



CITY COMMISSION OF THE CITY OF PAHOKEE

## **WORKSHOP**

Tuesday, October 9, 2018 6:00 p.m.

360 East Main Street, Pahokee, Florida

This Workshop of the City Commission of the City of Pahokee is being held to discuss the October 9, 2018 Agenda.

A. INVOCATION & PLEDGE OF ALLEGIANCE

B. ROLL CALL

C. TOPIC

D. DISCUSSION, COMMENTS, CONCERNS

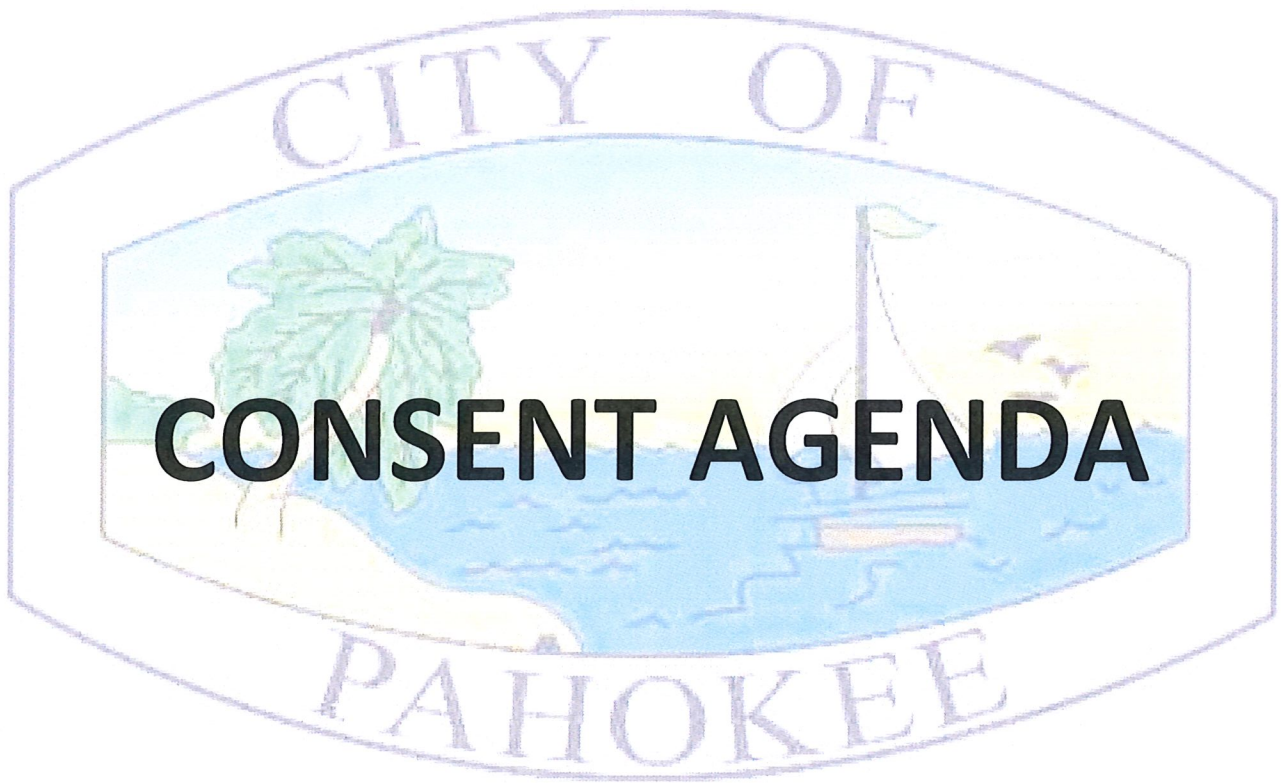
E. ADJOURN



# AGENDA

CITY COMMISSION OF THE CITY OF PAHOKEE  
REGULAR COMMISSION MEETING  
TUESDAY, OCTOBER 9, 2018 6:30 P.M.

- A. INVOCATION & PLEDGE OF ALLEGIANCE
- B. ROLL CALL:
- C. ADDITIONS, DELETIONS, AND APPROVAL OF AGENDA ITEMS:
- D. CITIZEN COMMENTS (AGENDA ITEMS ONLY):
- E. PUBLIC SERVICE ANNOUNCEMENTS (FILL OUT PUBLIC COMMENT CARD):
- F. APPROVAL OF MINUTES:
- G. CONSENT AGENDA:
  - 1. **RESOLUTION 2018 – 59 A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF PAHOKEE, FLORIDA, APPROVING CHANGE ORDERS ON THE ATTACHED EXHIBIT “A”.**
- H. ORDINANCE:
- I. RESOLUTIONS:
  - 1. **RESOLUTION 2018 – 58 A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF PAHOKEE, FLORIDA, AUTHORIZING AND APPROVING THE PAHOKEE HIGH SCHOOL 2018 HOMECOMING PARADE AND REQUESTING THE FLORIDA DEPARTMENT OF TRANSPORTATION TO ISSUE A PERMIT FOR THE PARADE.**
  - 2. **RESOLUTION 2018 – 60 A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF PAHOKEE, FLORIDA, APPROVING AND AUTHORIZING THE MAYOR TO EXECUTE THE CAMPGROUND AND MARINA RESTAURANT WOOD DECK CONTRACT AGREEMENT BETWEEN THE CITY OF PAHOKEE AND AMERICAN DRILLING SERVICES, INC.**
- J. PUBLIC HEARINGS:
- K. PROCLAMATIONS (approval):
  - 1. **Ratification of Proclamation - In Honor of Former Mayor Allen Wayne Whitaker**
- L. PRESENTATIONS:
  - 1. **Palm Tran – Clinton Forbes, CEO**
  - 2. **Lawn of the Month (September 2018) – Etta Mae Johnson**
  - 3. **Recognition of 30 years of Service – Alvin Johnson**
- M. REPORT OF THE MAYOR:
- N. REPORT OF THE CITY MANAGER:
- O. REPORT OF THE CITY ATTORNEY:
- P. OLD BUSINESS:
- Q. NEW BUSINESS:
  - 1. **Status Report on Marina, Restaurant, and Campground Lease**
- R. CITIZEN COMMENTS / GENERAL CONCERNS:
- S. CORRESPONDENCE /COMMENTS AND CONCERNS OF THE CITY COMMISSIONERS:
- T. ADJOURN:



**CONSENT AGENDA**

**RESOLUTION 2018 - 59**

**A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF PAHOKEE, FLORIDA, APPROVING CHANGE ORDERS ON THE ATTACHED EXHIBIT "A".**

**WHEREAS**, there is a need for approval of change orders on contracts which the City Commission has already approved.

**NOW, THEREFORE BE IT RESOLVED BY THE CITY COMMISSION OF THE CITY OF PAHOKEE, THAT:**

- Section 1.** The change orders listed on Exhibit "A" are hereby approved.
- Section 2.** The Finance Director is authorized to remit payment for the change orders.

**PASSED AND ADOPTED** this 9<sup>th</sup> day of October, 2018.

ATTESTED:

\_\_\_\_\_  
Keith W. Babb, Jr., Mayor

\_\_\_\_\_  
Nylene Clarke, Interim City Clerk

APPROVED AS TO LEGAL  
SUFFICIENCY:

\_\_\_\_\_  
Gary M. Brandenburg, City Attorney

Mayor Babb \_\_\_\_\_  
Vice Mayor Murvin \_\_\_\_\_  
Commissioner Everett \_\_\_\_\_  
Commissioner Hill \_\_\_\_\_  
Commissioner Walker \_\_\_\_\_

**Exhibit "A"**

1. AE Engineering Inc / Dev-Land Demolition & Site Inc. (Change Order #3) - \$31,000.00
2. Palm Beach Septic Systems, Inc. (Change Order) - \$3,350.00

DEPARTMENT OF ECONOMIC AND COMMUNITY  
DEVELOPMENT  
207 Begonia Drive  
Pahokee, FL

WORK CHANGE ORDER

(See Instructions page)

No. 3

PROJECT WTP Demolition Project PROJECT No. \_\_\_\_\_  
DATE OF ISSUANCE \_\_\_\_\_ EFFECTIVE DATE 7/27/2018  
OWNER City of Pahokee  
PROJECT ENGINEER Rod Myrick, P.E., AE Engineering Inc.  
CONSULTANT/CONTRACTOR AE Engineering Inc/Dev-Land Demolition & Site Inc.

Purpose of Work Change:

The removal of the sub-tank under the main building sub-tank not shown on structural plan.

Attachment: N/A

If a claim is made that the above change(s) have affected Contract Price or Contract Times any claim for a Change Order based thereon will involve one or more of the following methods of determining the effect of the change(s).

Method of determining change in Contract Price:

- Unit Prices
- Lump Sum
- Other \_\_\_\_\_

Estimated **increase** (decrease) in Contract Price:  
\$ 31,000

If the change involves an increase, the estimated Amount is not to be exceeded without further authorization.

RECOMMENDED:

Roderick Myrick, P.E., Sr. Project Engineer/President

ENGINEER  
By: [Signature]  
(Authorized Signature)

Method of determining change in Contract Times:

- Contractor's records
- Engineer's records
- Other N/A

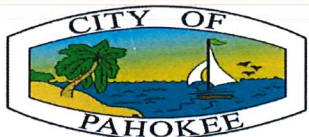
Estimated increase (decrease) in Contract Times:  
Substantial Completion: \_\_\_\_\_ days;  
Ready for final payment: \_\_\_\_\_ days.

If the change involves an increase, the estimated times are not to be exceeded without further authorization.

AUTHORIZED:

Chandler F. Williamson, City Manager  
OWNER

By: [Signature]  
(Authorized Signature)



CHANGE ORDER

Project: Campground & Marina Renovation Project Project No: HL081  
 Date of Issuance: 10th April 2018 Effective Date: \_\_\_\_\_  
 Owner: City of Pahokee  
 Project Engineer: Rod Myrick, P.E/AE Engineering, Inc.  
 Consultant/Contractor: Palm Beach Septic Systems, Inc.

**Purpose of Change Order:**

Excavation needed for the installation of the grease trap inceptor located at the City of Pahokee Campground & Marina Restaurant.

**Attachment:**

If a claim is made that the above change(s) have affected Contract Price or Contract Times any claim for a Change Order based thereon will involve one or more of the following methods of determining the effect of the change(s).

Method of determining the change is:

Change Price:

- Unit Price
- Lump Sum
- Other \_\_\_\_\_

Method of determining the change is:

Change Times:

- Contractor's records
- Engineer's records
- Other \_\_\_\_\_

Estimated **increase** (decrease) in Contract Price:  
\$3350.00

Estimated increase (decrease) in Contract Times:  
Substantial Completion: \_\_\_\_\_ days  
Ready for final payment: \_\_\_\_\_ days

If the change involves an increase, the estimated Amount is not to be executed without further authorization.

If the change involves an increase, the estimated times are not to be exceeded without further authorization.

RECOMMENDED:

\_\_\_\_\_  
ENGINEER

BY: \_\_\_\_\_  
(Authorized Signature)

AUTHORIZED:

Chandler F. Williamson, City Manager  
OWNER

BY:   
(Authorized Signature)

## CHANGE ORDER

April 10, 2018

Excavation for Grease Trap

From: Palm Beach Septic Systems, 301 Yamato Rd. Suite 1240, Boca Raton, Florida 33431

To: City Of Pahokee, 207 Begonia Dr., Pahokee,, Florida 33476

This Change Order Request (COR) contains a quotation for a change to Excavation for Grease Trap which is a project or contract between Palm Beach Septic Systems and City Of Pahokee.

### 1. Proposed Changes:

Excavation For Grease Interceptor At Marina  
Needed For Installation Of Grease Interceptor

2. The contract sum prior to this Change Order was \$3,350.00.
3. The contract sum will be increased by this Change Order in the amount of \$3,350.00.
4. The new contract sum including this change order will be \$34,850.00.
5. The new contract time will be increased by \_\_\_\_\_ hours.
6. The date of substantial completion as of the date of this change order therefore is: April 10, 2018.
7. The following documents are included as attachments to this Change Order in support of the changes and estimates contained herein:
8. This Agreement shall be signed on behalf of Palm Beach Septic Systems by Curtis Jones, President and on behalf of City Of Pahokee by Chantler Willsom, City Manager and effective as of the date first written above.



