. No modification of this Agreement shall be binding on the County or the Concessionaire unless reduced to writing and signed by a duly authorized representative of the County and the Concessionaire.

21. FORCE MAJEURE. Neither party shall be responsible for damages or delays in performance caused by acts of God, strikes, lockouts or other events constituting force majeure beyond the reasonable control of the parties.

22. PAYMENT ADJUSTMENTS. The Parks and Recreation Director may, for a period not to exceed six (6) months, negotiate a reduction in the monthly payment of rent due to Parks and

Recreation when in his or her opinion unforeseen circumstances including Pier conditions, major equipment breakdowns, and acts of Nature, warrant said reduction.

23. COMPLIANCE WITH STATUTES. The Concessionaire shall promptly execute and comply with all statutes, ordinances, rules, orders, regulations and requirements of all local, State and Federal governmental bodies applicable to the Concession and Pier for the correction, prevention and abatement of nuisances or other grievances in, upon or connected with the Concession and Pier during the term of this Agreement.

24. MUSIC PERFORMANCE. The Concessionaire shall not use, play or perform copyrighted music without appropriate licensing or other permission. The Concessionaire shall be solely responsible for obtaining appropriate licensing or permission to use, play or perform copyrighted music. The use or performance of copyrighted music without appropriate licensing or other permission shall constitute a breach of this Agreement. The Concessionaire agrees to indemnify and hold harmless the County from damages for unauthorized use or performance of copyrighted music.

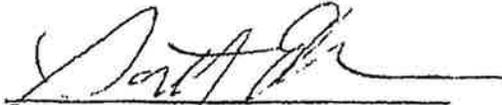
25. SURRENDER: Upon the last day of the Agreement term or any renewal term, the Concessionaire shall peaceably and quietly leave the Pier and Concession in good order and repair.

26. CONSENT: Whenever the County's consent is required herein, such consent shall not be unreasonably delayed or withheld and it shall be deemed to have been given if the County fails to reply to Concessionaire's request for its consent within fifteen (15) business days of such request.

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

ATTEST:

BOARD OF COUNTY COMMISSIONERS  
OF BREVARD COUNTY, FLORIDA

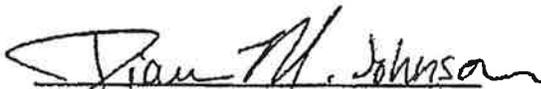
  
\_\_\_\_\_  
Scott Ellis, Clerk

By:   
\_\_\_\_\_  
Mary Bolin, Chairman

AS APPROVED BY THE BOARD ON:

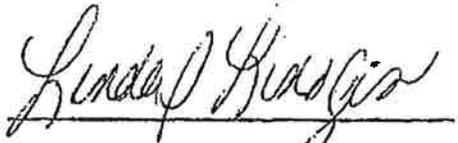
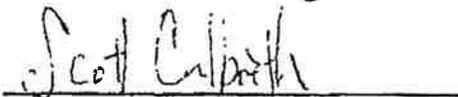
DEC 01 2009

Reviewed for legal form and content:

  
\_\_\_\_\_  
Assistant County Attorney

WITNESS:

CAPITAL SEAS, INC.

  
\_\_\_\_\_  
  
\_\_\_\_\_

By:   
\_\_\_\_\_  
Jason Reichman, President

EXHIBIT "A" ~~strike through bait shop in chart below~~

Formatted: Font color: Red

### RECORD OF ATTENDANCE

Titusville Veterans' Memorial Fishing Pier

Month / Year \_\_\_\_\_

Day of Month	Food & Beverage	Bait Shop	Pier Patrons	Total
1				
2				
3				
4				
5				
6				
7				
8				
9				
10				
11				
12				
13				
14				
15				
16				
17				
18				
19				
20				
21				
22				
23				
24				
25				
26				
27				
28				
29				
30				
31				
Total for Month				

EXHIBIT "B"