This Change Order is executed and agreed to by:

*Curtis Jones*

Curtis Jones

contact@pbseptic.com

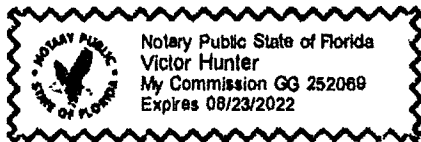
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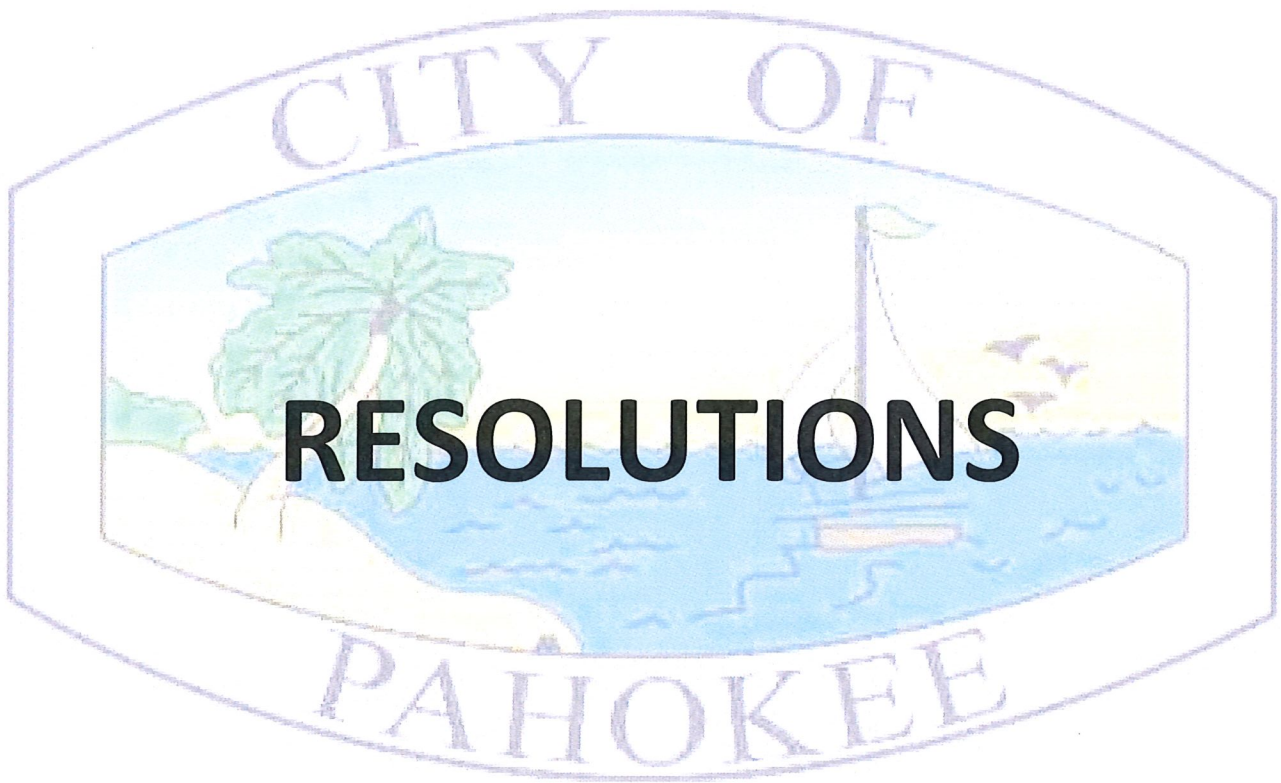
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**Waiting for signature**

Curtis Jones

State of Florida  
county of St Lucie  
*Victor Hunter*





**RESOLUTION 2018 - 58**

**A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF PAHOKEE, FLORIDA, AUTHORIZING AND APPROVING THE PAHOKEE HIGH SCHOOL 2018 HOMECOMING PARADE AND REQUESTING THE FLORIDA DEPARTMENT OF TRANSPORTATION TO ISSUE A PERMIT FOR THE PARADE.**

**WHEREAS**, the Pahokee High School desires to hold a 2018 Homecoming Parade on October 12<sup>th</sup>, 2018 at 3:30 p.m.; and

**WHEREAS**, an application is required by the Florida Department of Transportation for the closure of roads along the route set forth on the attached exhibit; and

**WHEREAS**, the Florida Department of Transportation requires a resolution indicating the approval of the City Commission affirming permission for the parade to take place.

**NOW, THEREFORE, BE IT RESOLVED BY THE CITY COMMISSION OF THE CITY OF PAHOKEE, THAT:**

**Section 1.** The City Commission approves the October 12<sup>th</sup>, 2018 Homecoming Parade.

**Section 2.** The parade is hereby authorized and the Mayor is directed to execute the application to FDOT for a permit for the Homecoming Parade.

**PASSED AND ADOPTED this 9<sup>th</sup> day of October, 2018.**

ATTESTED:

\_\_\_\_\_  
Keith W. Babb, Jr., Mayor

\_\_\_\_\_  
Nylene Clarke, Interim City Clerk

APPROVED AS TO LEGAL  
SUFFICIENCY:

\_\_\_\_\_  
Gary M. Brandenburg, City Attorney

Mayor Babb

Vice Mayor Murvin

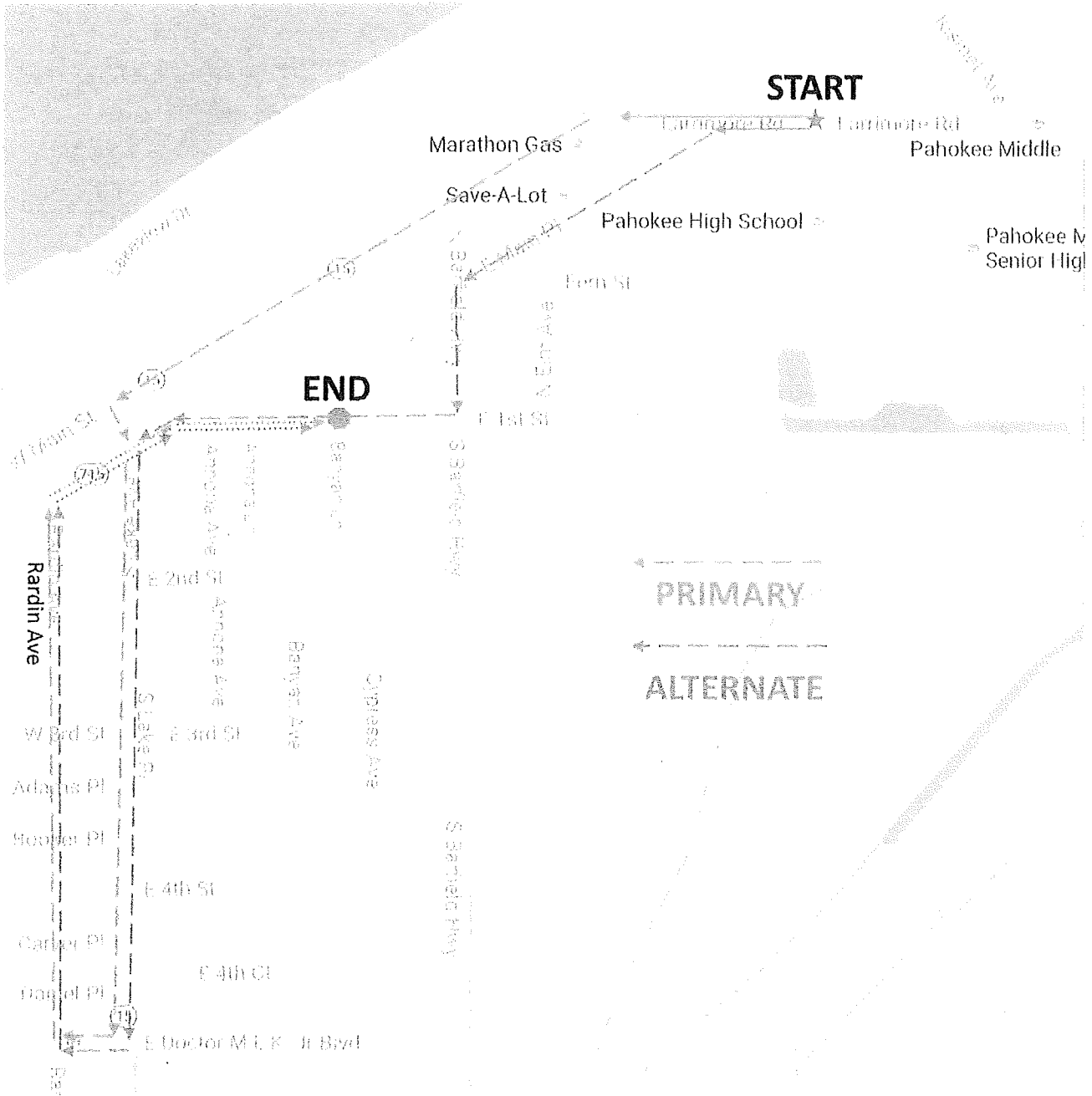
Commissioner Everett

Commissioner Hill

Commissioner Walker

# PAHOKEE HS HOMECOMING PARADE ROUTE

## October 12, 2018



**RESOLUTION 2018 - 60**

**A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF PAHOKEE, FLORIDA, APPROVING AND AUTHORIZING THE MAYOR TO EXECUTE THE CAMPGROUND AND MARINA RESTAURANT WOOD DECK CONTRACT AGREEMENT BETWEEN THE CITY OF PAHOKEE AND AMERICAN DRILLING SERVICES, INC.**

**WHEREAS**, this Campground and Marina Restaurant Wood Deck Contract Agreement is made by and between the City of Pahokee and American Drilling Services, Inc.; and

**WHEREAS**, the parties desire to enter into this contract agreement in order to define the expectations of each party with regards to the Project, identify the services to be provided by American Drilling Services, Inc., and outline the process to be allowed.

**NOW, THEREFORE BE IT RESOLVED BY THE CITY COMMISSION OF THE CITY OF PAHOKEE, THAT:**

**Section 1.** The attached contract agreement is hereby approved.

**Section 2.** The Mayor is hereby authorized and directed to sign the contract agreement on behalf of the City of Pahokee.

**PASSED AND ADOPTED** this 9<sup>th</sup> day of October, 2018.

ATTESTED:

\_\_\_\_\_  
Keith W. Babb, Jr., Mayor

\_\_\_\_\_  
Nylene Clarke, Interim City Clerk

APPROVED AS TO LEGAL  
SUFFICIENCY:

\_\_\_\_\_  
Gary M. Brandenburg, City Attorney

Mayor Babb \_\_\_\_\_  
Vice Mayor Murvin \_\_\_\_\_  
Commissioner Everett \_\_\_\_\_  
Commissioner Hill \_\_\_\_\_  
Commissioner Walker \_\_\_\_\_

**CONTRACT AGREEMENT**

JOB NO: Marina Restaurant Wood Deck with Hand Rails  
ACCOUNT CODE: HL081 – 11

**THIS AGREEMENT** is made this \_\_\_\_ day of \_\_\_\_\_ 20\_\_\_\_, by and between CITY OF PAHOKEE (OWNER) and American Drilling Services, Inc. (CONTRACTOR) to perform the Work identified in Article 2 in accordance with the Project's Contract Documents.

PROJECT: CITY OF PAHOKEE MARINA RESTAURANT – WOOD DECK  
OWNER: CITY OF PAHOKEE  
ARCHITECT: N/A  
CONTRACTOR: AMERICAN DRILLING SERVICES, INC.

**Article 1**

**CONTRACT PAYMENT.** The OWNER agrees to pay CONTRACTOR for satisfactory performance of CONTRACTOR's Work the sum of **Thirty-five thousand dollars (\$ 35,000.00)**.

**PAYMENT SCHEDULE**

Submit for approval by the CONTRACTOR a printed updated Schedule of Values on AIA for G703 – Application and Certificate for Payment Continuation Sheet. Partial payments may be made after satisfactory completion of each item on the approved Schedule of Values or as a percentage determined by the Project Manager and approved by the OWNER’s City Manager and the City Commission.

**PROMPT PAYMENT CLAUSE**

Progress payments shall be made to CONTRACTOR for Work satisfactorily performed no later than thirty(30) days after receipt of payment request and Release of Lien from CONTRACTOR. The down payment shall be credited against progress payments pro rata. Final payment of the balance due shall be made to CONTRACTOR not later than thirty(30) days after receipt by OWNER of final payment request and final Release of Lien for CONTRACTOR's Work and OWNER’s acceptance of the Work. These payments are subject to receipt of such lien waivers, affidavits, warranties, and guarantees required by the Contract Documents or Contractor

Invoices returned to a CONTRACTOR due to preparation errors will result in a payment delay. Invoice payment requirements do not start until a properly completed invoice is provided to the OWNER. A Vendor Ombudsman, whose duties include acting as an advocate for contractors who may be experiencing problems in obtaining timely

payments from the OWNER, may contact the State of Florida Comptroller's Hotline: 1.800.848.3792.

## Article 2

### **SCOPE OF WORK.**

- (a) CONTRACTOR shall furnish necessary labor, materials, services, tools, equipment and other things necessary to fully perform and complete the Work of the construction of the wooden deck with hand rails in cooperation with the other trades in a good and workmanlike manner to the satisfaction and acceptance of OWNER and perform all the Work as set forth herein (hereinafter referred to as the "Work").
- (b) No claim shall be made due to minor variations in the actual conditions of the premises from what is shown on the plans. CONTRACTOR shall examine the premises, note and ascertain the existing conditions at the site and the nature and location of the Work. All Work affected or governed thereby or required for the thorough and satisfactory execution and completion of his Work, whether indicated or specified or not, and regardless of quantity estimated, shall constitute part of this Contract and shall be performed without extra charge.
- (c) CONTRACTOR agrees to commence CONTRACTOR's Work herein described upon notification by OWNER, and to perform and complete such Work in accordance with Contract Documents and under the general direction of OWNER in accord with CONTRACTOR'S schedule. This shall include all work necessary or incidental to complete the: See Exhibit "A", Specification of Work, and Exhibit "B", Schedule of Work

## Article 3

### **PERMITTING:**

Construction permits are required, the CONTRACTOR will be responsible for obtaining and paying for local OWNER permits. Other required State and Federal permits have been obtained by the OWNER and will be provided to the CONTRACTOR upon request. A copy of all permits shall be posted at the work site location in a weatherproof kiosk per local permitting requirements at all times during the project. The CONTRACTOR is responsible for complying with all permit conditions and any penalties arising from the CONTRACTOR permit violations.

CONTRACTOR shall provide a Maintenance of Traffic (MOT) Plan and Notification Plan to the OWNER as a part of the Permit Application Process.

## Article 4

### **SCHEDULE OF WORK.**

- (a) CONTRACTOR hereby acknowledges that time is of the essence with respect to the OWNER's completing the Project and that such completion is substantially dependent upon CONTRACTOR's performance of this Contract on or before the dates set forth in the Progress Schedule. Time, therefore, is of the essence in this Contract.
- (b) CONTRACTOR shall turn the Work over to OWNER in good condition and free and clear of all claims or liens arising from the performance of the Contract, and shall, at his expense, defend all suits and pay all claims arising from his performance of this Contract.
- (c) CONTRACTOR covenants and agrees that he shall not employ any labor which will interfere with labor harmony at the job site or with the introduction and storage of materials and execution of Work by other contractors. If CONTRACTOR breaches this covenant and such breach shall cause a stoppage of Work at the job site, CONTRACTOR shall be liable for all damages suffered by OWNER caused by such delay in completing the job.
- (d) CONTRACTOR shall, prior to submission of his first requisition for payment, supply to OWNER the name, address and telephone number of every supplier or subcontractor furnishing materials and/or labor to CONTRACTOR for the Work covered herein and a cost breakdown of this Contract.
- (e) CONTRACTOR shall comply with all laws, ordinances and regulations relating to the manner of doing the work or to the supplying of the material at the job site, and shall provide safe working conditions for his employees, other employees and the public.
- (f) If any part of CONTRACTOR's work depends for proper execution or results upon the work of any other contractor, CONTRACTOR shall inspect and promptly report to OWNER any defects in such work that render it unsuitable for such proper execution and results. CONTRACTOR'S failure to inspect and report shall constitute an acceptance of the other contractor's work as fit and proper for the reception of CONTRACTOR'S work.
- (g) Time is of the essence. CONTRACTOR shall provide OWNER with any requested scheduling information of CONTRACTOR's Work. The Schedule of Work, including that of this Contract shall be prepared by OWNER and may be revised as the Work progresses. CONTRACTOR recognizes that changes may be made in the Schedule of Work and agrees to comply with such changes without additional compensation. CONTRACTOR shall coordinate its work with all other contractors, subcontractors, and suppliers on the Project so as not to delay or damage their performance, work, or the Project.



## Article 5

### **CHANGES.**

- (a) OWNER may authorize changes to or deductions from the Work, said authorization to be effective and binding only when written (hereinafter referred to as "extra work").
- (b) Whenever extra work is requested by OWNER and the scope and nature of same is reasonably susceptible to lump sum quotation, CONTRACTOR shall provide such quotation within five (5) days of a request for same.
- (c) Any claim for compensation for extra work, whether lump sum or otherwise, must be presented to OWNER within five (5) days of authorization of the extra work. Claims for extra work received thereafter will not be considered. Proper claims for extra work shall be paid in accordance with this Contract Agreement.
- (d) Duly authorized extra work is hereinafter deemed included in the "Work". No dispute as to adjustments in the Contract Amount for extra work shall excuse CONTRACTOR from proceeding with the Work.
- (e) OWNER, without nullifying the Agreement, may direct CONTRACTOR to make changes to CONTRACTOR'S Work. Adjustment, if any, in the contract price or contract time resulting from such changes shall be set forth in a CONTRACTOR'S Change Order pursuant to the Contract Documents.

## Article 6

### **FAILURE OF PERFORMANCE.**

- (a) Should CONTRACTOR at any time fail to prosecute and complete the Work in accordance with the Progress Schedule or as herein provided or fail to diligently and continuously perform his Work, or if in the opinion of OWNER the Work of CONTRACTOR cannot be completed in the time period set forth, or if OWNER is notified of CONTRACTOR'S failure to pay for any material or labor used on the Project, or in the event of a strike or stoppage or Work resulting from a dispute involving or affecting the labor employed by CONTRACTOR, or if CONTRACTOR fails to perform any of the requirements herein, then such event shall be deemed a default and OWNER shall notify CONTRACTOR to correct such default and shall specify in such notice the action to be taken and a reasonable date by which the default shall be corrected.
- (b) If a default occurs and is not corrected on or before the date specified in the notice to CONTRACTOR, OWNER shall be entitled to exercise either or both of the following remedies as well as any other remedies available, including but not limited to binding and consolidated arbitration and litigation in a court of law.
  - (1) OWNER may immediately take any action necessary to correct such default, including specifically the right to provide labor, overtime labor and materials and may deduct the cost of correcting such default from payment due, or that may become due to CONTRACTOR.

- (2) OWNER may terminate this Contract and the employment of CONTRACTOR, take possession of CONTRACTOR'S materials, tools and equipment used in performing such Work, and employ another contractor or use the employees of OWNER to finish the remaining Work to be performed hereunder. OWNER may deduct the costs of completing the remaining work from the unpaid contract price, and if the cost of completing the remaining Work exceeds the unpaid Contract amount, CONTRACTOR shall pay to OWNER such excess costs, including but not limited to overhead and attorney's fees.

OWNER, in any such event may also refrain from making any further payments under this Contract to CONTRACTOR until the entire project shall be fully finished and accepted by OWNER, at which time, if the unpaid balance of the amount to be paid under this Contract shall exceed the expense incurred by OWNER to CONTRACTOR, but if such expenses and damages shall exceed such unpaid balance, CONTRACTOR shall promptly pay the difference to OWNER. If OWNER does not terminate the right of CONTRACTOR to proceed, CONTRACTOR shall continue with the balance of the Work. If OWNER is damaged by reason of any breach by CONTRACTOR of this Contract, the CONTRACTOR shall, subject to any defenses and offsets to which CONTRACTOR may be entitled under this Contract, pay OWNER such damages.

#### Article 7

**INSURANCE.** CONTRACTOR SHALL FURNISH INSURANCE CERTIFICATES LISTING CITY OF PAHOKEE AS CERTIFICATE HOLDER AND ADDITIONAL INSURED.

Prior to commencing work, CONTRACTOR shall procure and maintain in force at CONTRACTORS expense until the completion and final acceptance of the Work, the following insurance from companies satisfactory to OWNER in the indicated amounts. Workers' Compensation Insurance and Employees Liability Insurance, Comprehensive General Liability Insurance (\$1,000,000.00 combined single limit) including premises-operation, independent contractors, products completed, operations hazard with contractual coverage and Comprehensive Automobile Liability Insurance (\$1,000,000.00 combined single limit and \$1,000,000.00 umbrella policy) and shall furnish to OWNER duplicate of original copies of insurance certificates evidencing compliance with the foregoing insurance requirements, naming OWNER as additional insured. All policies shall provide for ten (10) day cancellation or change notice to OWNER in the event of any change in or cancellation of said policies. The indemnification obligations under Section 5a shall not be limited in any way by any limitation on the amount or type of damages, compensation or benefits payable by or for CONTRACTOR under Workers' Compensation Acts, Disability Benefit Acts or Other Employee Benefits Acts.

## Article 8

### **INDEMNIFICATION.**

In consideration of the sum of One Dollar (\$1.00) paid by OWNER to CONTRACTOR, receipt of which is acknowledged for the Indemnification herein, CONTRACTOR shall indemnify and hold harmless OWNER from all damages, losses, or expenses, including attorney(s) fees, whether at trial or on appeal, and all litigation costs, from any claims or damages for bodily injury, sickness, disease, or death, or from claims for damages to tangible property, other than the Work itself. This indemnification shall extend to claims resulting from performance of this Contract and shall apply only to the extent that the claim or loss is caused in whole or in part by any negligent act or omission of CONTRACTOR or any of its agents, employees, or subcontractors. This indemnity shall be effective regardless of whether the claim or loss is caused in some part by the party to be indemnified. CONTRACTOR agrees to hold CITY OF PAHOKEE harmless in the event of damages or injuries due to any negligence of their part, and that they will pay all legal and defense costs associated with any damage or injury claims.

## Article 9

### **WARRANTY.**

CONTRACTOR warrants its work against all deficiencies and defects in materials and/or workmanship and agrees to satisfy same without cost to OWNER for a period of one (1) year from the date of Substantial Completion of the Project.

## Article 10

### **GRANT COMPLIANCE.**

CONTRACTOR agrees to comply with all requirements imposed on CONTRACTOR pursuant to the State of Florida DEO Grant to CITY OF PAHOKEE, dated July 1, 2017, Agreement #HL081, a copy of which has been provided to CONTRACTOR, and affirms that CONTRACTOR is fully qualified and meets all of the requirements of the grant agreement to perform the Work thereunder.

Article 11

**SPECIAL PROVISIONS.**

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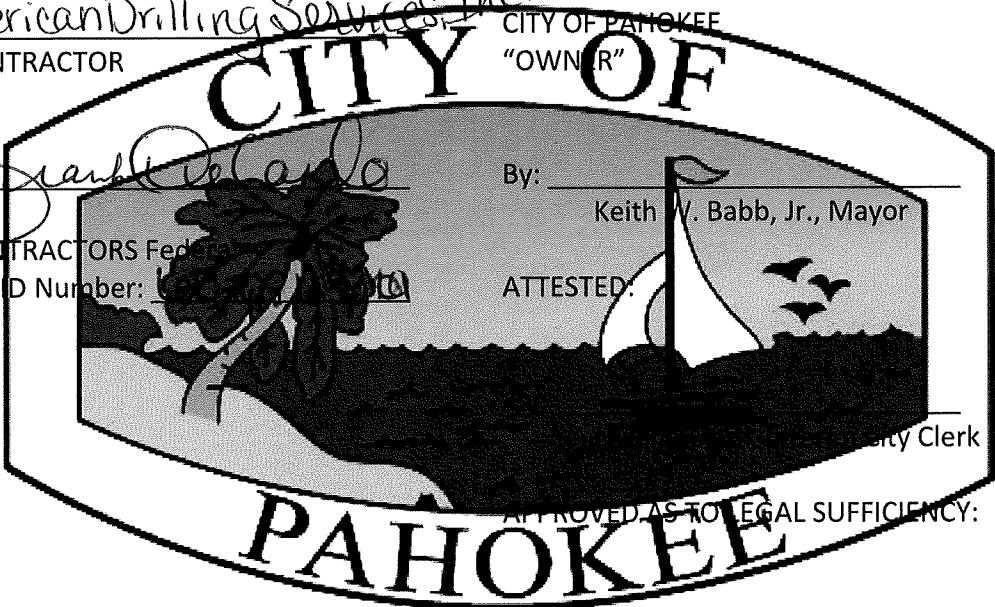
In witness whereof, the parties have executed this Agreement under Seal, the day and year first written above.

American Drilling Services, Inc. CITY OF PAHOKEE  
CONTRACTOR "OWNER"

X Frank Delano  
BY: \_\_\_\_\_  
CONTRACTORS Federation  
Tax ID Number: 63-0907000

By: \_\_\_\_\_  
Keith W. Babb, Jr., Mayor

ATTESTED: \_\_\_\_\_  
City Clerk



APPROVED AS TO LEGAL SUFFICIENCY:

By: \_\_\_\_\_  
Gary M. Brandenburg, City Attorney

## EXHIBIT "A"

### Specification of Work

#### **Pilings:**

- Drill (22) 16" holes approximately 25' deep minimum charge, additional footage past 25' will be billed at \$25.00 per foot.
- Lower and Secure wooden pilings in to the entry holes

#### **Mobilization and Extended Work:**

- Remove necessary overgrowth and rocks
- Build (2) surface pits out of 18" steel pipe and install prior to drilling
- Provide trackhoe to assist with operations