BREVARD COUNTY-OWNED CONCESSION EQUIPMENT  
THE TITUSVILLE VETERANS' MEMORIAL FISHING PIER

KITCHEN EQUIPMENT

1. Reach-In Refrigerator/Freezer 23 cu. ft. on Casters—True T-23 DT
2. 1000 watt Microwave Oven, 120 volt.—Amana RCS10PBDA
3. Microwave shelf—24"x 20" Stainless Steel Wall Mount Microwave Oven Shelf, Custom Fabricated
4. 4-Slice Pop-Up Toaster, Toastmaster TP409
5. Corner Counter—60"x 46" Stainless Steel, Custom Fabricated
6. Corner Shelf—60"x 46" Stainless Steel, Custom Fabricated
7. 36" Electric Griddle/Grill, Toastmaster TECG7336
8. 15" Electric Counter Model Hot Plates, Toastmaster TECHP1132
9. 2—13" Electric Fryers, Toastmaster TERCF1427
10. French Fry Warmer with Pan and Drain Grate, Hatco GRFF
11. 72" Griddle Stainless Steel Equipment Stand with 1-1/2" Backsplash on Rear and Sides, Custom Fabricated
13. 30" High x 12" Deep Stainless Steel Low Storage Shelving Unit
14. 2-48" Long Sandwich/Salad Prep units with Refrigeration Cases, True TSSU4812
16. Ice Maker with a 380 lb., 24 hr. production capability at 90 degree air and 70 degree water temperature. Manitowoc SD-04521A on B570 Bin
17. 96"x12" Stainless Steel Wall Mount Shelf, Custom Fabricated (over sandwich/salad prep unit)
18. 4-Stainless Steel Counters, 1-24"x24", 2-30"x24", 1-96"x24", with 4" Backsplash on Rear, Custom Fabricated
19. 4- Stainless Steel Shelves, 12" Deep above Counters (Item #19)
22. 96"x12" Stainless Steel Wall Mount Shelf, Custom Fabricated (Above 3 Compartment Sink)
23. Two Section Reach-In Refrigerator, 49 cu. ft. on Casters, True T49
24. Two Section Reach-In Freezer, 49 cu. ft., on Casters, True T49F
25. 24"x144"x74" Dry Storage Wire Shelving, Powder Coated, Nexel Poly-Z-Brite Series
26. 16"x72"x74" Dry Storage Wire Shelving, Powder Coated, Nexel Poly-Z-Brite Series
27. 24"x24" Stainless Steel Cash Register Stand, Custom Fabricated
28. Undercounter Dishwasher for chemical Sanitizing with chemical Pumps, CMA LIX16
29. Exhaust Hood, Captive Aire 4624ND, with a Front Perforated Supply Plenum (PSP) Accessory, with 1 Factory Installed 10"x30" Exhaust Riser.
30. Full Height S/S Diamond Wall splash
31. Fire System #1 to include:
  1. Permit
  2. Hook-up
  3. Test
  4. Ansul-3.0/1.6, 4.5 Gallon Fire System in Utility Cabinet (Includes Pre-piped Hood with Detection, Tank, Release Mechanism, Microswitches, Pull Station)

BAIT SHOP EQUIPMENT

Formatted: Font color: Red, Strikethrough

- ~~1. 96"x24" Stainless Steel Work Table with 4" Backsplash, Custom Fabricated~~
- ~~2. 72"x24" Stainless Steel Work Table with 4" Backsplash, Custom Fabricated~~
- ~~3. 72"x12" Stainless Steel Wall Mount Shelf, Custom Fabricated~~
- ~~4. Solid Door Reach-In 23 cu. ft. Refrigerator on Casters, True T-23~~
- ~~5. Solid Door Reach-In Freezer 23 cu. ft. on Casters, True T-23F~~

EXHIBIT "C" replace with current AO 26

## ADMINISTRATIVE ORDER

**TITLE:** Background Investigation  
Checks

**NUMBER:** AO- 26

**CANCELS:** 2/24/06

**APPROVED:** March 23, 2009

**ORIGINATOR:** Human Resources

**REVIEW:** March 23, 2012

### I. PURPOSE AND SCOPE

To establish a consistent, county-wide procedure for conducting background investigation checks.

### II. DEFINITIONS AND REFERENCES

A. At-Risk Population – Children, elderly, disabled, and those whom can not defend themselves. Example settings in which individuals come into contact with at-risk populations:

- Daycare: senior citizen centers and community day programs for children.
- Group Home: placements for children under the care of the State as a result of abuse or neglect or as a consequence of delinquency.
- Program activities involving children on school property.
- Shelters: homeless, domestic violence or special needs emergency shelters.
- Youth development programs.
- Volunteer programs for the elderly or individuals with disabilities; Meals on Wheels, and other community/volunteer programs.
- Library areas/programs designated for children.
- Park areas/programs designated for children.

B. Law Violation – Convicted, means that there has been a determination of guilt as a result of a trial or the entry of a plea of guilty or nolo contendere, regardless of whether adjudication is withheld.

NOTE: A "yes" answer to this question will not automatically bar the applicant from employment. The nature, job-relatedness, severity and date of the offense in relation to the position for which they are applying will be considered.

1

- C. Other Employment Changes – Change in employee status, such as: promotion, demotion, voluntary transfer, involuntary transfer, new hires, or other employee action where the employee or volunteer would change to a higher level of security.
- D. Recertification – Frequency which each Department/Office reinvestigates each employee's or volunteer's criminal history.
- E. Level I – Employee or volunteer who works unsupervised with at-risk population.
- F. Level II – Employee or volunteer who works supervised with at-risk population.
- G. Level III – All other employees or volunteers.
- H. F.S. 112.011 – Felon; removal of disqualifications for employment, exceptions.
- I. F.S. 943.04351 – Search of registration information regarding sexual predators and sexual offenders required prior to appointment or employment.