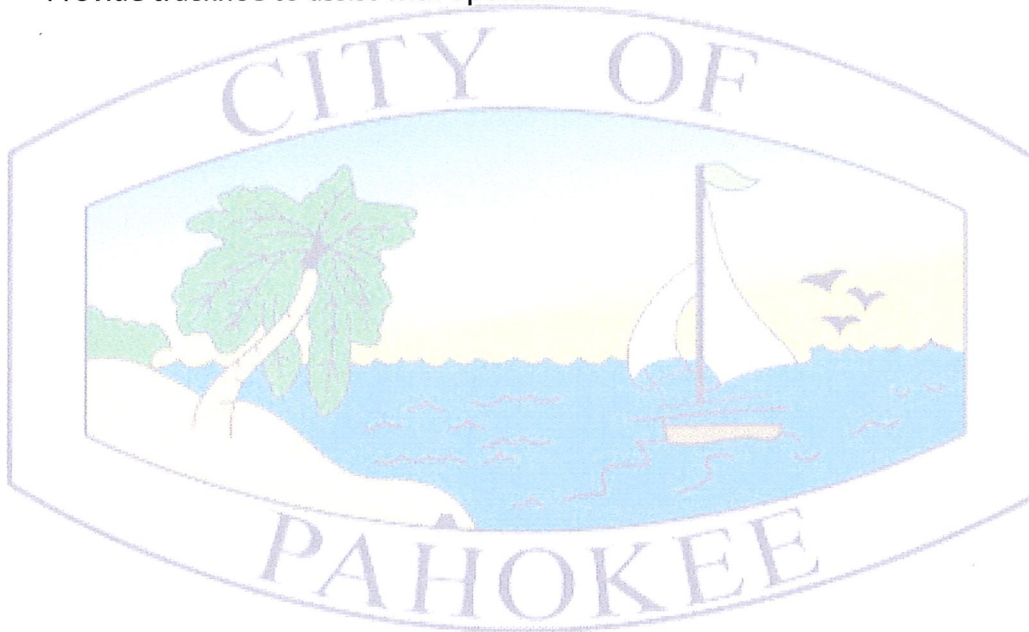
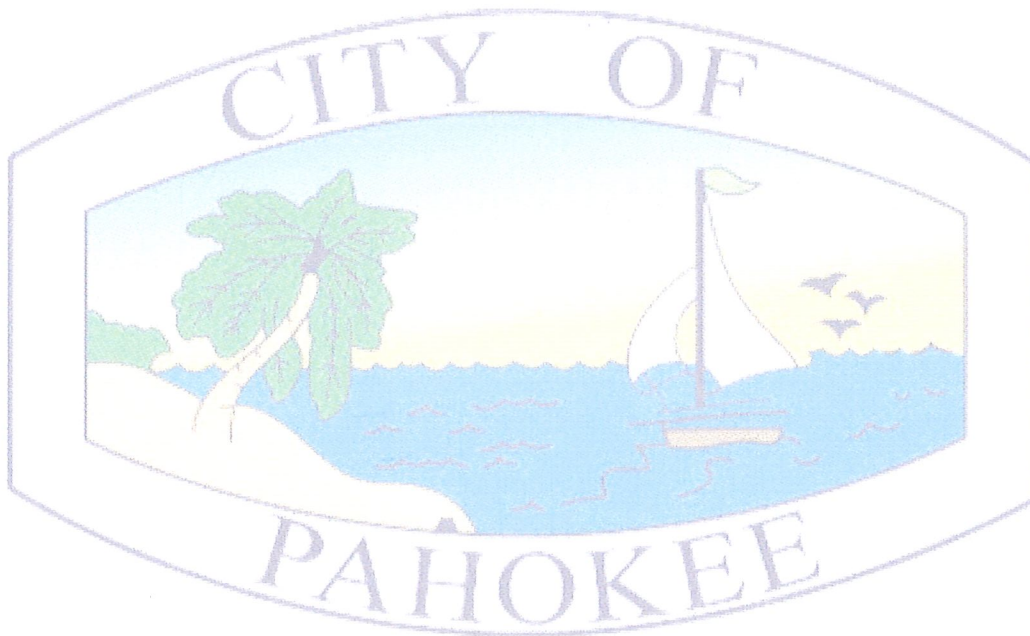
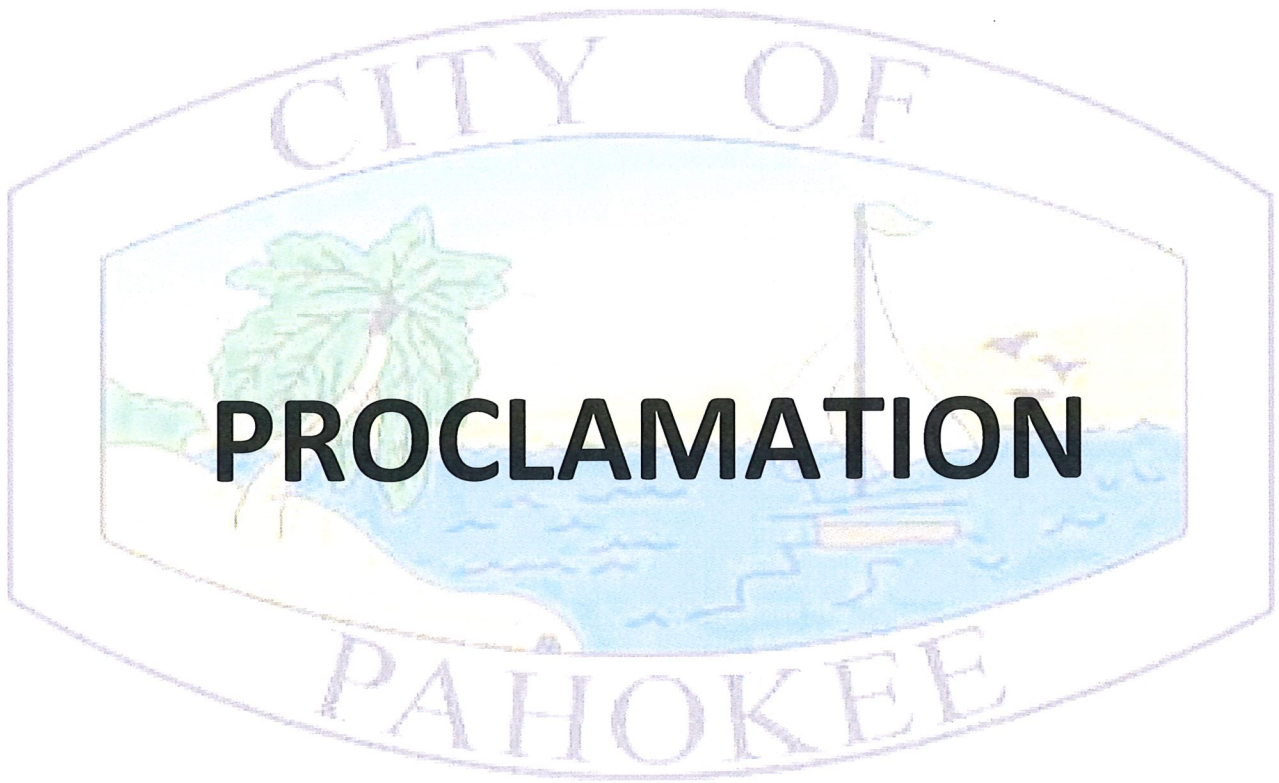


EXHIBIT "B"

Schedule of Work

- Work will commence upon delivery of the wood pilings
- Installation shall be completed in one (1) week from the time of delivery date of all materials. Construction will occur with the use of **American Drilling Services** crew.





**PROCLAMATION**

## Proclamation

*In Honor of Former Mayor Allen Wayne Whitaker*

*Whereas, Allen Wayne Whitaker was born on November 13, 1944. He migrated to Pahokee, Florida from Williamston, North Carolina in 1957, with his parents and his five (5) brothers; and*

*Whereas, Allen Wayne Whitaker and his wife, Alice F. Whitaker, were high school sweethearts who got married after high school in 1963. They had a total of four (4) children: three (3) girls and one (1) boy; and*

*Whereas, Allen Wayne Whitaker worked as a Technician for the Coca-Cola Bottling Plant in Pahokee in the mid 1960's, and did construction work in the 1970's, up until retirement; and*

*Whereas, Allen Wayne Whitaker built four (4) homes for his family and was the lead person in building 200 homes in Homestead, Florida after Hurricane Andrew in 1993. One of the 200 homes was a 24 hour house, which was given away to a deserving family; and*

*Whereas, Allen Wayne Whitaker served as Mayor of Pahokee from March 2008 to March 2010. He had a passion for Pahokee and was the owner of several businesses and rental properties in Pahokee; and*

*Whereas, Allen Wayne Whitaker will be remembered by his long standing service and commitment to the community, along with the respect, admiration, and high regard he earned by all whom he touched;*

*Now, therefore, on behalf of the City Commission and the Citizens of Pahokee, that by the virtue of the authority vested in me as Mayor of the City of Pahokee, I do hereby honor Former Mayor Allen Wayne Whitaker and extend our sincerest sympathy to his family in their time of bereavement.*

*Done this 29th day of September, 2018*

*Keith W. Babb, Jr.*  
\_\_\_\_\_  
Mayor Keith W. Babb, Jr.

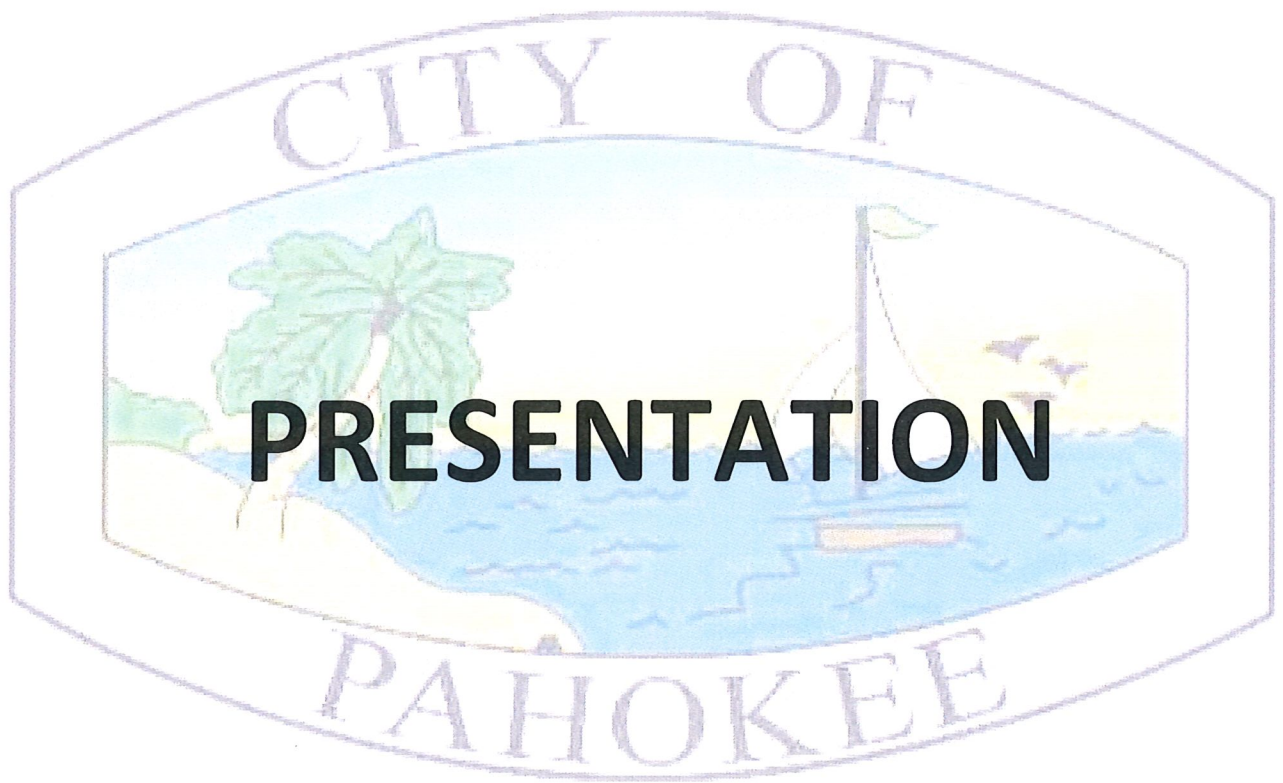
*Clara M. Murvin*  
\_\_\_\_\_  
Vice Mayor Clara M. Murvin

*Benny L. Everett, III*  
\_\_\_\_\_  
Commissioner Benny L. Everett, III

*Felisia C. Hill*  
\_\_\_\_\_  
Commissioner Felisia C. Hill

*Diane L. Walker*  
\_\_\_\_\_  
Commissioner Diane L. Walker





# LAWN OF THE MONTH



This certificate is awarded to

**ETTA MAE JOHNSON**

303 AMARYLLIS COURT, PAHOKEE, FL 33476

In recognition of beautifying the community

Presented this 9th day of October 2018

*Keith W. Babb, Jr.*

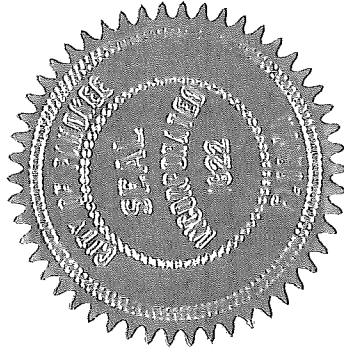
Mayor Keith W. Babb, Jr.

*Benny L. Everett, III*

Commissioner Benny L. Everett, III

*Diane L. Walker*

Commissioner Diane L. Walker



*Clara M. Murvin*

Vice Mayor Clara M. Murvin

*Felisia C. Hill*

Commissioner Felisia C. Hill

*Chandler F. Williamson*

Chandler F. Williamson, City Manager



**NEW BUSINESS**

**TO:**            *Mayor Keith W. Babb, Mayor  
Vice Mayor Clara Murvin  
Commissioner Diane Walker  
Commissioner Felisia Hill  
Commission Benny Everett*

**FROM:**        *Gary M. Brandenburg, Esq.*



**DATE:**        *October 3, 2018*

**SUBJECT:** *Status Report on Marina, Restaurant and Campground Lease*

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1.        The City advertised a Competitive Bid, which had been approved by the State.
2.        Everglades Reserve Holdings, LLC, (“ERH”) was the sole responder to the Competitive Bid.
3.        The Commission sent the proposal of ERH to the State, together with a copy of its resolution which indicated that the City intended to enter into the lease with ERH. There were certain conditions in the resolution.
4.        The State intends to present the matter to the Governor and Cabinet in December to obtain certain fee waivers.
5.        The State tentatively said it will recommend that the sublessee, ERH, pay to the State, 6% of its Gross Revenues for the campground, restaurant, and marina. The percentage to be paid for the marina could be reduced if it obtains a “clean marina” status.
6.        The lease between the City and ERH would be executed after the State gave its approval.

The draft sublease and the proposal ERH submitted provide for the following:

Term:

Ten (10) years, with two five (5) year options to renew.

Marina/Restaurant Rent:

Year 1 ..... \$1.00  
Year 2 ..... \$1.00  
Year 3 ..... 2% of Gross Revenues  
Year 4 ..... 3% of Gross Revenues  
Year 5 ..... 4% of Gross Revenues  
Years 6 – 20 ..... 5% of Gross Revenues

Campground Rent:

Year 1 ..... \$1.00  
Year 2 ..... 2% of Gross Revenues  
Year 3 ..... 3% of Gross Revenues  
Year 4 ..... 4% of Gross Revenues  
Years 5 – 20 ..... 5% of Gross Revenues

**BRANDENBURG & ASSOCIATES, P.A.**

11891 U.S. Highway One, Suite 101  
North Palm Beach, Florida 33408  
(561) 799-1414  
www.BrandenburgPA.com

**Gary M. Brandenburg**

Gary@BrandenburgPA.com

ATTORNEY AT LAW

April 2, 2018

Cheryl McCall  
Bureau of Public Land Administration  
Florida Department of Environmental Protection  
3900 Commonwealth Blvd., MS 100  
Tallahassee, FL 32399

Re: City of Pahokee  
Upland Lease # 500224016  
BOT Lease # 3471

Dear Cheryl:

The City of Pahokee advertised the commercial bid document that was reviewed and approved by your office. The result was one proposer, Everglades Reserve Holdings, LLC, providing a bid that meets all of the requirements. They have asked for a fee waiver on the Submerged Lands Lease.

The City Commission has also indicated their intention to award the bid and contract to Everglades Reserve Holdings, LLC. I have enclosed several copies of the Resolution for your consideration. What is our next step to have this proposal considered by the Governor and Cabinet?

Very truly yours,

BRANDENBURG & ASSOCIATES, P.A.

By: 

Gary M. Brandenburg, Esq.

GMB/slm  
Enclosures

Cc: Keith Babb, Mayor  
Chandler Williamson, City Manager  
Robert Lambert



**RESOLUTION 2018 – 15**

**A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF PAHOKEE, FLORIDA, INDICATING THE CITY'S INTENTION TO AWARD BID NO. 2018-01 AND THE SUBLEASE AGREEMENT TO EVERGLADES RESERVE HOLDINGS, LLC, A FLORIDA LIMITED LIABILITY COMPANY, ASKING THE FLORIDA DEPARTMENT OF ENVIRONMENTAL PROTECTION, DIVISION OF STATE LANDS MANAGEMENT, TO RECOMMEND APPROVAL OF THE SUBLEASE TO THE BOARD OF TRUSTEES OF THE INTERNAL IMPROVEMENT TRUST FUND, WITH THE WAIVER OF FEES ON THE SUBMERGED LANDS LEASE AND THE UPLANDS LEASE AND LANGUAGE REGARDING AD VALOREM TAXES.**

**WHEREAS**, the City of Pahokee is the lessee of lands owned by the State of Florida pursuant to Submerged Lands Lease No. 500224016, and Upland Lease No. 3471, comprising the Pahokee Marina, Campground and Restaurant; and

**WHEREAS**, the City published a Competitive Commercial Bid for a portion of the leased lands; and

**WHEREAS**, the City submitted the Competitive Bid Documents to the Division of State Land Management and received the Division's approval of the bid documents in advance of publishing the bid; and

**WHEREAS**, the City has examined the bid submitted by Everglades Reserve Holdings, LLC and found the bid to be in compliance with the advertised bid requirements.

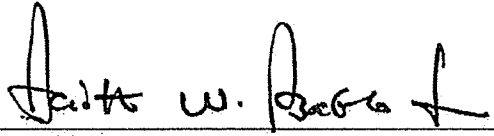
**NOW, THEREFORE BE IT RESOLVED BY THE CITY COMMISSION OF THE CITY OF PAHOKEE, THAT:**

- Section 1.** The City intends to award the bid and enter into a Sublease Agreement with Everglades Reserve Holdings, LLC, in substantially the form attached hereto as Exhibit "A", provided that the Division of State Lands recommends approval of the transaction to the Board of Trustees of the Internal Improvement Trust Fund (BOT) and the BOT approves the transaction with the following waivers:

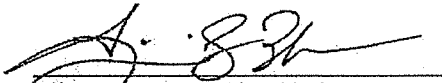
- A. State fees for the Submerged Lands Lease are waived;
- B. State fees for the Upland Lease are waived;
- C. A provision providing that the sublease may be terminated by the Sublessee if ad valorem taxes are levied against the Sublease, deleting the requirement that Sublessee must pay all ad valorem taxes.

PASSED AND ADOPTED this 27<sup>th</sup> day of March, 2018.

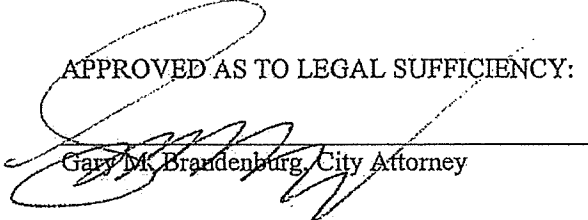
ATTESTED:



Keith W. Babb, Jr., Mayor

  
Tijauna Warner, City Clerk

APPROVED AS TO LEGAL SUFFICIENCY:

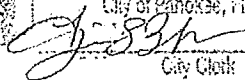
  
Gary M. Brandenburg, City Attorney

Mayor Babb  
Commissioner Everett  
Commissioner Hill  
Commissioner Murvin  
Commissioner Walker

Yes  
Yes  
Yes  
Yes  
Yes

I hereby certify that this is a true and correct copy of an original document which is on file with the City of Pahokee, Florida



 3/28/18  
City Clerk Date



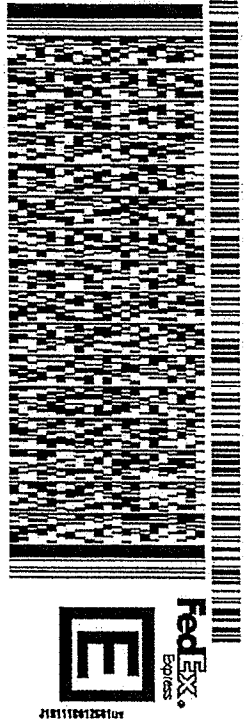
ORIGIN ID:PBIA (561) 799-1414  
GARY BRANDENBURG  
11891 U.S. HIGHWAY ONE  
SUITE 101  
NORTH PALM BEACH, FL 33408  
UNITED STATES US

SHIP DATE: 02APR18  
ACT WGT: 2.00 LB  
CAD: 103664348/NET3980  
BILL SENDER

TO **CHERYL MCCALL**  
**FL BUREAU OF LAND MANAGEMENT**  
**3900 COMMONWEALTH BOULEVARD**  
**MS-100**  
**TALLAHASSEE FL 32399**

PO: (850) 245-2739  
INV: REF: F030001  
DEPT:

552J1191320CA5



TRK# 7718 8917 2490  
TUE - 03 APR 10:30A  
PRIORITY OVERNIGHT

**XH TLHA**  
FL-US TLH  
**32399**  
0201

**After printing this label:**

1. Use the 'Print' button on this page to print your label to your laser or inkjet printer.
2. Fold the printed page along the horizontal line.
3. Place label in shipping pouch and affix it to your shipment so that the barcode portion of the label can be read and scanned.

**Warning:** Use only the printed original label for shipping. Using a photocopy of this label for shipping purposes is fraudulent and could result in additional billing charges, along with the cancellation of your FedEx account number. Use of this system constitutes your agreement to the service conditions in the current FedEx Service Guide, available on fedex.com. FedEx will not be responsible for any claim in excess of \$100 per package, whether the result of loss, damage, delay, non-delivery, misdelivery, or misinformation, unless you declare a higher value, pay an additional charge, document your actual loss and file a timely claim. Limitations found in the current FedEx Service Guide apply. Your right to recover from FedEx for any loss, including intrinsic value of the package, loss of sales, income interest, profit, attorney's fees, costs, and other forms of damage whether direct, incidental, consequential, or special is limited to the greater of \$100 or the authorized declared value. Recovery cannot exceed actual documented loss. Maximum for items of extraordinary value is \$1,000, e.g. jewelry, precious metals, negotiable instruments and other items listed in our Service Guide. Written claims must be filed within strict time limits, see current FedEx Service Guide.

**EXHIBIT "B"**

**CITY OBLIGATIONS**

- **Construct an Extended Deck on Rear of Building, increasing capacity to serve by 75 – 100 (not to exceed a cost of \$55,000)**
- **Security Cameras (not to exceed a cost of \$5,000)**
- **LED Lighting (not to exceed a cost of \$50,000)**
- **Painting and Pressure Washing (not to exceed a cost of \$7,000)**
- **Improved Parking and Security (not to exceed a cost of \$70,000)**
- **Replaced Grease Trap, plus any required remedial action to meet EPA guidelines (not to exceed a cost of \$28,000)**
- **Upgrade/Repair AC System (1 Unit) (not to exceed a cost of \$5,000)**
- **Repair Marina Fueling System (not to exceed a cost of \$85,000)**
- **Stove / Oven (not to exceed a cost of \$5,000)**
- **Walk-In Cooler (not to exceed a cost of \$20,000)**

**Note:**

**All improvements and equipment supplied by the City at the beginning of this Sublease and the items set forth above, and all future items paid for by the City, County, State or Federal funds, shall remain the property of the City at the conclusion of this Sublease.**

**EXHIBIT "D"**

**DRAFT SUBLEASE AGREEMENT FOR  
CAMPGROUND/MARINA/RESTAURANT**

**This Sublease Agreement** is made this \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, \_\_\_\_ by and between the City of Pahokee, Florida, hereinafter referred to as "CITY" and \_\_\_\_\_, hereinafter referred to as "TENANT", and subject to approval of the State of Florida.

**WHEREAS**, title to the property subject to this sublease is held by the Board of Trustees of the Internal Improvement Trust Fund ("BOARD OF TRUSTEES") and is currently managed by CITY under BOARD OF TRUSTEES LEASE NUMBER 3471 AND SUBMERGED LANDS LEASE 500224016; and

**WHEREAS**, the property which is the subject of this sublease is situated in Palm Beach County, State of Florida, and is more particularly described in Exhibit "A" attached and herein incorporated including the buildings and other improvements thereon (the "Premises"); and

**WHEREAS**, the CITY has been designated an Area of Critical Economic Concern; and

**WHEREAS**, the CITY wishes to enter into this Sublease and Operating Agreement to foster the development of the Property for the benefit of its citizens and the public good; and

**WHEREAS**, TENANT'S developments and improvements will result in improved public access and use of BOARD OF TRUSTEES' lands reserved for public use for outdoor recreation; and

**WHEREAS**, the BOARD OF TRUSTEES or their representative will have to approve this Sublease Agreement before it becomes effective; and

**WHEREAS**, the developments will be in the best interest of the public.

**NOW, THEREFORE**, and in consideration of the mutual covenants and agreements made herein by the parties, the CITY agrees to and does hereby sublease the Property ("Premises") to TENANT.

The Premises are comprised of three parts; the Restaurant, the Campground, and the Marina.

CITY desires to sublease the Premises to TENANT and TENANT desires to sublease the Premises from CITY for the term and for such compensation and upon covenants, conditions and provisions herein set forth.

**THEREFORE**, in consideration of the mutual promises herein contained and other good and valuable consideration, it is agreed as follows:

1. Term

1.1 CITY hereby subleases the Premises (described on Exhibit "A") to TENANT and TENANT hereby subleases the same from CITY for a period beginning thirty days after CITY completes all of CITY'S obligations under Exhibit "B" (Commencement Date) and ending ten (10) years thereafter. TENANT shall have two options to renew lease, for five (5) years each, upon approval by the CITY, which approval shall not be unreasonably withheld.

2. Rent

Rent shall be comprised of three components: (1) Restaurant rent; (2) Campground rent; and (3) Marina rent.

2.1 Restaurant and Marina Rent

TENANT shall pay to CITY the following. Commencing with the first day, Rent shall be:

Year 1 ..... \_\_\_ of Gross Revenues  
Year 2 ..... \_\_\_ of Gross Revenues  
Year 3 ..... \_\_\_ of Gross Revenues  
Year 4 ..... \_\_\_ of Gross Revenues  
Year 5 ..... \_\_\_ of Gross Revenues  
Year 6 ..... \_\_\_ of Gross Revenues  
Year 7 ..... \_\_\_ of Gross Revenues  
Year 8 ..... \_\_\_ of Gross Revenues  
Year 9 ..... \_\_\_ of Gross Revenues  
Year 10 ..... \_\_\_ of Gross Revenues

2.2 Campground Rent

TENANT shall pay CITY according to the schedule of Rent under section 2.1, if TENANT installs ten semi-permanent rental units, which include cabins, houseboats and other types of rental units, on the campground within the first year of the Sublease. Otherwise, the Rent for the campground area shall be:

Year 1 ..... \_\_\_ of Gross Revenues  
Year 2 ..... \_\_\_ of Gross Revenues  
Year 3 ..... \_\_\_ of Gross Revenues  
Year 4 ..... \_\_\_ of Gross Revenues  
Year 5 ..... \_\_\_ of Gross Revenues  
Year 6 ..... \_\_\_ of Gross Revenues  
Year 7 ..... \_\_\_ of Gross Revenues  
Year 8 ..... \_\_\_ of Gross Revenues  
Year 9 ..... \_\_\_ of Gross Revenues  
Year 10 ..... \_\_\_ of Gross Revenues

2.3 Such Rent shall be paid monthly, calculated as of the first day of each month, and due on the 25<sup>th</sup> of each month (Due Date).