**III. RESPONSIBILITIES**

- A. Each Department/Office Director shall establish a background investigation check procedure which insures that the guidelines in this Administrative Order are met.
- B. Each Department/Office will utilize the guidelines in this Administrative Order or will adhere to statutory/contractual requirements, whichever is more stringent.
- C. Each Department/Office shall perform the required minimum background investigation checks listed for all three security levels of applicants under final consideration for employment and volunteers.
  - 1. Level I
    - All background checks for Level II
    - Fingerprinting - send fingerprint card to FDLE.
    - National FBI Criminal Investigation check
    - Recertification of local criminal check a minimum of every five (5) years.
  - 2. Level II
    - All background checks for Level III
    - FDLE – [www.fdle.state.fl.us/](http://www.fdle.state.fl.us/)
    - Out-of-State criminal check based on past 7 years address history, or alternatively a national background check.

### 3. Level III

- Clerk E-Facts – [www.brevardclerk.us](http://www.brevardclerk.us)
- Florida Registered Sexual Predators and Sex Offenders – [www.fdle.state.fl.us/](http://www.fdle.state.fl.us/)
- Out-of-State sexual predators and sexual offenders checks based on past seven years address history – [www.fbi.gov/ho/cj/cap/realstrv.htm](http://www.fbi.gov/ho/cj/cap/realstrv.htm)
- Local Criminal Check
- Florida Department of Corrections – [www.dc.state.fl.us](http://www.dc.state.fl.us)
- Reference checks
- Prior employment check
- Educational/Licensing verification (case-by-case)
- Driver's license check (case-by-case)
- Drug testing (case-by-case)

- D. Applicants under final consideration for Level I classified positions, and employees under final consideration for other employment changes, shall be subject to the following guidelines for criminal background checks:

Consistent with F.S. 112.011, a person shall not be disqualified from employment by the County solely because of a prior conviction for a crime. However, a person may be denied employment by the County by reason of the prior conviction for a crime if the crime was a felony or first degree misdemeanor and directly related to the position of employment sought.

For Level I employees or volunteers, the County finds a prior conviction of any of the following criminal offenses is directly related to Level I positions and will disqualify an individual from further consideration, so long as such offenses remain a felony or first degree misdemeanor:

- Child Abuse, Neglect or Abandonment
- Extortion
- Extreme Violence (Aggravated Assault/Aggravated Battery, Murder, Attempted Murder, Vehicular Homicide)
- False Imprisonment
- Hate Crime
- Indecent Exposure if Sexual in Nature
- Kidnapping
- Manslaughter
- Child Pornography
- Possession of Guns or Weapons on County Property
- Robbery
- Sale of Controlled Substance
- Sexual Offense (Lewd and Lascivious – Sexual Battery)

For prior convictions of less than 5 years the County finds the following convictions if a felony or a first degree misdemeanor are directly related to Level I positions and will disqualify an individual from further consideration. For convictions older than 5 years, the appointing authority shall carefully review and consider on a case by case basis:

- Battery/Assault
- Domestic Violence
- Misdemeanor Drug and/or Paraphernalia
- Resisting Arrest with Violence
- Sale of Alcohol or Tobacco to a Minor
- Contributing to the Delinquency of a Minor

For the following convictions, if a felony or a first degree misdemeanor, the appointing authority shall carefully review and consider on a case by case basis:

- Disorderly Conduct/Trespassing
- Domestic Violence
- Driving While Under the Influence (DUI), one incident only (more than one must show proof of rehabilitation)
- Petty Theft
- Worthless Checks
- Other Crimes

E. An appointing authority shall take the following factors relating to prior criminal convictions into consideration for all Level II and Level III applicants/volunteers:

- The relationship between the incident and the type of employment or service that the applicant will provide.
- The nature, severity, number, and consequences of the incidents disclosed.
- The amount of time elapsed since the incident(s) occurred.
- The applicant's efforts and success at rehabilitation.
- The age of the applicant at the time of the incident.

F. Typically, after the background investigation checks are satisfactorily completed, an applicant should be recommended for employment and volunteers accepted for service.

G. Upon completion of the initial criminal background screening required for Level I employees/volunteers, a recertification shall be conducted a minimum of every five years thereafter utilizing:

- Local criminal check
- Clerk E-Facts – [www.brevardclerk.us](http://www.brevardclerk.us)
- Florida Registered Sexual Predators and Sex Offenders – [www.fdle.state.fl.us/](http://www.fdle.state.fl.us/)

**IV. RESERVATION OF AUTHORITY**

The authority to issue and/or revise this Administrative Order is reserved for the County Manager.

  
Stockton Whitten  
Interim County Manager  
Brevard County, Florida