2.3.1 Gross Revenue is defined as all revenue of any nature generated on the Premises. TENANT shall be responsible for accounting for all revenue received from customers on the Premises, including revenue received from customers due to any contracts, subleases, licenses, or any agreements made by TENANT to provide revenue to the property. Gross Revenue will not include taxes received by TENANT from customers or payments collected from customers that are designated and paid to the State of Florida for payments due under Board of Trustees Lease #3471 or Submerged Lands Lease 500224016. Example: If TENANT, with CITY approval, subleases the Marina operation to a Sub-Tenant and Sub-Tenant collects \$100 for slip rental, \$6.00 state tax, \$6.00 Sovereignty Submerged Land Lease payment, and pays TENANT \$10.00 rent for the sublease. Gross Revenue = \$100.00, excluding state tax, Sovereignty Submerged Land Lease payment and Sub-Tenant rent.

2.4 Payment to the State of Florida: Payment to the State of Florida under the Upland Lease and the Submerged Lands Lease to be determined.

3. Delinquent Payments

3.1 Should TENANT fail to pay the Rent, such failure shall constitute a default by TENANT and CITY may, at its option, provide a 30 day written notice of termination of this sublease. Interest shall be charged at the rate of 7% on the amount of the delinquent payment beginning on the first day following the Due Date of the Rent. Any court costs and attorney's fees incurred to collect past due payments shall be paid by TENANT.

4. Use

4.1 TENANT'S permitted use of the Premises shall include the areas described in Exhibit "A". TENANT may from time to time, upon the express written approval of the CITY, sub-sublease to third parties, entities, corporations, and/or businesses a portion of the operation covered in this sublease. Such sub-subleases shall

be (i) in the best interest of the operation of TENANT'S business; (ii) inure to the interest and good of the public, (iii) all revenue received from customers of the subleases shall be included in Gross Revenues. The areas described herein may only be used for a Restaurant, Campground, and Marina, and no other uses.

4.2 The Restaurant area shall be used by TENANT only for a restaurant and tiki bar. TENANT shall be open for business and provide a full lunch and dinner menu at least six days each week. TENANT shall not have any live or amplified music after 12:00 midnight. TENANT will comply with all City of Pahokee ordinances regarding hours of operation for serving of alcoholic beverages. TENANT shall not close the restaurant for a period lasting more than two weeks in any year. This paragraph shall not apply in the event of an emergency declaration by Palm Beach County applicable to Pahokee, or other Force Majeure circumstances.

5. Assignment and Sub-subleases

5.1 This Sublease's successful operation of a restaurant, marina, and campground depends wholly on the management and staff of the TENANT. It is, therefore, necessary to restrict qualifying partners. The transfer of ownership and operation of any part of this sublease is restricted to qualified parties. The ownership of the business entity submitting the proposal that resulted in this agreement cannot be changed, assigned, sold in whole or in part without the prior written consent of the CITY which may be withheld if the experience, background or staffing proposed by the new transferee does not assure the CITY that the facilities will be operated in a first-class manner.

5.2 This sublease shall not be assigned in whole or in part without the prior written consent of the CITY. The ownership interest shown on Exhibit "E" shall not be modified without the prior written consent of CITY.

5.3 Lobby Area in Conference Center The lobby area in the conference center may be used by TENANT for sales of merchandise and such other marina-related uses as TENANT desires, including the sale of alcoholic beverages, if permitted by State laws.

5.4 Use of Conference Area TENANT shall have the right to use the Conference Room. CITY may use the Conference Room for CITY business, without charge, when scheduled ten (10) days in advance. CITY may not rent out the use of the Conference Room. When used by the CITY, Section 41.2.2 shall apply.

6. Conformity

6.1 This sublease shall conform to all terms and conditions of that certain BOARD OF TRUSTEES' Lease No. 3471, between the BOARD OF TRUSTEES and CITY dated December 15, 1986, and Submerged Lands Lease 500224016, (State Leases) incorporated herein, which TENANT acknowledges, and TENANT through its agents

and employees shall prevent the unauthorized use of the Premises or any use thereof not in conformance with the State Leases (see, Exhibit "F").

6.2 TENANT shall be responsible to pay to CITY as Additional Rent any amounts due under the State Leases, to the State of Florida.

7. Right of Inspection

7.1 The CITY or their duly authorized representatives shall have the right during business hours, or at other times with prior reasonable notification to inspect the subleased premises and the works and operations of TENANT in any matter pertaining to this sublease.

7.2 All records of TENANT related to this sublease shall be considered public records under Florida Statutes § 119 and shall be disclosed as provided in that statute.

8. Repairs Maintenance

8.1 During the sublease term, TENANT shall make, at TENANT'S expense, all necessary repairs to the Premises, except as provided in the Temporary Period of Section 14.1. Repairs shall include such items as routine repairs of buildings, their fixtures, capital equipment, and other parts of the Premises damaged or worn through normal occupancy, accident or vandalism. The CITY shall make the repairs and improvements listed on Exhibit "B".

8.1.1 TENANT and CITY will work together to obtain funding and make repairs to or replace the floating docks in the Marina and the Marina sewage pumps and station.

8.1.2 The CITY will assist with Marina repairs to the extent which CITY can obtain County, State or Federal funding; all costs that are not funded by County, State or Federal funds will not be the responsibility of the CITY.

8.2 TENANT shall be responsible for all costs of operating the facility, including without limitation Routine Maintenance. With respect to the TENANT'S performance of Routine Maintenance, the TENANT agrees as follows:

8.2.1 All Routine Maintenance shall be performed on a regular and ongoing basis consistent with standards of maintenance of similar first-class campground/marina/restaurants in other jurisdictions.

8.2.2 All Routine Maintenance shall be performed in a good and workmanlike manner, with all reasonable efforts made to preserve the aesthetics of the facility to the standards of maintenance for similar first-class campground/marina/restaurants in other jurisdictions, public assembly facilities in Palm Beach County, or to the level initially installed by the CITY, whichever is higher.

8.3 The TENANT shall provide the CITY Manager an annual preventive maintenance plan for the facility in support of the annual Operating Plan. In addition, the TENANT shall provide the CITY Manager a report of all facility maintenance that was performed during the preceding year and all facility maintenance scheduled for the following year on December 1<sup>st</sup> of each year. This report shall include a list of all major pieces of installed and portable equipment which has been repaired, replaced, or has required other than routine maintenance.

8.4 The TENANT shall obtain all development approvals and permits from the appropriate regulatory agencies prior to commencing any repair which requires a permit and shall perform all such repairs in compliance with the effective Florida Building Code, supplements thereto, and any CITY of Pahokee amendments thereto.

8.5 TENANT shall make all emergency repairs to the facility. The CITY will assist to the extent which CITY can obtain County, State or Federal funding for the repairs or improvements. All costs that are not funded by the County, State or Federal government shall be the sole responsibility of TENANT.

8.6 TENANT shall not commit or suffer to be committed any waste at the facility, commit or permit the maintenance or commission of any nuisance or other act or things which may result in damage or depreciation of value of the facility or which may affect CITY's fee interest in the facility or which results in an unsightly condition.

9. Alterations or Improvements

9.1 TENANT, at TENANT'S expense, shall have the right to and in conjunction with any and/or all approvals required by the USACE, and BOARD OF TRUSTEES, and/or local building codes remodel, redecorate, and make additions improvements or replacements of and to all or any part of the Premises from time to time as TENANT may deem desirable, provided the same are made in accordance with any and/or all specifications governed by the USACE, in a workmanlike manner and utilizing good quality fixtures, equipment and other temporary installations in and upon the Premises, and fasten the same to the Premises. All personal property, equipment, machinery, trade fixtures and temporary installations placed or installed on the Premises by TENANT thereafter, shall remain TENANT'S property free and clear of any claim by CITY. TENANT shall have the right to remove the same at any time during the term of this sublease provided that TENANT shall repair all damage to the Premises caused by such removal at TENANT'S expense. TENANT shall not have the right to remove any item that is paid in full or partially by any public funds, including grants or loans.

10. Taxes

10.1 TENANT will be responsible for payment of any and all real estate taxes, special assessments coming due during the sublease term on the Premises, and all taxes with respect to the CITY's personal property, if any, on the Premises.



11. Insurance

11.1 TENANT shall, at its own expense, maintain a policy or policies of comprehensive general liability insurance with respect to the operation of the business of the TENANT, and buildings with the premiums thereon fully paid on or before due date, issued by and binding upon a financially responsible insurer duly authorized to do business in the State of Florida. Such insurance to afford minimum protection of not less than \$1,000,000 combined single limit coverage of bodily injury, property damages, or combination thereof. CITY, BOARD OF TRUSTEES, and the State of Florida shall be listed as additionally insured on TENANT's policy or policies of comprehensive general liability insurance, and TENANT shall provide CITY, BOARD OF TRUSTEES, and the State of Florida with current certificates of insurance evidencing TENANT'S compliance with this paragraph. TENANT shall obtain the agreement of TENANT'S insurers to notify CITY that a policy is due to expire at least (30) days prior to such expiration. TENANT shall immediately notify CITY and BOARD OF TRUSTEES and the insurer of any erection or removal of any building or other improvements on the Premises and any changes affecting the value of any improvements and shall request insurer to make adequate changes in the coverage to reflect the change in value. TENANT shall be financially responsible for any loss due to failure to obtain adequate insurance coverage. The TENANT'S failure to maintain such policies in the amounts set forth shall constitute a breach of this sublease.

12. Utilities

12.1 TENANT shall pay all charges for water, sewer, gas, electricity, telephone and other services and utilities used by TENANT on the Premises during the term of this sublease.

13. Signs

13.1 TENANT shall have the right to place on the Premises, at locations selected by TENANT, any signs that are for the operation and/or business of the TENANT or required by local, state or federal law. All signs must have prior approval of CITY.

14. Public Use

14.1 TENANT agrees that, with the exception of the public areas described in this paragraph, the campground, marina, and restaurant and other such facilities and any additional areas or facilities that may be added to the Premises from time to time, will be operated as private facilities open to the public on a first come first served basis, under such terms and conditions as TENANT shall establish. The public picnic area (area north of existing parking is not part of this Sublease).

During the Temporary Period (the time until the CITY completes and opens the fishing pier on the CITY park site (north area), and public fishing area on the north pier, as designated on Exhibit "A," shall be open to the public at all times and under such conditions as the City shall set. The south pier shall be open for public fishing starting ½ hour after sunrise, until ½ hour before sunset, each day for a daily fee, not to exceed \$5.00 per person, per day. The public rest room indicated on Exhibit "A" shall be open to the public at such times as CITY allows fishing on the north pier. CITY shall provide for maintenance and repairs of the rest room that is open to the public. If and when CITY constructs a fishing pier at the north end of the park, and adjacent bathroom facilities, then the obligation to allow public fishing at the south pier, and north pier, and access to the rest room indicated on Exhibit "A" shall end and the CITY shall no longer be responsible for maintenance and repairs.

15. Breach of Covenants, Terms or Conditions and Default and Forfeiture

15.1 Should TENANT breach any of the covenants, terms or conditions of this sublease, other than failure to timely pay rent, CITY shall give TENANT written notice to remedy such breach within 30 days of such notice. If TENANT has commenced to cure such default within the 30 day period and/or unless TENANT can show due cause that prevents such remedy from occurring, then TENANT shall have such reasonable additional time within which to complete said cure, if not, then the CITY may terminate this sublease and recover from TENANT all damages CITY may incur by reason of the breach including, but not limited to, the cost of recovering the Premises and attorney fees. Should TENANT at any time during the term of this sublease, suffer or permit to be filed against it an involuntary or voluntary petition in bankruptcy or make any assignments for the benefit of its creditors, or should a receiver or trustee be appointed for TENANT'S property because of TENANT'S insolvency, and the said appointment not be vacated within 60 days thereafter; or should TENANT'S subleasehold interest be levied on and the lien thereof not discharged within 60 days after said levy has been made; or should TENANT fail promptly to make the necessary returns and reports required of it by state and federal law; or should TENANT fail promptly to comply with any of the terms and conditions of this sublease and such failure shall in any manner jeopardize the rights of the CITY; then in such event and upon the happening of either or any of said events, CITY shall have the right, at its discretion, to consider the same a default on the part of TENANT of the terms and provisions hereof, and, in the event of such default, after notice to TENANT and right to cure as herein provided, CITY shall have the right to declare this sublease terminated and any interest of the TENANT forfeited.

16. Quiet Possession

16.1 CITY covenants and warrants that upon performance by TENANT of its obligations hereunder, CITY will keep and maintain TENANT in exclusive, quiet, peaceable and undisturbed and uninterrupted possession of the Premises during the term of this sublease. CITY shall not be responsible for action of either governmental agencies, including the Board of Trustees, Army Corps of Engineers, or South Florida Water Management District, or Palm Beach County.

17. Indemnification

17.1 TENANT hereby covenants and agrees to investigate all claims of every nature at its own expense, and to indemnify, protect, defend, save and hold harmless CITY, BOARD OF TRUSTEES, and the State of Florida, from any claims, actions, lawsuits, and demands of any kind or nature arising out of this sublease.

18. No Waiver of Breach

18.1 The failure of CITY to insist in any one or more instances, upon strict performance of any one or more of the covenants, terms and conditions of this sublease shall not be construed as a waiver of such covenants, terms and conditions, but the same shall continue in full force and effect, and no waiver of CITY of any of the provisions hereof shall in any event be deemed to have been made unless the waiver is set forth in writing, signed by the CITY.

19. Easements

19.1 Sublessee shall not grant any easements, including, but not limited to, utility easements, without the prior written approval of the CITY. Any easements not approved in writing by the CITY shall be void and without legal effect.

20. Binding Effect

20.1 This sublease shall be binding on and shall inure to the benefit of the heirs, executors, administrators, successors and assigns of the parties hereto, but nothing contained in this paragraph shall be construed as the consent by the CITY to any assignment of this sublease or any interest therein by the TENANT.

20.2 In the event TENANT is a Joint Venture, each party to the Joint Venture shall be held jointly or severally throughout the term of this Agreement.

21. Non-Discrimination

21.1 TENANT shall not discriminate against any individual because of that individual's race, color, religion, sex, national origin, age, handicap, or marital status with respect to any activity occurring within the Premises or upon lands adjacent to and used as adjunct of the Premises.

22. Venue

22.1 This sublease shall be construed and enforced in accordance with the laws of the State of Florida, and the parties hereto both agree to exclusive venue and jurisdiction for any dispute arising out of this sublease to be in Palm Beach County, Florida.

23. Damage to the Premises

23.1 TENANT shall not do, or suffer to be done, in, or upon the Premises, or as affecting said Premises or adjacent properties, any act which may result in damage or depreciation of value to the Premises or adjacent properties, or any part thereof.

23.2 TENANT shall not generate, store, produce, place, treat, release or discharge any contaminants, pollutants, or pollution, including, but not limited to, hazardous or toxic substances, chemicals or other agents on, into, or from the Premises or any adjacent lands or waters in any manner not permitted by law. For the purposes of this sublease, "Hazardous substances" shall mean those elements or compounds defined in 42 USC 9601 or which are contained in the list of hazardous substances adopted by the United States Environmental Protection Agency (EPA) and the list of toxic pollutants designated by the United States Congress or the EPA or defined by any other federal, state or local statute, law, ordinance, code, rule, regulation, order, or decree regulating, relating to, or imposing liability or standards of conduct concerning any hazardous, toxic or dangerous waste, substance, material, pollutant, or contaminant. "Pollutants" and "Pollution" shall mean those products or substances defined in Chapters 376 and 403, Florida Statutes, and the rules promulgated there under, all as amended or updated from time to time. In the event of TENANT'S failure to comply with this paragraph, TENANT shall, at its sole cost and expense, promptly commence and diligently pursue any legally required closure, investigation, assessment, cleanup, decontamination, remediation, restoration and monitoring of (1) the Premises, and (2) all off-site ground and surface waters and lands affected by TENANT'S failure to comply, as may be necessary to bring the Premises and affected off-site waters and lands into full compliance with all applicable federal, state or local statutes, laws, ordinances, codes, rules, regulations, orders and decrees and to restore the damaged property to the condition existing immediately prior to the occurrence which caused the damage. TENANT'S obligations set forth in this paragraph shall survive the termination or expiration of this sublease. This paragraph shall not be construed as a limitation upon the TENANT'S obligations regarding indemnification and payment of costs and fees as set forth in Sections 10, 12, 15 and 17 of this sublease, nor upon any other obligations or responsibilities of TENANT as set forth herein. Nothing herein shall relieve TENANT of any responsibility or liability prescribed by law for fines, penalties and damages levied by government agencies, and the cost of cleaning up any contamination caused directly or indirectly by TENANT'S activities or facilities. Upon discovery of a release of hazardous substance or pollutant, or any other violation of local, state or federal law, ordinance, code, rule, regulation, order or decree relating to the generation, storage, production, placement, treatment, release or discharge of any contaminants, TENANT shall report such violation to all applicable governmental agencies having jurisdiction, and to CITY, all within the reporting periods of the applicable agencies.

24. Best Management Practices/TENANT Employees

24.1 TENANT shall implement applicable Best Management Practices for all the activities conducted under this sublease in compliance with paragraph 18-2.018(2)(h), Florida Administrative Code, which have been selected, developed or approved by CITY, Palm Beach County, State of Florida, or other land managing agencies for the protection and enhancement of the Premises.

24.2 TENANT shall hire, supervise and direct all of the TENANT'S employees and personnel. All personnel employed in the operation of the facility shall be employees or subcontractors of the TENANT and shall be paid directly by TENANT. The TENANT shall select the number, function, qualifications, and compensation, including salary and benefits, of its employees, and shall control the terms and conditions of employment relating to such employees. CITY may request that the TENANT take appropriate action as required for correction of any performance shortcomings of any TENANT'S employees and the TENANT will respond to said request with due diligence as required for the TENANT to perform its duties under this Agreement to industry standards for first-class campground/marina/restaurants. TENANT shall not be responsible for the employees of approved sub-tenants.

TENANT warrants and represents that it treats all of its personnel and applicants for employment equally without regard to race, color, religion, disability, sex, age, national origin, ancestry, marital status, familial status, sexual orientation, and gender identity or expression. All sub-tenants shall be required to comply with this requirement.

In all solicitations or advertisements for employees, TENANT or subcontractors shall include the phrase, "equal opportunity employer". TENANT shall attempt to hire all personnel from residents in the CITY of Pahokee.

25. Mineral Rights

25.1 This sublease does not cover petroleum or petroleum products or minerals and does not give the right to TENANT to drill for or develop the same.

26. Prohibitions Against Liens or Other Encumbrances

26.1 Fee title to the Premises is held by the BOARD OF TRUSTEES. TENANT shall not do or permit anything to be done which purports to create a lien or encumbrance of any nature against the real property contained in the Premises, including, but not limited to, mortgages or construction liens.

27. Levee and Grounds Maintenance

27.1 The CITY will provide grounds maintenance, including cutting the grass areas on the levee, west down to the east side of the access road and the public picnic area, to the standard set by the CITY for similar public areas in the CITY. Extra maintenance desired by TENANT shall be at TENANT's expense.

28. Drug Free Workplace

28.1 The TENANT shall sign and comply with the provision of the Drug Free Workplace Certification attached as Exhibit "C".

29. Surrender of Premises

29.1 Upon expiration or termination of this sublease, TENANT shall surrender the Premises to CITY. Upon termination of this sublease, all improvements, including both physical structures and modifications to the Premises, shall become the property of CITY, except as set out in Section 9, hereof. Prior to surrender of all or any part of the Premises, CITY shall perform an onsite inspection and the keys of any buildings on the Premises shall be turned over to the CITY.

30. Environmental Audit

30.1 TENANT, at its option, agrees to conduct or cause to have conducted at its sole cost and expense, prior to this sublease being executed and in accordance with the Department of Environmental Protection, Division of State Lands, a Phase One Environmental Site Assessment, and, if necessary, as reasonably determined by TENANT, a Phase Two Environmental Assessment. TENANT takes the premises "As Is". CITY makes no representations or warranty as to the condition, profitability, or any other matter with regard to this sublease.

31. Notice

31.1 Any notice required or permitted under this sublease shall be deemed sufficiently given or served five business days after mailing, if sent by United States certified mail, return receipt requested, addressed as follows:

If to CITY to:

City Manager  
City of Pahokee  
207 Begonia Drive  
Pahokee, FL 33476

If to TENANT:

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With a copy to:

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CITY and TENANT shall each have the right from time to time to change the place notices are to be given under this paragraph by written notice thereof to the other party.

32. Memorandum of Sublease

32.1 The parties hereto contemplate that this sublease shall not be filed for record, but in lieu thereof, at the request of either party, CITY and TENANT shall execute a Memorandum of Sublease to be recorded for the purpose of giving record notice of the appropriate provisions of this sublease.

33. Headings

33.1 The headings used in this sublease are for convenience of the parties only and shall not be considered in interpreting the meaning of any provision of this sublease.

34. Compliance with Law

34.1 TENANT shall comply with all laws, ordinances and other public requirements now or hereafter pertaining to TENANT'S use of the licensed premises.

35. Archeological and Historic Sites

35.1 Execution of this sublease does not release any parties' obligations pursuant to Chapter 267, Florida Statutes. The collection of artifacts or the disturbance of archeological and historic sites on state-owned lands is prohibited unless prior authorization has been obtained from the Department of State, Division of Historical Resources. The Operational Report may be reviewed by the Division of Historical Resources to insure that adequate measures have been planned to locate, identify, protect and preserve the archaeological and historic sites and properties on the Premises.

36. Sales Tax

36.1 TENANT shall pay all sales tax due under the laws of the State of Florida.

37. Right of Audit

37.1 TENANT shall make available to CITY all financial and other records relating to this sub-license upon five (5) days notice and CITY shall have the right to audit such records and at any reasonable time. The CITY may require TENANT to submit an annual, independent, detailed, financial audit performed by a certified public accountant, according to generally accepted accounting principles and auditing standards, verifying all financial records relating to this sublease. If the audit finds a 5% or greater discrepancy in favor of the CITY, TENANT shall pay the cost of the audit; otherwise, CITY shall pay the cost. The right shall be continuous until three years after this sublease expires or is terminated. This sub-lease may be terminated by the CITY should the TENANT fail to allow public access to all documents, papers, letters or other materials made or received in conjunction with this sub-lease.

38. Operational Plan

38.1 TENANT shall prepare and submit an Operational Plan and Land Use Plan before taking occupancy, and once each year thereafter on the anniversary of commencement date (attach as Exhibit "D"). TENANT shall not use or alter the Premises except as provided in the approval Operational Plan without the prior written approval of the CITY.

38.2 Prepare any modification to the annual operating plan, which TENANT desires and shall submit it to the CITY for approval.

38.3 Prepare a Capital Expenditure budget in accordance with the requirements of the Agreement, which TENANT shall submit to CITY for approval by CITY.

38.4 Operate the facility in accordance with the annual operating plan and the terms of this Agreement, including, but not limited to, purchasing, payroll, fire prevention, routing repairs, preventive maintenance, janitorial services, promotions, advertising, emergency conservation, security, state of emergency disaster plan, admission procedures, accounting, grounds maintenance and general user services. Means and methods of operation will effectively accommodate the needs of the mobility impaired and handicapped patrons in accordance with applicable laws.

38.5 Advise the CITY of any condition of which TENANT is or becomes aware of which TENANT believes impairs the structural soundness or sound operating conditions of the facility. Notwithstanding the foregoing, TENANT shall make its own determination as to the structural soundness of the facility and the necessity for repair.



38.6 Develop policies and procedures, rate schedules, services pricing and rental/user agreement terms and conditions, subject to the approval of the CITY. TENANT shall review annually and propose modifications and/or recommendations, as necessary, to all of the foregoing and submit such proposed modifications and/or recommendations to the CITY.

38.7 Require that all users of the facility execute rental/user agreements.

38.8 Operate and maintain the facility, including the equipment and security and any improvements made during the Term of this Agreement, in a manner consistent with standards of the industry for similar first-class facilities.

38.9 Market the facility and to carry out this responsibility, TENANT will have experienced personnel who will diligently promote such use of the facility.

38.10 Maintain detailed, accurate and complete financial and other records of all activities under this Agreement in accordance with GAAP and any additional CITY requirements as they relate to the facility, provided they are consistent with the terms of the Agreement. The CITY shall have access to such records.

38.11 Include in Gross Revenues for the facility, all revenues that are generated from the operation of the facility within the terms of this Agreement and in a mutually agreed upon format.

38.12 Submit a written financial report to the CITY yearly, or as otherwise agreed to between the parties. Such report shall, among other things, set forth receipts from all sources, expenditures and such other and further information as the CITY may require or request.

38.13 Pay all operating and related expenses for the facility from TENANT'S accounts.

38.14 Manage risk and facility insurance needs arising out of the operation of the facility.

38.15 TENANT shall hire all employees for the operation and maintenance of the facility from residents of the CITY of Pahokee and immediately surrounding unincorporated area. TENANT may hire from other areas if it is shown that the particular expertise needed is not available in the CITY and immediately surrounding area.

38.16 TENANT agrees to open the Restaurant within 30 days after commencement date, and the Tiki Bar within 30 days after commencement date.

39. Partial Invalidity

39.1 If any term, covenant, condition or provision of this sublease shall be ruled by a court of competent jurisdiction to be invalid, void or unenforceable, the remainder shall remain in full force and effect and shall in no way be affected, impaired or invalidated.

40. Contingencies

40.1 Should the CITY and/or the TENANT through no fault of their own, or as a result of circumstances beyond their control, fail to conform or comply with any provisions and/or covenants of this sublease and should compliance with any provisions and/or covenants of this sublease result in violation of any local, state or federal law, the CITY and TENANT shall in such event agree to hold each other harmless and the parties agree that such events may terminate this sublease. Notwithstanding the above, the CITY and TENANT agree that no provision or covenant contained herein if found to be in violation of any local, state or federal law, will constitute in and of itself, a breach of default by either party and such breach, default or lack of compliance or conformity thereof, to any such covenants and/or provisions shall not cause this sublease in whole or in part to be invalid and all remaining provisions and covenants of this sublease shall remain in full force and enforceable in any duly appointed, authorized and constituted court of law having jurisdiction thereof in the State of Florida.

41. Administrative Use/City Use

41.1 TENANT shall pay BOARD OF TRUSTEES an annual administrative fee pursuant to subsections 18-2.020(8), Florida Administrative Code. The initial annual administrative fee shall be payable within thirty days from the date of execution of this sublease agreement and shall be prorated based on the number of months or fraction thereof remaining in the fiscal year of execution. For purposes of this sublease agreement, the fiscal year shall be the period extending from July 1 to June 30. Each annual payment thereafter shall be due and payable on July 1 of each subsequent year.

41.2 CITY shall have the right to use the facility or any part thereof, subject to availability, for the following events, without rent, use fee or other payment of compensation; provided, however, that notwithstanding the foregoing, CITY shall reimburse TENANT for the actual direct operational costs incurred by TENANT as a result of such use. No alcohol will be allowed to be served by vendors at these CITY-sponsored events.

1. Tri-Cities Barbeque
2. Heritage Festival
3. Fourth of July Celebration
4. Chamber of Commerce Annual Dinner
5. City Fishing Tournament
6. Other City events

41.2.1 If OPERATOR already has a pre-planned event on the day requested by CITY, OPERATOR's pre-planned event shall take precedence over CITY's request.

41.2.2 If OPERATOR does not have a pre-planned event on the day or dates requested by CITY, OPERATOR must provide CITY use of the facility for the requested day(s). OPERATOR shall not pre-plan events for days designated for CITY-hosted events in § 51.1.

41.2.3 When possible, whenever a third-party vendor is to provide food and beverages for any event under this Section, OPERATOR shall have the right to match pricing and policies. In all circumstances, all beer, wine and liquor served on the Premises shall be purchased from OPERATOR.

41.2.4 The following days are specifically excluded from this Section and OPERATOR shall have no obligation under any circumstances to provide CITY access to the facility on the following holidays: (1) Christmas; (2) Easter; (3) Thanksgiving; (4) Memorial Day; (5) Labor Day; (6) New Year's Eve; and (7) New Year's Day.

41.3 In addition to the CITY's rights of use as set forth in Section 41.2, TENANT acknowledges that the facility is a highly visible CITY-owned building and therefore agrees as follows: In the event of any type of emergency situation or natural disaster, including, without limitation, a hurricane or other extreme weather event, the CITY Manager may determine that the CITY's use of the facility is necessary to protect the health, safety and welfare of the residents and visitors of the CITY. Upon that determination (which determination shall be within the sole and absolute discretion of the CITY Manager and shall be based on the best information and knowledge regarding the particular emergency that the CITY Manager has available to him at the time of making such determination), and upon verbal or written notice to TENANT, TENANT shall promptly cede use of the facility, or any portion thereof, for CITY use, without rent, use fee or other payment of compensation; provided, however, that notwithstanding the foregoing, CITY shall reimburse TENANT for the actual direct costs incurred by TENANT as a result of such use, during the pendency of the emergency event and/or natural disaster (including, without limitation, the time period(s) immediately preceding and following the actual occurrence of the event).

#### 42. Public Entity Crimes

42.1 As provided in Section 287.131-133, Florida Statutes, by entering into this Agreement or performing any work in furtherance hereof, TENANT certifies that it, its affiliates, suppliers, subcontractors and consultants who will perform hereunder, have not been placed on the convicted vendor list maintained by the State of Florida Department of Management Services within the thirty-six (36) months immediately preceding the effective date hereof. This notice is required by Section 287.133(3)(a), Florida Statutes.

TENANT also certifies that it, its affiliates, suppliers, subcontractors and consultants who will perform hereunder have not been suspended from doing business with CITY.

43. Palm Beach County Office of the Inspector General Audit Requirements

43.1 Pursuant to Palm Beach County Code, Sections 2-421 through 2-440, as amended, Palm Beach County's Office of Inspector General is authorized to have the power to review past, present and proposed County contracts, transactions, accounts and records. The Inspector General's authority includes, but is not limited to, the power to audit, investigate, monitor, and inspect the activities of entities contracting with the County, or anyone acting on their behalf, in order to ensure compliance with contract requirements and to detect corruption and fraud. Failure to cooperate with the Inspector General or interfering with or impeding any investigation shall be a violation of Palm Beach County Code, Section 2-421 through 2-440, and punished pursuant to Section 125.69, Florida Statutes, in the same manner as a second degree misdemeanor.

44. No Third-Party Beneficiary

44.1 This Agreement shall not be construed as giving any person, other than the parties hereto and their successors and permitted assigns, any legal or equitable right, remedy or claim under or in respect to this Agreement or any of the provisions herein contained. This Agreement and all provisions and conditions hereof being intended to be, and being, for the sole and exclusive benefit of such parties and their successors and permitted assigns for the benefit of no other person or entity.

45. WAIVER OF JURY TRIAL

45.1 THE PARTIES HERETO EACH HEREBY KNOWINGLY, VOLUNTARILY AND INTENTIONALLY WAIVE THE RIGHT EACH MAY HAVE TO A TRIAL BY JURY WITH RESPECT TO ANY LITIGATION BASED HEREON, OR ARISING OUT OF, UNDER OR IN CONNECTION WITH, THIS AGREEMENT, OR ANY COURSE OF CONDUCT, COURSE OF DEALING, STATEMENTS (WHETHER ORAL OR WRITTEN) OR ACTIONS OF EITHER PARTY TO THIS AGREEMENT. THIS PROVISION IS A MATERIAL INDUCEMENT FOR THE CITY AND THE TENANT TO ENTER INTO THIS AGREEMENT.

46. Time of Essence

46.1 Time is of the essence with respect to the performance of every provision of this Agreement in which time of performance is a factor.

47. Construction

47.1 No party shall be considered the author of this Agreement since the parties hereto have participated in extensive negotiations and drafting and redrafting of this document to arrive at a final agreement. Thus, the terms of this Agreement shall not be

strictly construed against one party as opposed to the other party based upon who drafted it. In the event that any article, paragraph, sentence, clause, or provision hereof is held by a court of competent jurisdiction to be invalid, such shall not affect the remaining portions of this Agreement and the same shall remain in full force and effect.

48. Severability

48.1 If any term of this Agreement or the application thereof to any person or circumstances shall be determined by a court of competent jurisdiction to be invalid or unenforceable, the remainder of this Agreement, or the application of such term to persons or circumstances other than those as to which it is invalid or unenforceable, shall not be affected thereby, and each term of this Agreement shall be valid and enforceable to the fullest extent permitted by law.

49. Glades Vendors

49.1 TENANT shall, if possible, use only Glades vendors to fulfill the terms of this sublease.

49.1.1 "Glades" means the area from the Broward County line north along Canal L-36 to the Loxahatchee National Wildlife Refuge, thence north to Southern Boulevard along Canal L-40, thence west along Southern Boulevard to a north-south line 1 ½ miles west of Canal L-8, which coincides with a private agricultural road heading north from Southern Boulevard at that point where State Road 880 intersects Southern Boulevard from the South, thence north along the line of this north-south road to the boundary of the J.W. Corbett Wildlife Management Area, thence east and north along the boundary of the J.W. Corbett Wildlife Management Area to the Martin County line.

49.1.2 "Glades business" means a bidder or proposer which has a permanent place of business within the Glades and which holds a business tax receipt issued by the county that authorizes the bidder or proposer to provide the goods, services, or construction to be built and which is issued prior to the issuance of the invitation for bids/request for proposals for which a preference is sought. If the business is a joint venture/partnership, it is sufficient for qualification as a Glades business if at least one (1) of the joint venturers/partners meets the requirements set forth in this subsection.

49.1.3 "Glades subcontractor" means a subcontractor participating in a bid or proposal for goods, services or construction which has a permanent place of business within the Glades and which holds a business tax receipt issued by the county that authorizes the Glades subcontractor to provide goods, services or construction services and which is issued prior to the issuance of the invitation for bids/requests for proposals for which a preference is sought. If the subcontractor is a joint venture/partnership, it is sufficient for qualification as a Glades subcontractor if at least one (1) of the joint venturers/partners meets the requirements set forth in this subsection.

50. Deposit

50.1 TENANT shall pay to CITY a \$20,000.00 Deposit which shall be forfeited if TENANT fails, at any time, to fulfill the requirements herein. CITY shall notify TENANT of the failures and TENANT shall immediately fulfill the obligation thereof, or the Deposit shall be forfeited. CITY shall have all other remedies provided by law for failure to fulfill the requirements of this sublease.

51. Superiority of the State of Florida Leases

51.1 TENANT recognizes and agrees that this sublease is subordinate to the CITY'S leases with the State of Florida, the Upland Lease, and the Submerged Lands Lease (BOARD OF TRUSTEES LEASE NUMBER 3171 and BOARD OF TRUSTEES LEASE NUMBER 500224016) (the "State Leases") (attached as Exhibit "F"). In the event of any conflict between the State Leases and this sublease, the State Lease shall control.

51.2 TENANT must at all times comply with all requirements of the Florida Administrative Code § 18-2 and Chapter 253, Florida Statutes, including, but not limited to:

- (a) The Bid must meet Public Interest Evaluation;
- (b) The Bidder's use of land must provide the greatest combination of benefits to the General Public;
- (c) Bidders must agree to terms and conditions that will provide for responsible management that will protect and enhance uplands;
- (d) The Sublease is subject to cancellation if Sublessee converts the facility to unauthorized use or causes the land leased to be used for purposes for which it was not approved;
- (e) All sublessee's activities shall implement Best Management Practices that have been approved by State agencies;
- (f) Equitable Compensation shall be paid to the State in addition to the compensation to be paid to the City set forth in the Bid, unless otherwise determined by the Trustees to be in the public interest;
- (g) Successful Bidder shall pay all costs of legal advertisement, title work, survey work, estimating value, taxes or assessments for any activity requiring such item;
- (h) Public access will be maintained to the greatest extent possible;

- (i) All portions of the Premises shall be open for inspection by the Florida Department of Environmental Regulation staff at reasonable times;
- (j) Sublessee shall be responsible for obtaining all permits and paying any and all ad valorem taxes, drainage, special assessments or other taxes.
- (k) Submerged Lands Lease
  - (1) All facilities will be open to the public on a first come – first served basis.
  - (2) There can be no Club Memberships, stock ownership, equity interest, or other qualifying requirement.
  - (3) All rentals cannot exceed twelve months and cannot include automatic renewal rights or conditions.

52. State Approval

This Sublease requires the approval of the State of Florida Board of Trustees of the Internal Improvement Fund; by the Chief of the Public Land Administration, Division of State Lands, State of Florida, Department of Environmental Protection, as Agent.

53. Final Agreement

53.1 This sublease terminates and supersedes all prior understandings or agreements on the subject matter hereof. Only a further writing that is duly executed by the CITY, and the TENANT may modify this sublease.

IN WITNESS WHEREOF, the parties have executed this sublease as of the day and year last written below.

Witnesses:

TENANT:

\_\_\_\_\_  
Print Name: \_\_\_\_\_

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

\_\_\_\_\_  
Print Name: \_\_\_\_\_

Date: \_\_\_\_\_

Witnesses:

**CITY OF PAHOKEE**

\_\_\_\_\_  
Print Name: \_\_\_\_\_

By: \_\_\_\_\_  
Keith W. Babb, Jr., Mayor

\_\_\_\_\_  
Print Name: \_\_\_\_\_

Date: \_\_\_\_\_

Attest:

\_\_\_\_\_  
Tijauna Warner, City Clerk

Approved as to Legal Sufficiency:

\_\_\_\_\_  
Gary M. Brandenburg, City Attorney

Approval for Sublease Agreement for Campground/Marina/Restaurant

Board of Trustees of the Internal Improvement  
Trust Fund Lease Agreement No. 3471

By: \_\_\_\_\_  
For the Board of Trustees of the  
Internal Improvement Trust Fund  
State of Florida

Date: \_\_\_\_\_



STATE OF FLORIDA            )  
  ) SS:  
COUNTY OF PALM BEACH    )

The foregoing instrument was acknowledged before me this \_\_\_ day of \_\_\_\_\_, 2018,  
by \_\_\_\_\_ as the \_\_\_\_\_ of \_\_\_\_\_;  
("TENANT"), who is personally known to me or has produced \_\_\_\_\_  
as identification.

\_\_\_\_\_  
Notary Public

Typed or Printed Name of Notary:

\_\_\_\_\_  
My Commission Expires:

=====

STATE OF FLORIDA            )  
  ) SS:  
COUNTY OF PALM BEACH    )

The foregoing instrument was acknowledged before me this \_\_\_ day of \_\_\_\_\_, 2018,  
by Keith W. Babb, Jr. as the Mayor of the City of Pahokee ("CITY"), who is personally  
known to me or has produced \_\_\_\_\_ as identification.

\_\_\_\_\_  
Notary Public

Typed or Printed Name of Notary:

\_\_\_\_\_  
My Commission Expires:

=====

STATE OF FLORIDA            )  
  ) SS:  
COUNTY OF PALM BEACH    )

The foregoing instrument was acknowledged before me this \_\_\_\_ day of \_\_\_\_\_, 2018, by \_\_\_\_\_ as the \_\_\_\_\_ of the State of Florida Board of Trustees for the Internal Improvement Trust Fund, ("BOARD OF TRUSTEES"), who is personally known to me or has produced \_\_\_\_\_ as identification.

\_\_\_\_\_  
Notary Public

Typed or Printed Name of Notary:

\_\_\_\_\_  
My Commission Expires: