



Certified:

E-23-21

Filed with the Clerk of the
Nassau County Legislature
January 25, 2021 12:56pm

NIFS ID:CLPK21000002 Department: Parks

Capital:

SERVICE: The operation of food and beverage concession

Contract ID #:CQCW03000819

NIFS Entry Date: 21-JAN-21

Term: from 01-JAN-13 to 30-SEP-23

Amendment
Time Extension:
Addl. Funds:
Blanket Resolution:
RES#

1) Mandated Program:	N
2) Comptroller Approval Form Attached:	Y
3) CSEA Agmt. § 32 Compliance Attached:	N
4) Material Adverse Information Identified? (if yes, attach memo):	N
5) Insurance Required	Y

Vendor Info:	
Name: Carlton On the Park LTD	Vendor ID#: 113268502
Address: Two Hillside Avenue Williston Park, NY 11596	Contact Person: Anthony Capetola
	Phone: 516-746-2300

Department:
Contact Name: Eileen Krieb
Address: Administration Bldg. Eisenhower Park E. Meadow, NY 11554
Phone: 516-572-0272

Routing Slip

Department	NIFS Entry: X	21-JAN-21 -- PABUFFOLINO
Department	NIFS Approval: X	21-JAN-21 -- LBARKER
DPW	Capital Fund Approved:	
OMB	NIFA Approval: X	22-JAN-21 -- CNOLAN
OMB	NIFS Approval: X	21-JAN-21 -- SJACOB
County Atty.	Insurance Verification: X	21-JAN-21 -- AAMATO
County Atty.	Approval to Form: X	21-JAN-21 -- DMCDERMOTT
CPO	Approval: X	22-JAN-21 -- KOHAGENCE

DCEC	Approval: X	25-JAN-21 -- JCHIARA
Dep. CE	Approval: X	25-JAN-21 -- BSCHNEIDER
Leg. Affairs	Approval/Review: X	25-JAN-21 -- JSCHANTZ
Legislature	Approval:	
Comptroller	Deputy:	
NIFA	NIFA Approval:	

Contract Summary

<p>Purpose: Licensee seeks to amend the License Agreement entered into on January 1, 2013 and amended April 29, 2015 in reference to the operation of the food and beverage concession at Carlton on the Park to include the Club House, Palm Court Restaurant, the Patio, the Wine Cellar, Havana's Cigar Club, the Grand Ballroom and all other rooms in the building located at Eisenhower Park, as well as operating the golf concessions at the Eisenhower Park golf courses. The Department issued RFP PK0819-1953 on August 19, 2019, for the provision of restaurant and catering services at the restaurant located in Eisenhower Park. Due to the COVID-19 pandemic all restaurants and catering businesses were closed by Executive Order on March 22, 2020. Prior to an award recommendation by the Selection Committee, as a result of the continued shutdown and uncertainty ahead respecting the restaurant and catering industry, each proposer withdrew their proposal. Due to the severe restrictions placed on restaurant and catering establishments, Licensee does not generate income sufficient to continue the monthly minimum payments required under the terms of the Agreement. The County and Licensee wish to amend the Agreement as set forth in the Amendment, extending the term to continue operations at the Premises during the uncertain financial future of the restaurant and catering business due to the COVID-19 pandemic and address other issues as described in the Amendment.</p>
<p>Method of Procurement: Agreement made pursuant to So Ordered Stipulation of Settlement February 28, 2013</p>
<p>Procurement History: RFP issued in 1965, So Ordered Stipulation of Settlement February 28, 2013</p>
<p>Description of General Provisions: The Term is extended through September 30, 2023, with a one-year option to extend the Term, upon the mutual consent of the parties and subject to the approval of the Nassau County Rules Committee, so long as Licensee is current in all of its contractual obligations. Section 2.1 is amended to include golf course concessions at Eisenhower Park, paying the same gross percentage as stated in the Original Agreement. The County shall apply the Paycheck Protection Funds (\$124,000.00) received from Licensee to the re-stated monthly minimum payments totaling Sixty-Six Thousand Four Hundred Forty-Three and 77/100 Dollars (\$66,443.77) and the second, third and fourth quarter utilities payments of Fifty-Seven Thousand Five Hundred Fifty-Six and 23/100 Dollars (\$57,556.23). Commencing January 1, 2021, the required minimum monthly payment, as stated in Schedule A of the Agreement, shall be suspended until the condition stated in sub-section 4d of this section is satisfied. Licensee shall pay the Gross Percentage Fees, as listed in Schedule A of the Agreement, as the License Fee. The payment obligations under Section 4.1 and Exhibit A of the Original Agreement will resume one hundred eighty (180) days following New York State's authorization for restaurants and caterers to operate at one hundred percent (100%) capacity. Licensee shall pay arrears in the amount of One Hundred Forty-Two Thousand Nine Hundred Eight and 09/100 Dollars (\$142,908.09), no later than March 31, 2021. The failure of Licensee to comply with this sub-section shall constitute a material breach of the Agreement, authorizing the County to terminate this License on one (1) days notice pursuant to Section 3.3(b) of the Agreement. Anthony A. Capetola, principal of Licensee, shall simultaneously execute a guarantee for the payment of these arrears. The utility payment obligations for the first and second quarters of 2021 shall be deferred until June 30, 2022. Licensee shall pay the said utilities in the amount of Thirty-Eight Thousand Six Hundred Forty-Eight and 14/100 Dollars (\$38,648.14), no later than June 30, 2021. The failure of Licensee to comply with this sub-section shall constitute a material breach of the Agreement, authorizing the County to terminate this License on one (1) days notice pursuant to Section 3.3(b)</p>

of the Agreement
Impact on Funding / Price Analysis: n/a
Change in Contract from Prior Procurement: n/a
Recommendation: (approve as submitted)

Advisement Information

BUDGET CODES		FUNDING SOURCE	AMOUNT	LINE	INDEX/OBJECT CODE	AMOUNT
Fund:	Gen	Revenue	X			\$ 0.00
Control:	PK	Contract:				\$ 0.00
Resp:	3110	County	\$ 0.01	3	PKGGEN3110DE500	\$ 0.01
Object:	de500	Federal	\$ 0.00			\$ 0.00
Transaction:	109	State	\$ 0.00			\$ 0.00
Project #:		Capital	\$ 0.00			\$ 0.00
Detail:		Other	\$ 0.00			\$ 0.00
		TOTAL	\$ 0.01		TOTAL	\$ 0.01
RENEWAL						
% Increase						
% Decrease						

RULES RESOLUTION NO. – 2021

A RESOLUTION AUTHORIZING THE COUNTY EXECUTIVE TO EXECUTE AN AMENDMENT TO A LICENSE AGREEMENT BETWEEN THE COUNTY OF NASSAU, ACTING ON BEHALF OF THE NASSAU COUNTY DEPARTMENT OF PARKS, RECREATION AND MUSEUMS, AND CARLTUN ON THE PARK LTD

WHEREAS, the County has negotiated an amendment to a license agreement with the Carltun on the Park LTD to provide for use, occupancy, management and operation of the Carltun on the Park, a copy said amendment which is on file with the Clerk of the Legislature; now, therefore, be it

RESOLVED, that the Rules Committee of the Nassau County Legislature authorizes the County Executive to execute the said amendment to the agreement with Carltun on the Park LTD.



Nassau County Interim Finance Authority

Contract Approval Request Form (As of January 1, 2015)

1. Vendor: Carlton On the Park LTD

2. Dollar amount requiring NIFA approval: \$.01

Amount to be encumbered: \$.01

This is a Amendment

If new contract - \$ amount should be full amount of contract

If advisement – NIFA only needs to review if it is increasing funds above the amount previously approved by NIFA

If amendment - \$ amount should be full amount of amendment only

3. Contract Term: 1/1/2013-9/30/23

Has work or services on this contract commenced? Y ____

If yes, please explain: on-going contract

4. Funding Source:

X General Fund (GEN)

Grant Fund (GRT)

Capital Improvement Fund (CAP)

Other

Federal % 0

State % 0

County % 0

Is the cash available for the full amount of the contract?

Y

If not, will it require a future borrowing?

N

Has the County Legislature approved the borrowing?

N/A

Has NIFA approved the borrowing for this contract?

N/A

5. Provide a brief description (4 to 5 sentences) of the item for which this approval is requested:

Licensee seeks to amend the License Agreement entered into on January 1, 2013 and amended April 29, 2015 in reference to the operation of the food and beverage concession at Carlton on the Park to include the Club House, Palm Court Restaurant, the Patio, the Wine Cellar, Havana ¿s Cigar Club, the Grand Ballroom and all other rooms in the building located at Eisenhower Park, as well as operating the golf concessions at the Eisenhower Park golf courses. The Department issued RFP PK0819-1953 on August 19, 2019, for the provision of restaurant and catering services at the restaurant located in Eisenhower Park. Due to the COVID-19 pandemic all restaurants and catering businesses were closed by Executive Order on March 22, 2020. Prior to an award recommendation by the Selection Committee, as a result of the continued shutdown and uncertainty ahead respecting the restaurant and catering industry, each proposer withdrew their proposal. Due to the severe restrictions placed on restaurant and catering establishments, Licensee does not generate income sufficient to continue the monthly minimum payments required under the terms of the Agreement. The County and Licensee wish to amend the Agreement as set forth in the Amendment, extending the term to continue operations at the Premises during the uncertain financial future of the restaurant and catering business due to the COVID-19 pandemic and address other issues as described in the Amendment.

6. Has the item requested herein followed all proper procedures and thereby approved by the:

Nassau County Attorney as to form Y

Nassau County Committee and/or Legislature

Date of approval(s) and citation to the resolution where approval for this item was provided:

7. Identify all contracts (with dollar amounts) with this or an affiliated party within the prior 12 months:

Contract ID	Date	Amount

AUTHORIZATION

To the best of my knowledge, I hereby certify that the information contained in this Contract Approval Request Form and any additional information submitted in connection with this request is true and accurate and that all expenditures that will be made in reliance on this authorization are in conformance with the Nassau County Approved Budget and not in conflict with the Nassau County Multi-Year Financial Plan. I understand that NIFA will rely upon this information in its official deliberations.

CNOLAN

22-JAN-21

Authenticated User

Date

COMPTROLLER'S OFFICE

To the best of my knowledge, I hereby certify that the information listed is true and accurate and is in conformance with the Nassau County Approved Budget and not in conflict with the Nassau County Multi-Year Financial Plan.

Regarding funding, please check the correct response:

☐ I certify that the funds are available to be encumbered pending NIFA approval of this contract.

If this is a capital project:

I certify that the bonding for this contract has been approved by NIFA.

Budget is available and funds have been encumbered but the project requires NIFA bonding authorization

Authenticated User

Date

NIFA

Amount being approved by NIFA:

Payment is not guaranteed for any work commenced prior to this approval.

Authenticated User

Date

NOTE: All contract submissions MUST include the County's own routing slip, current NIFS printouts for all relevant accounts and relevant Nassau County Legislature communication documents and relevant supplemental information pertaining to the item requested herein.

NIFA Contract Approval Request Form MUST be filled out in its entirety before being submitted to NIFA for review.

NIFA reserves the right to request additional information as needed.

Jack Schnirman
Comptroller



OFFICE OF THE COMPTROLLER
240 Old Country Road
Mineola, New York 11501

COMPTROLLER APPROVAL FORM FOR PERSONAL, PROFESSIONAL OR HUMAN SERVICES CONTRACTS

Attach this form along with all personal, professional or human services contracts, contract renewals, extensions and amendments.

CONTRACTOR NAME: Carlton on the Park, LTD

CONTRACTOR ADDRESS: Two Hillside Avenue, Williston Park, NY 11596

FEDERAL TAX ID #: 113268502

Instructions: Please check the appropriate box ("☑") after one of the following roman numerals, and provide all the requested information.

I. ☐ The contract was awarded to the lowest, responsible bidder after advertisement for sealed bids. The contract was awarded after a request for sealed bids was published in _____ [newspaper] on _____ [date]. The sealed bids were publicly opened on _____ [date]. _____ [#] of sealed bids were received and opened.

II. ☒ The contractor was selected pursuant to a Request for Proposals.

The Contract was entered into after a written request for proposals was issued on _____ [date]. Potential proposers were made aware of the availability of the RFP by advertisement in _____ [newspaper], posting on industry websites, via email to interested parties and by publication on the County procurement website. Proposals were due on _____ [date]. _____ [state #] proposals were received and evaluated. The evaluation committee consisted of: _____

_____ (list # of persons on committee and their respective departments). The proposals were scored and ranked. As a result of the scoring and ranking, the highest-ranking proposer was selected.

III. ☒ This is a renewal, extension or amendment of an existing contract.

The contract was originally executed by Nassau County on January 1, 2013. This is a renewal or extension pursuant to the contract, or an amendment within the scope of the contract or RFP. The original contract was entered into to clarify rights and responsibilities arising under a prior license agreement dated July 24, 1995 which was entered into via a ~~RFP~~ competitive RFP process.

IV. ☐ Pursuant to Executive Order No. 1 of 1993, as amended, at least three proposals were solicited and received. The attached memorandum from the department head describes the proposals received, along with the cost of each proposal.

☐ A. The contract has been awarded to the proposer offering the lowest cost proposal; **OR:**

☐ B. The attached memorandum contains a detailed explanation as to the reason(s) why the contract was awarded to other than the lowest-cost proposer. The attachment includes a specific delineation of the unique skills and experience, the specific reasons why a proposal is deemed superior, and/or why the proposer has been judged to be able to perform more quickly than other proposers.

V. ☐ Pursuant to Executive Order No. 1 of 1993 as amended, the attached memorandum from the department head explains why the department did not obtain at least three proposals.

☐ A. There are only one or two providers of the services sought or less than three providers submitted proposals. The memorandum describes how the contractor was determined to be the sole source provider of the personal service needed or explains why only two proposals could be obtained. If two proposals were obtained, the memorandum explains that the contract was awarded to the lowest cost proposer, or why the selected proposer offered the higher quality proposal, the proposer's unique and special experience, skill, or expertise, or its availability to perform in the most immediate and timely manner.

☐ B. The memorandum explains that the contractor's selection was dictated by the terms of a federal or New York State grant, by legislation or by a court order. (Copies of the relevant documents are attached).

☐ C. Pursuant to General Municipal Law Section 104, the department is purchasing the services required through a New York State Office of General Services contract no. _____, and the attached memorandum explains how the purchase is within the scope of the terms of that contract.

- ☐ **D.** Pursuant to General Municipal Law Section 119-o, the department is purchasing the services required through an inter-municipal agreement.

VI. ☐ This is a human services contract with a not-for-profit agency for which a competitive process has not been initiated. Attached is a memorandum that explains the reasons for entering into this contract without conducting a competitive process, and details when the department intends to initiate a competitive process for the future award of these services. For any such contract, where the vendor has previously provided services to the county, attach a copy of the most recent evaluation of the vendor's performance. If the contractor has not received a satisfactory evaluation, the department must explain why the contractor should nevertheless be permitted to contract with the county.

In certain limited circumstances, conducting a competitive process and/or completing performance evaluations may not be possible because of the nature of the human services program, or because of a compelling need to continue services through the same provider. In those circumstances, attach an explanation of why a competitive process and/or performance evaluation is inapplicable.

VII. ☐ This is a public works contract for the provision of architectural, engineering or surveying services. The attached memorandum provides details of the department's compliance with Board of Supervisors' Resolution No. 928 of 1993, including its receipt and evaluation of annual Statements of Qualifications & Performance Data, and its negotiations with the most highly qualified firms.

Instructions with respect to Sections VIII, IX and X: All Departments must check the box for VIII. Then, check the box for either IX or X, as applicable.

VIII. ☒ Participation of Minority Group Members and Women in Nassau County Contracts. The selected contractor has agreed that it has an obligation to utilize best efforts to hire MWBE sub-contractors. Proof of the contractual utilization of best efforts as outlined in Exhibit "EE" may be requested at any time, from time to time, by the Comptroller's Office prior to the approval of claim vouchers.

IX. ☐ Department MWBE responsibilities. To ensure compliance with MWBE requirements as outlined in Exhibit "EE", Department will require vendor to submit list of sub-contractor requirements prior to submission of the first claim voucher, for services under this contract being submitted to the Comptroller.

X. ☒ Vendor will not require any sub-contractors.

In addition, if this is a contract with an individual or with an entity that has only one or two employees: ☒ a review of the criteria set forth by the Internal Revenue Service, *Revenue Ruling No. 87-41*, 1987-1 C.B. 296, attached as Appendix A to the Comptroller's Memorandum, dated February 13, 2004, concerning independent contractors and employees indicates that the contractor would not be considered an employee for federal tax purposes.



Department Head Signature



Date

NOTE: Any information requested above, or in the exhibit below, may be included in the county's "staff summary" form in lieu of a separate memorandum.

Business History Form

The contract shall be awarded to the responsible proposer who, at the discretion of the County, taking into consideration the reliability of the proposer and the capacity of the proposer to perform the services required by the County, offers the best value to the County and who will best promote the public interest.

In addition to the submission of proposals, each proposer shall complete and submit this questionnaire. The questionnaire shall be filled out by the owner of a sole proprietorship or by an authorized representative of the firm, corporation or partnership submitting the Proposal.

NOTE: All questions require a response, even if response is "none" or "not-applicable." No blanks.

(USE ADDITIONAL SHEETS IF NECESSARY TO FULLY ANSWER THE FOLLOWING QUESTIONS).

Date: 01/15/2021

1) Proposer's Legal Name: Carlton on the Park, LTD

2) Address of Place of Business: 2C Hillside Avenue

City: Williston Park State/Province/Territory: NY Zip/Postal Code: 11596

Country: US

3) Mailing Address (if different): none

City: none State/Province/Territory: _____ Zip/Postal Code: _____

Country: _____

Phone: _____

Does the business own or rent its facilities? Rent If other, please provide details: _____

4) Dun and Bradstreet number: none

5) Federal I.D. Number: 11-3268502

6) The proposer is a: Corporation (Describe) _____

7) Does this business share office space, staff, or equipment expenses with any other business?

YES ☒ NO ☐ If yes, please provide details: _____

Havana's Cigar Club of Nassau County, LTD operates the Havanas Cigar Club within The Carlton.

8) Does this business control one or more other businesses?

YES ☐ NO ☒ If yes, please provide details: _____

9) Does this business have one or more affiliates, and/or is it a subsidiary of, or controlled by, any other business?

YES ☐ NO ☒ If yes, please provide details: _____

- 10) Has the proposer ever had a bond or surety cancelled or forfeited, or a contract with Nassau County or any other government entity terminated?
YES ☐ NO ☒ If yes, state the name of bonding agency, (if a bond), date, amount of bond and reason for such cancellation or forfeiture: or details regarding the termination (if a contract).

- 11) Has the proposer, during the past seven years, been declared bankrupt?
YES ☐ NO ☒ If yes, state date, court jurisdiction, amount of liabilities and amount of assets

- 12) In the past five years, has this business and/or any of its owners and/or officers and/or any affiliated business, been the subject of a criminal investigation and/or a civil anti-trust investigation by any federal, state or local prosecuting or investigative agency? And/or, in the past 5 years, have any owner and/or officer of any affiliated business been the subject of a criminal investigation and/or a civil anti-trust investigation by any federal, state or local prosecuting or investigative agency, where such investigation was related to activities performed at, for, or on behalf of an affiliated business.
YES ☐ NO ☒ If yes, provide details for each such investigation, an explanation of the circumstances and corrective action taken.

- 13) In the past 5 years, has this business and/or any of its owners and/or officers and/or any affiliated business been the subject of an investigation by any government agency, including but not limited to federal, state and local regulatory agencies? And/or, in the past 5 years, has any owner and/or officer of an affiliated business been the subject of an investigation by any government agency, including but not limited to federal, state and local regulatory agencies, for matters pertaining to that individual's position at or relationship to an affiliated business.
YES ☐ NO ☒ If yes, provide details for each such investigation, an explanation of the circumstances and corrective action taken.

- 14) Has any current or former director, owner or officer or managerial employee of this business had, either before or during such person's employment, or since such employment if the charges pertained to events that allegedly occurred during the time of employment by the submitting business, and allegedly related to the conduct of that business:
a) Any felony charge pending?
YES ☐ NO ☒ If yes, provide details for each such investigation, an explanation of the circumstances and corrective action taken.

b) Any misdemeanor charge pending?
YES ☐ NO ☒ If yes, provide details for each such investigation, an explanation of the circumstances and corrective action taken.

c) In the past 10 years, you been convicted, after trial or by plea, of any felony and/or any other crime, an

element of which relates to truthfulness or the underlying facts of which related to the conduct of business?
YES ☐ NO ☒ If yes, provide details for each such investigation, an explanation of the
circumstances and corrective action taken.

d) In the past 5 years, been convicted, after trial or by plea, of a misdemeanor?
YES ☐ NO ☒ If yes, provide details for each such investigation, an explanation of the
circumstances and corrective action taken.

e) In the past 5 years, been found in violation of any administrative, statutory, or regulatory provisions?
YES ☐ NO ☒ If yes, provide details for each such investigation, an explanation of the
circumstances and corrective action taken.

- 15) In the past (5) years, has this business or any of its owners or officers, or any other affiliated business had any
sanction imposed as a result of judicial or administrative proceedings with respect to any professional license
held?
YES ☐ NO ☒ If yes, provide details for each such investigation, an explanation of the
circumstances and corrective action taken.
-

- 16) For the past (5) tax years, has this business failed to file any required tax returns or failed to pay any applicable
federal, state or local taxes or other assessed charges, including but not limited to water and sewer charges?
YES ☐ NO ☒ If yes, provide details for each such year. Provide a detailed response to all
questions checked 'YES'. If you need more space, photocopy the appropriate page and attach it to the
questionnaire.
-

17 Conflict of Interest:

- a) Please disclose any conflicts of interest as outlined below. NOTE: If no conflicts exist, please expressly
state "No conflict exists."

(i) Any material financial relationships that your firm or any firm employee has that may create a conflict
of interest or the appearance of a conflict of interest in acting on behalf of Nassau County.

No conflict exists.

(ii) Any family relationship that any employee of your firm has with any County public servant that may
create a conflict of interest or the appearance of a conflict of interest in acting on behalf of Nassau
County.

No conflict exists.

(iii) Any other matter that your firm believes may create a conflict of interest or the appearance of a
conflict of interest in acting on behalf of Nassau County.

No conflict exists

- b) Please describe any procedures your firm has, or would adopt, to assure the County that a conflict of interest would not exist for your firm in the future.

The adherence to all rules, regulations and the like in connection with its conducting a business with the County. It will not employ any County employee, and all County employees will not receive any discounts on services rendered at the venue. Carlton has adhered to a strict policy of charging the same price for like services to any political or judicial candidate regardless of party affiliation since conducting business.

- A. Include a resume or detailed description of the Proposer's professional qualifications, demonstrating extensive experience in your profession. Any prior similar experiences, and the results of these experiences, must be identified.

Have you previously uploaded the below information under in the Document Vault?

YES ☐ NO ☒

Is the proposer an individual?

YES ☐ NO ☒ Should the proposer be other than an individual, the Proposal MUST include:

- i) Date of formation;

06/01/1995

- ii) Name, addresses, and position of all persons having a financial interest in the company, including shareholders, members, general or limited partner. If none, explain.

Anthony A. Capetola: 24 The Preserve, Woodbury, NY 11797 - 94%

Anna Rogalski: 34 South Durst Drive, Milltown, NJ 08850 - 1%

Estate of Barbara Schulman c/o Steve Schulman: 510 Broad Hollow Road, Melville, NY 11747 - 2%

Steven Schulman: 17 Talbot Drive, Great Neck, NY 11028 - 1%

Mark Schulman: 28 Brookhill Road, Huntington, NY 11743 - 1%

Thomas Hession: 635 Second Street South, Naples, Fla. 34102 - 1%

No individuals with a financial interest in the company have been attached..

- iii) Name, address and position of all officers and directors of the company. If none, explain.

Anthony A. Capetola (President and Chief Executive Officer): 24 The Preserve, Woodbury, NY

No officers and directors from this company have been attached.

- iv) State of incorporation (if applicable);

NY

- v) The number of employees in the firm;

35

- vi) Annual revenue of firm;

1500000

- vii) Summary of relevant accomplishments

We have been a viable and ongoing firm since 1995. We did massive renovations of the existing

facility, which was in a horrible, rat infested condition, to the most well known and pristinely kept catering facility in Nassau County. In the years preceding our occupancy, the facility produced no significant revenues to the County of Nassau. Since the Carlton's opening, we have been a long standing, income producing entity, generating revenues for the County in the form rents, payments in lieu of rent, capital improvements and sales tax to the state of NY, totaling approximately \$70 million over the course of the last 24 years. We employ approximately 164 individuals and have never defaulted on payment of wages or been the subject of any litigation regarding same.

1 File(s) Uploaded: Resume 8-28-19.pdf

viii) Copies of all state and local licenses and permits.

4 File(s) Uploaded: 3 Liquor Licenses expiring on 11.30.22.pdf, Alarm System Permit.HEIC, Environmental Sanitation Permit.heic, Tobacco Permit.HEIC

B. Indicate number of years in business.

25

C. Provide any other information which would be appropriate and helpful in determining the Proposer's capacity and reliability to perform these services.

As set forth in our Proposal, The Carlton has been considered the Gold Standard in catering and dining for over two decades, and has received numerous accolades for its services to the County of Nassau, its residents and numerous charities.

1 File(s) Uploaded: 1887_001.pdf

D. Provide names and addresses for no fewer than three references for whom the Proposer has provided similar services or who are qualified to evaluate the Proposer's capability to perform this work.

Company	Michael Magro Foundation		
Contact Person	Terrie Magro		
Address	12 Julian Street		
City	Hicksville	State/Province/Territory	NY
Country	US		
Telephone	(516) 935-4510		
Fax #	(516) 827-5152		
E-Mail Address	mmagrofoundation@yahoo.com		

Company	Irish Americans in Government		
Contact Person	Donal M. Mahoney		
Address	PO Box 1795		
City	Mineola	State/Province/Territory	NY
Country	US		
Telephone	(516) 695-3898		
Fax #			
E-Mail Address	donalmm@aol.com		

Company	Columbian Lawyers Association		
Contact Person	Celia Scaglione		
Address	350 Old Country Road		
City	Garden City	State/Province/Territory	NY
Country	US		
Telephone	(800) 966-4320		
Fax #	(516) 742-9375		
E-Mail Address	clanassau@aol.com		

I, Anthony A. Capetola, hereby acknowledge that a materially false statement willfully or fraudulently made in connection with this form may result in rendering the submitting business entity and/or any affiliated entities non-responsible, and, in addition, may subject me to criminal charges.

I, Anthony A. Capetola, hereby certify that I have read and understand all the items contained in this form; that I supplied full and complete answers to each item therein to the best of my knowledge, information and belief; that I will notify the County in writing of any change in circumstances occurring after the submission of this form; and that all information supplied by me is true to the best of my knowledge, information and belief. I understand that the County will rely on the information supplied in this form as additional inducement to enter into a contract with the submitting business entity.

CERTIFICATION

A MATERIALLY FALSE STATEMENT WILLFULLY OR FRAUDULENTLY MADE IN CONNECTION WITH THIS QUESTIONNAIRE MAY RESULT IN RENDERING THE SUBMITTING BUSINESS ENTITY NOT RESPONSIBLE WITH RESPECT TO THE PRESENT BID OR FUTURE BIDS, AND, IN ADDITION, MAY SUBJECT THE PERSON MAKING THE FALSE STATEMENT TO CRIMINAL CHARGES.

Name of submitting business: Carlton on the Park, Ltd.

Electronically signed and certified at the date and time indicated by:
Anthony A. Capetola [ANTHONYACAPETOLA@AOL.COM]

President

Title

01/18/2021 03:15:10 PM

Date

ANTHONY A. CAPETOLA
2C Hillside Avenue
Williston Park, NY 11596
516-746-2300
anthonyacapetola@aol.com

EDUCATION:

New York Law School, New York, New York
Juris Doctorate, 1970

Wagner College, Staten Island, New York
Bachelor of Science, 1967.

LEGAL EXPERIENCE:

Nassau County District Attorney's Office, Mineola, New York 1971-1973
Tried numerous misdemeanor and felony matters.
Conducted Grand Jury investigations.

Associate Village Judge, Village of Bayville 1973-1976.

Associate, Law Offices of Richard Hartman, Mineola, New York 1973-1976

D'Amato, Forchelli & Capetola, Esqs., Mineola, New York 1976-1984
Senior Partner in general practice law firm with emphasis on criminal defense work and complex civil litigation.

Axelrod, Cornachio, Famigetti & Capetola 1984-1985
Senior Partner in general practice law firm with emphasis on criminal defense work and complex civil litigation.

Capetola & Doddato, Williston Park, New York 1985-2001
Senior Partner.

Law Offices of Anthony A. Capetola, Williston Park, New York
January, 2001 to Present
Senior Attorney - manages firm of thirteen attorneys with emphasis on family law, civil litigation and criminal defense work.

Town of Oyster Bay, Oyster Bay, New York 2011-2012
Member of the Town of Oyster Bay Zoning Board of Appeals.

BAR ADMISSIONS:

1971 Appellate Division 2d Judicial Department State of New York.
1973 U.S. District Court Eastern and Southern District of New York
1989 U.S. Tax Court.
1990 U.S. District Court, Northern District of New York; U.S. District Court, Western District of Pennsylvania.
1991 U.S. Supreme Court; U.S. Court of Appeals, Federal Circuit; U.S. Court of Claims.
U.S. Court of Military Appeals.
U.S. Court of Military Appeals, U.S. District Court, District of Arizona

BAR AFFILIATIONS:

American Bar Association
New York State Bar Association
Nassau County Bar Association - Member Criminal Law Committee
Former Assistant District Attorneys of Nassau County
Columbian Lawyers Association of Nassau County - President 1981
Criminal Defenders Association of New York

PROFESSIONAL LICENSE:

New York State Licensed Real Estate Broker - I.D. 10351204700 - 2011.
Licensed to Practice Law in the State of New York since 1971.

EXPERT QUALIFICATIONS:

Qualified in New York State Supreme Court as a real estate appraiser - 2008 to present.
Qualified in New York State Supreme Court as wine appraiser - 2003 to present.

BUSINESS AFFILIATIONS:

Willowridge Development Corp., President. Developed and built 80 luxurious homes- 1974-1978;
Viron-Stone Edge; President. Joint Venture that was bonded by U.S. Capital Corp., to U.S. Government for 4.25 Million Dollars in connection with a joint venture of two HUD §202 Projects for U.S. Government in Harlem and Yonkers, New York.
President of CB Construction Corp.; developer and real estate management, currently managing properties on North Shore of Long Island.
Real Estate Manager, 1989 - Present; for various corporation entities, managing various apartment rentals on behalf of corporation and limited partnership interests.
Owner, Consultant and Manager, 1980 - Present; to private and public companies to and for private and publicly held corporations in connection with areas of finance, securities and various other project accomplishments.

RESTAURANT ENTERPRISES:

MILLERIDGE VENTURES, INC. d/b/a THE MILLERIDGE INN

January, 2016 to Present.

Owner and Vice President of The Milleridge Inn, a storied restaurant complex established in 1672 located on 12½ acres in Jericho, New York.

LeFANTE FAMILY RESTAURANTS, LLC - 2002-2003

President and Managing Member of entity in the process of building and operating upscale restaurant and entertainment complex for Resorts Hotel and Casino, Atlantic City, New Jersey.

CARLTUN HOSPITALITY OF NEVADA LLC - 2001-2003

Managing Member of Olio! Restaurant, MGM Grand, Las Vegas, Nevada.

CARLTUN TO YOU LTD. - 1999-2002

President/Principal

Operated snack bar, fast food service at Lloyd Neck Beach and Bath Club. Did all catering at facility. Engaged in outside catering.

CARLTUN HOSPITALITY OF NEW JERSEY LTD. - 1998 to 2004

d/b/a Temple Bar

President and Principal

Operated upscale restaurant and take out snack bar at Caesar's, Atlantic City.

CARLTUN CATERERS LTD. - 1996-1998

President/Owner

Operated catering facility at Oheka Castle, Woodbury Hills, N.Y.

-180 seat Catering Room.

CARLTUN ON THE PARK, LTD. - 1995 to Present.

President/Principal

2C Hillside Avenue

Williston Park, New York 11596

(516)746-2300

Operates 85,000 square foot restaurant and catering facility situated on 26 acres of land located in a municipal park.

FRANCO & GIANNI CATERERS, INC. d/b/a SAIL HARBOR - 1978 to 2008

Bayville, New York

Owner, CEO/President

Operated catering facility accommodating 250 guests.

Mr. Capetola acted in managerial capacity, oversaw financial planning, legal issues, contracts and negotiations.

LA LOCANDA RESTAURANT - 1983 to 1985

Merrick, New York

Owner, Officer and Director

- 130 Seat Restaurant

- Italian-American Cuisine

Mr. Capetola acted as CFO and owner during the above years.

HARBOR INN - 1988 to 1990

Huntington, New York

Attorney and Operator

- 100 Seat Restaurant

- Served American Fare - steaks, chops, seafood, etc.

AWARDS AND HONORS:

Member of Board of Trustees, New York Law School - 2000 to Present.

March of Dimes Distinguished Citizens Award - June, 2000.

Long Island Man of the Year, National Kidney Foundation - 1987

Man of the Year, Court Officers Benevolent Association - 1986

Past President, Assistant District Attorney's Association - 1995

Past President, Columbian Lawyers Association - 1982

"We Care" Man of the Year, Nassau County Bar Association-2000.

Man of the Year, Nassau County American Red Cross - 2009.

Man of the Year, Columbian Lawyers Association - 2009.

The Nassau County PBA

Super Lawyers "Top Attorney" - 2007 - 2018.

Long Island Pulse Magazine 2009, 2010, 2011, 2012, 2013 and 2014 "Top Legal Eagle".

Fraternal Order of Court Officers Certificate of Recognition (2013)

Firefighters Leadership Award - 2012

JETS of America (2013) VIP Award

The Pro Bono Project of the Nassau County Coalition Against Domestic Violence

Certificate of Recognition - An Evening of Relief "Hurricane Sandy 2012"

Fraternal Order of Court Officers NYS 2013

Top 10 Attorney Award (2014, 2015, 2016) NAFLA

Friends of Matthew "Award" 2005

Italian Heritage Club 2012

September 5, 2019

To Whom it May Concern,

Please be advised that we have reviewed the Personal Financial Statement of Anthony A. Capetola as of August 31, 2019.

As of this date, Mr. Capetola's Net Worth is in excess of \$25,000,000.00

A review of the Personal Financial Statement reflects that Mr. Capetola has the funds readily available to infuse to the proposer (Carlton on the Park, LTD.), as well as the ability to provide additional funding to the proposer as necessary.

Mr. Capetola also has access to additional credit facilities if required.

Should you require any additional information, please do not hesitate to contact me.

SKLAR, KANTOR, BLOCK CPA's, LLP


Jeffrey Sklar CPA, CFF, CFCS, CAMS



Michael Prokop
Financial Advisor
Managing Director

The Pinnacle Group
A financial advisory practice of
Ameriprise Financial Services, Inc.

333 Earle Ovington Blvd., Suite 903
Mitchel Field, NY 11553-3620
Tel: 516.479.5811
Direct: 516.479.5826
Cell: 516.480.5990
Fax: 516.228.0101
michael.prokop@ampf.com
ameripriseadvisors.com/michael.prokop

September 3, 2019

Nassau County Department of Parks, Recreation, and Museums
Laura Curran, County Executive
Eileen Kreib, Commissioner

To Whom It May Concern,

It is my pleasure to write this letter with regards to Anthony Capetola, who I have known for over twenty years on both a personal and business level. I have hosted and attended numerous functions at the Carltun on the Park. Many of these weddings, conferences and private dinners ranged from thirty to three-hundred attendees. In my opinion, the food, service, atmosphere and attention to detail was unsurpassed at each of these functions.

Mr. Capetola maintains numerous accounts at Ameriprise Financial. The value of these accounts is in excess of a few million dollars. In addition, he has collateralized the assets in his Ameriprise accounts which currently supports approximately one million dollars of available credit.

It has been a pleasure to manage his accounts and get to know him on a more personal basis over the years.

If you have any questions, please feel free to contact me. My direct line at Ameriprise Financial is 516-479-5826. Thank you.

Regards,

A handwritten signature in black ink, appearing to read "Michael Prokop", written over a horizontal line.

Michael Prokop
Financial Advisor
Managing Director



ON-PREMISES LIQUOR LICENSE
SERIAL #: 1016817
COUNTY: NASSAU

EFFECTIVE DATE: 11/05/2020
EXPIRATION DATE: 11/30/2022
CERTIFICATE #: 928278

NEW YORK STATE LIQUOR AUTHORITY

THE LICENSEE DESIGNATED BELOW IS HEREBY GRANTED PERMISSION, UNDER THE ALCOHOLIC BEVERAGE CONTROL LAW TO TRAFFIC IN ALCOHOLIC BEVERAGE PURSUANT TO THE TYPE OF LICENSE INDICATED IN THE UPPER LEFT HAND CORNER OF THIS CERTIFICATE AND ACCORDING TO THE STATUTES AND REGULATIONS PERTAINING THERETO.

THIS LICENSE SHALL NOT BE TRANSFERABLE TO ANY OTHER PERSON OR TO ANY OTHER PREMISES OR TO ANY OTHER PART OF THE BUILDING CONTAINING SUCH LICENSED PREMISES. IT SHALL NOT BE DEEMED A PROPERTY OR VESTED RIGHT AND MAY BE REVOKED AT ANY TIME PURSUANT TO LAW.

METHOD OF OPERATION

RESTAURANT SERVING BEER, WINE, LIQUOR, & CIDER

CARLTUN ON THE PARK LTD
SALISBURY INN
PARK BLVD & EISENHOWER PARK
EAST MEADOW NY 11554



FILING FEE \$90.00
LICENSE FEE \$1,792.00

Vincent G. Bradley

Vincent G. Bradley
Chairman

BEFORE COMMENCING OR DOING ANY BUSINESS FOR THE TIME FOR WHICH THIS LICENSE HAS BEEN ISSUED, THE SAID LICENSE SHALL BE ENCLOSED IN A SUITABLE WOOD OR METAL FRAME, HAVING A CLEAR GLASS SPACE AND A SUBSTANTIAL WOOD OR METAL BACK SO THAT THE WHOLE OF SAID LICENSE MAY BE SEEN THEREIN, AND SHALL BE POSTED UP AND AT ALL TIMES DISPLAYED IN A CONSPICUOUS PLACE IN THE ROOM WHERE SUCH BUSINESS IS CARRIED ON, SO THAT ALL PERSONS VISITING SUCH PLACE MAY READILY SEE THE SAME.

SLA FORM 180-033 (10/09)

Certificate No. B0928278

FOLD AND TEAR HERE

FOLD AND TEAR HERE



LAURA CURRAN
NASSAU COUNTY EXECUTIVE

NASSAU COUNTY DEPARTMENT OF HEALTH
Bureau of Environmental Sanitation

PERMIT

To Operate a
Catering Operation

This is to certify that
CARLTUN ON THE PARK LTD

the operator of
CARLTUN ON THE PARK
at
EISENHOWER PARK
EAST MEADOW, NY 11554



LAWRENCE E. EISENSTEIN, MD, MPH, FACP
COMMISSIONER OF HEALTH

Located in the **TOWN** of **HEMPSTEAD** in **NASSAU** County
is granted permission to operate said establishment in compliance with the provisions
of **Subpart 14-1 of the State Sanitary Code** and
under the following conditions:

- (1) This permit is granted subject to any and all applicable State, Local and Municipal Laws,
Ordinances, Codes, Rules and Regulations.

Effective Date **October 31, 2020**
Permit is **NON-TRANSFERABLE**

DONALD P IRWIN
Permit Issuing Official

This permit expires on **October 31, 2021** and may be revoked or suspended for cause.

THIS PERMIT SHOULD BE POSTED CONSPICUOUSLY

Facility Code **01927-04**

Permit Number **F0118980**

Operation ID **570406**



**Department of
Taxation and Finance**

Office of Processing and Taxpayer Services
W A Harriman Campus, Albany NY 12227

See other side for important information about cigarettes and tobacco products.



CARLTUN ON THE PARK, LTD.
2 HILLSIDE AVE STE C
WILLISTON PK NY 11596-2335

▼ Detach here ▼



**Department of
Taxation and Finance**

Office of Processing and Taxpayer Services
W A Harriman Campus, Albany NY 12227

Retail Dealer Certificate of Registration for Cigarettes and Tobacco Products

Sequence number 0

Identification number

11-3268502

Expires 12/31 2021

Use this number on all returns
and correspondence

CARLTUN ON THE PARK, LTD.
EISENHOWER PK
EAST MEADOW NY 11554

VALIDATED

SALES TAX
DEPT OF TAX AND
FINANCE
9/21/2020

Nontransferable

is authorized to make retail sales of cigarettes and tobacco products.
This certificate may not be photocopied or reproduced and is valid for this location only.

Nassau County Police Department

Communications Bureau, Alarm Permit Section
1490 Franklin Avenue, Mineola, New York 11501

Permit for Alarm System

CARLTUN ON THE PARK
1899 HEMPSTEAD TPKE
EAST MEADOW NY 11554

LOCATION OF ALARM

CARLTUN ON THE PARK
1899 HEMPSTEAD TPKE
EAST MEADOW NY 11554

Your alarm permit number and expiration date are noted below.
Your alarm company needs to be immediately notified of this permit number.
If you should have any questions or need additional information,
please call 516-573-7297

PERMIT NUMBER: N192877

Expires Last Day Of August, 2022

This permit should be posted on or near the Alarm System Panel.
This permit is non-transferable for neither location nor ownership.

Alarm Company Copy

Nassau County Police Department

Communications Bureau, Alarm Permit Section
1490 Franklin Avenue, Mineola, New York 11501

Permit for Alarm System

CARLTUN ON THE PARK
1899 HEMPSTEAD TPKE
EAST MEADOW NY 11554

LOCATION OF ALARM

CARLTUN ON THE PARK
1899 HEMPSTEAD TPKE
EAST MEADOW NY 11554

PERMIT NUMBER: N192877

Expires Last Day Of August, 2022

This permit is non-transferable for neither location nor ownership.



COUNTY OF NASSAU

POLITICAL CAMPAIGN CONTRIBUTION DISCLOSURE FORM

1. Has the vendor or any corporate officers of the vendor provided campaign contributions pursuant to the New York State Election Law in (a) the period beginning April 1, 2016 and ending on the date of this disclosure, or (b), beginning April 1, 2018, the period beginning two years prior to the date of this disclosure and ending on the date of this disclosure, to the campaign committees of any of the following Nassau County elected officials or to the campaign committees of any candidates for any of the following Nassau County elected offices: the County Executive, the County Clerk, the Comptroller, the District Attorney, or any County Legislator?

YES ☒ NO ☐ If yes, to what campaign committee?

Friends of Norma Gonsalves; Citizens of Nicoletto; Friends of Vincent T. Muscarella; Maureen O'Connell for County Clerk; Friends of Jennifer Garber;

2. VERIFICATION: This section must be signed by a principal of the consultant, contractor or Vendor authorized as a signatory of the firm for the purpose of executing Contracts.

The undersigned affirms and so swears that he/she has read and understood the foregoing statements and they are, to his/her knowledge, true and accurate.

The undersigned further certifies and affirms that the contribution(s) to the campaign committees identified above were made freely and without duress, threat or any promise of a governmental benefit or in exchange for any benefit or remuneration.

Electronically signed and certified at the date and time indicated by:
Anthony A. Capetola [ANTHONYACAPETOLA@AOL.COM]

Dated: 01/12/2021 12:12:41 PM

Vendor: Carlton on the Park, LTD

Title: President and Chief Executive Officer

PRINCIPAL QUESTIONNAIRE FORM

All questions on these questionnaires must be answered by all officers and any individuals who hold a ten percent (10%) or greater ownership interest in the proposer. Answers typewritten or printed in ink. If you need more space to answer any question, make as many photocopies of the appropriate page(s) as necessary and attach them to the questionnaire.

COMPLETE THIS QUESTIONNAIRE CAREFULLY AND COMPLETELY. FAILURE TO SUBMIT A COMPLETE QUESTIONNAIRE MAY MEAN THAT YOUR BID OR PROPOSAL WILL BE REJECTED AS NON-RESPONSIVE AND IT WILL NOT BE CONSIDERED FOR AWARD

1. Principal Name: Anthony A. Capetola
Date of birth: 10/04/1945
Home address: 2 HILLSIDE AVE/BLDG C
City: WILLISTON PARK State/Province/Territory: NY Zip/Postal Code: 11596
Country: US

Business Address: 2 Hillside Avenue, Suite C
City: Williston Park State/Province/Territory: NY Zip/Postal Code: 11596
Country: US
Telephone: 5167462300

Other present address(es):
City: _____ State/Province/Territory: _____ Zip/Postal Code: _____
Country: _____
Telephone: _____

List of other addresses and telephone numbers attached

2. Positions held in submitting business and starting date of each (check all applicable)

President	<u>06/01/1995</u>	Treasurer	_____
Chairman of Board	_____	Shareholder	_____
Chief Exec. Officer	<u>06/01/1995</u>	Secretary	_____
Chief Financial Officer	_____	Partner	_____
Vice President	_____		
(Other)	_____		

3. Do you have an equity interest in the business submitting the questionnaire?

YES ☒ NO ☐ If Yes, provide details.

I am the sole majority owner of the shares of stock (94%) of the corporation submitting the application, i.e. Carlton on the Park, Ltd.

4. Are there any outstanding loans, guarantees or any other form of security or lease or any other type of contribution made in whole or in part between you and the business submitting the questionnaire?

YES ☒ NO ☐ If Yes, provide details.

As owner and principal of the corporation, I guarantee all loans from lending institutions, and have done so since 1995. In addition, I regularly loan money to the corporation from my personal funds in order to operate the corporation, purchase equipment, and the like. All bank loans of the corporation are current and none have been defaulted upon.

5. Within the past 3 years, have you been a principal owner or officer of any business or notfor-profit organization other than the one submitting the questionnaire?

YES ☒ NO ☐ If Yes, provide details.

Principal of the Law Offices of Anthony A. Capetola (for the last over 48 years); previous 50% owner, officer and director of the Milleridge Inn and related corporations, all involving the operation of the Milleridge Inn, Milleridge Village, Milleridge Cotrtage, all located in Jericho, New York; Havana's Cigar Club of Nassau County, Ltd.

6. Has any governmental entity awarded any contracts to a business or organization listed in Section 5 in the past 3 years while you were a principal owner or officer?

YES ☐ NO ☒ If Yes, provide details.

NOTE: An affirmative answer is required below whether the sanction arose automatically, by operation of law, or as a result of any action taken by a government agency. Provide a detailed response to all questions checked "YES". If you need more space, photocopy the appropriate page and attach it to the questionnaire.

7. In the past (5) years, have you and/or any affiliated businesses or not-for-profit organizations listed in Section 5 in which you have been a principal owner or officer:

- a. Been debarred by any government agency from entering into contracts with that agency?

YES ☐ NO ☒ If yes, provide an explanation of the circumstances and corrective action taken.

- b. Been declared in default and/or terminated for cause on any contract, and/or had any contracts cancelled for cause?

YES ☐ NO ☒ If yes, provide an explanation of the circumstances and corrective action taken.

- c. Been denied the award of a contract and/or the opportunity to bid on a contract, including, but not limited to, failure to meet pre-qualification standards?

YES ☐ NO ☒ If yes, provide an explanation of the circumstances and corrective action taken.

- d. Been suspended by any government agency from entering into any contract with it; and/or is any action pending that could formally debar or otherwise affect such business's ability to bid or propose on contract?

YES ☐ NO ☒ If yes, provide an explanation of the circumstances and corrective action taken.

8. Have any of the businesses or organizations listed in response to Question 5 filed a bankruptcy petition and/or been the subject of involuntary bankruptcy proceedings during the past 7 years, and/or for any portion of the last 7 year period, been in a state of bankruptcy as a result of bankruptcy proceedings initiated more than 7 years ago and/or is any such business now the subject of any pending bankruptcy proceedings, whenever initiated?

YES ☐ NO ☒ If 'Yes', provide details for each such instance. (Provide a detailed response to all questions check "Yes". If you need more space, photocopy the appropriate page and attached it to the questionnaire.)

9. a. Is there any felony charge pending against you?

YES ☐ NO ☒ If yes, provide an explanation of the circumstances and corrective action taken.

- b. Is there any misdemeanor charge pending against you?

YES ☐ NO ☒ If yes, provide an explanation of the circumstances and corrective action taken.

- c. Is there any administrative charge pending against you?

YES ☐ NO ☒ If yes, provide an explanation of the circumstances and corrective action taken.

- d. In the past 10 years, have you been convicted, after trial or by plea, of any felony, or of any other crime, an element of which relates to truthfulness or the underlying facts of which related to the conduct of business? Y

YES ☐ NO ☒ If yes, provide an explanation of the circumstances and corrective action taken.

- e. In the past 5 years, have you been convicted, after trial or by plea, of a misdemeanor?

YES ☐ NO ☒ If yes, provide an explanation of the circumstances and corrective action taken.

- f. In the past 5 years, have you been found in violation of any administrative or statutory charges?

YES ☐ NO ☒ If yes, provide an explanation of the circumstances and corrective action taken.

10. In addition to the information provided in response to the previous questions, in the past 5 years, have you been the subject of a criminal investigation and/or a civil anti-trust investigation by any federal, state or local prosecuting or investigative agency and/or the subject of an investigation where such investigation was related to activities performed at, for, or on behalf of the submitting business entity and/or an affiliated business listed in response to Question 5?

YES ☐ NO ☒ If yes, provide an explanation of the circumstances and corrective action taken.

11. In addition to the information provided, in the past 5 years has any business or organization listed in response to Question 5, been the subject of a criminal investigation and/or a civil anti-trust investigation and/or any other type of investigation by any government agency, including but not limited to federal, state, and local regulatory agencies while you were a principal owner or officer?

YES ☐ NO ☒ If yes, provide an explanation of the circumstances and corrective action taken.

12. In the past 5 years, have you or this business, or any other affiliated business listed in response to Question 5 had any sanction imposed as a result of judicial or administrative proceedings with respect to any professional license held?

YES ☐ NO ☒ If yes, provide an explanation of the circumstances and corrective action taken.

13. For the past 5 tax years, have you failed to file any required tax returns or failed to pay any applicable federal, state or local taxes or other assessed charges, including but not limited to water and sewer charges?

YES ☐ NO ☒ If yes, provide an explanation of the circumstances and corrective action taken.

I, Anthony A. Capetola, hereby acknowledge that a materially false statement willfully or fraudulently made in connection with this form may result in rendering the submitting business entity and/or any affiliated entities non-responsible, and, in addition, may subject me to criminal charges.

I, Anthony A. Capetola, hereby certify that I have read and understand all the items contained in this form; that I supplied full and complete answers to each item therein to the best of my knowledge, information and belief; that I will notify the County in writing of any change in circumstances occurring after the submission of this form; and that all information supplied by me is true to the best of my knowledge, information and belief. I understand that the County will rely on the information supplied in this form as additional inducement to enter into a contract with the submitting business entity.

CERTIFICATION

A MATERIALLY FALSE STATEMENT WILLFULLY OR FRAUDULENTLY MADE IN CONNECTION WITH THIS QUESTIONNAIRE MAY RESULT IN RENDERING THE SUBMITTING BUSINESS ENTITY NOT RESPONSIBLE WITH RESPECT TO THE PRESENT BID OR FUTURE BIDS, AND, IN ADDITION, MAY SUBJECT THE PERSON MAKING THE FALSE STATEMENT TO CRIMINAL CHARGES.

Carlton on the Park, Ltd.

Name of submitting business

Electronically signed and certified at the date and time indicated by:

Anthony A. Capetola [ANTHONYACAPETOLA@AOL.COM]

President and Chief Executive Officer

Title

01/18/2021 03:37:21 PM

Date

COUNTY OF NASSAU

CONSULTANT'S, CONTRACTOR'S AND VENDOR'S DISCLOSURE FORM

1. Name of the Entity: Carlton on the Park, LTD

Address: 2C Hillside Avenue

City: Williston Park State/Province/Territory: NY Zip/Postal Code: 11596

Country: US

2. Entity's Vendor Identification Number: 113268502

3. Type of Business: Closely Held Corp (specify) _____

4. List names and addresses of all principals; that is, all individuals serving on the Board of Directors or comparable body, all partners and limited partners, all corporate officers, all parties of Joint Ventures, and all members and officers of limited liability companies (attach additional sheets if necessary):

No principals have been attached to this form.

5. List names and addresses of all shareholders, members, or partners of the firm. If the shareholder is not an individual, list the individual shareholders/partners/members. If a Publicly held Corporation, include a copy of the 10K in lieu of completing this section.

If none, explain.

No shareholders, members, or partners have been attached to this form.

6. List all affiliated and related companies and their relationship to the firm entered on line 1. above (if none, enter "None"). Attach a separate disclosure form for each affiliated or subsidiary company that may take part in the performance of this contract. Such disclosure shall be updated to include affiliated or subsidiary companies not previously disclosed that participate in the performance of the contract.

None

7. List all lobbyists whose services were utilized at any stage in this matter (i.e., pre-bid, bid, post-bid, etc.). If none, enter "None." The term "lobbyist" means any and every person or organization retained, employed or designated by any client to influence - or promote a matter before - Nassau County, its agencies, boards, commissions, department heads, legislators or committees, including but not limited to the Open Space and Parks Advisory Committee and Planning Commission. Such matters include, but are not limited to, requests for proposals, development or improvement of real property subject to County regulation, procurements. The term "lobbyist" does not include any officer, director, trustee, employee, counsel or agent of the County of Nassau, or State of New York, when discharging his or her official duties.

Are there lobbyists involved in this matter?

YES ☐ NO ☒

(a) Name, title, business address and telephone number of lobbyist(s):

(b) Describe lobbying activity of each lobbyist. See below for a complete description of lobbying activities.

(c) List whether and where the person/organization is registered as a lobbyist (e.g., Nassau County, New York State):

8. VERIFICATION: This section must be signed by a principal of the consultant, contractor or Vendor authorized as a signatory of the firm for the purpose of executing Contracts.

The undersigned affirms and so swears that he/she has read and understood the foregoing statements and they are, to his/her knowledge, true and accurate.

Electronically signed and certified at the date and time indicated by:

Anthony A. Capetola [ANTHONYACAPETOLA@AOL.COM]

Dated: 01/12/2021 12:11:16 PM

Title: President and Chief Executive Officer

The term lobbying shall mean any attempt to influence: any determination made by the Nassau County Legislature, or any member thereof, with respect to the introduction, passage, defeat, or substance of any local legislation or resolution; any determination by the County Executive to support, oppose, approve or disapprove any local legislation or resolution, whether or not such legislation has been introduced in the County Legislature; any determination by an elected County official or an officer or employee of the County with respect to the procurement of goods, services or construction, including the preparation of contract specifications, including by not limited to the preparation of requests for proposals, or solicitation, award or administration of a contract or with respect to the solicitation, award or administration of a grant, loan, or agreement involving the disbursement of public monies; any determination made by the County Executive, County Legislature, or by the County of Nassau, its agencies, boards, commissions, department heads or committees, including but not limited to the Open Space and Parks Advisory Committee, the Planning Commission, with respect to the zoning, use, development or improvement of real property subject to County regulation, or any agencies, boards, commissions, department heads or committees with respect to requests for proposals, bidding, procurement or contracting for services for the County; any determination made by an elected county official or an officer or employee of the county with respect to the terms of the acquisition or disposition by the county of any interest in real property, with respect to a license or permit for the use of real property of or by the county, or with respect to a franchise, concession or revocable consent; the proposal, adoption, amendment or rejection by an agency of any rule having the force and effect of law; the decision to hold, timing or outcome of any rate making proceeding before an agency; the agenda or any determination of a board or commission; any determination regarding the calendaring or scope of any legislature oversight hearing; the issuance, repeal, modification or substance of a County Executive Order; or any determination made by an elected county official or an officer or employee of the county to support or oppose any state or federal legislation, rule or regulation, including any determination made to support or oppose that is contingent on any amendment of such legislation, rule or regulation, whether or not such legislation has been formally introduced and whether or not such rule or regulation has been formally proposed.

Anthony A. Capetola
2C Hillside Avenue
Williston Park, New York 11596

AMENDMENT NO. 2 TO LICENSE AGREEMENT

THIS AMENDMENT (this "Amendment") to the License Agreement (the "Original Agreement") dated as of January 1, 2013 and the Amendment ("Amendment No. 1") dated April 29, 2015 (collectively the "Agreement"), is entered into as of the date last executed by the parties, by and between the County of Nassau, a municipal corporation having its principal offices at 1550 Franklin Avenue, Mineola, NY 11501 (the "County"), acting on behalf of the County Department of Parks, Recreation and Museums, having its principal office at the Administration Building, Eisenhower Park, East Meadow, NY 11554 (the "Department"), as licensor, and Carlton on the Park LTD, having its principal office at Two Hillside Avenue, Building C, Williston Park, New York 11596 ("Licensee").

WITNESSETH:

WHEREAS, pursuant to that certain Stipulation of Settlement dated February 28, 2013 (the "Stipulation"), So Ordered by the Honorable Thomas A. Adams on April 8, 2013 in the action entitled "Carlton on the Park LTD v. Howard S. Weitzman, *et al.*" (Nassau County Supreme Court: Index No. 8035/10), the County and Licensee entered into the Agreement to clarify certain rights and responsibilities and resolve disputes arising under the prior license agreement dated as of July 24, 1995, as amended, with respect to Licensee's operation of the food and beverage services concession at Eisenhower Park in East Meadow consisting of the Carlton Clubhouse, the Palm Court Restaurant, the Patio, the Wine Cellar, Havana's Cigar Club, the Grand Ballroom, and all other rooms located within the building, as well as the parking facilities and all roadway area adjacent to the building (collectively, the "Licensed Premises") (The Stipulation, the Original Agreement, and Amendment No. 1 are attached hereto as Exhibits "A" "B" and "C," respectively); and

WHEREAS, Amendment No. 1, dated April 29, 2015 (attached hereto as Exhibit "C"), exercised the two (2) year option to extend the term of the Agreement through December 31, 2021; and

WHEREAS, the Department issued RFP PK0819-1953 on August 19, 2019, for the provision of restaurant and catering services at the restaurant located in Eisenhower Park; and

WHEREAS, all restaurants and catering businesses were closed by Executive Order on March 22, 2020; and

WHEREAS, prior to an award recommendation by the Selection Committee, as a result of the continued shutdown and uncertainty ahead respecting the restaurant and catering industry, each proposer withdrew their proposal; and

WHEREAS, due to the severe restrictions placed on restaurant and catering establishments, Licensee does not generate income sufficient to continue the payments required under the terms of the Agreement; and

WHEREAS, the County and Licensee now desire to amend the Agreement as set forth herein to extend the term to continue operations at the Premises during the uncertain financial future of the restaurant and catering business due to the COVID-19 pandemic and address other issues as described herein.

NOW, THEREFORE, in consideration of the foregoing and the mutual covenants contained in this Amendment, and for other good and valuable consideration the receipt and sufficiency of which are hereby acknowledged, the parties hereto hereby agree as follows:

1. Defined Terms. All capitalized terms used herein but not otherwise defined herein shall have the respective meanings ascribed to such terms in the Agreement.

2. Amendment of Section 2.1. Section 2.1 of the Agreement is hereby amended by adding Section 2.1(b):

2.1(b) Licensee shall provide food and beverage services from the Carlton restaurant for arriving golfers, including services such as breakfast (i.e. egg sandwiches, coffee, juice, etc.), and "19th hole" experiences during and/or after rounds (including seating areas, food and beverage services) for the Eisenhower Golf facility; provide catering for golf outings; and serve as the food and beverage concessionaire for the Eisenhower Park golf courses, including food and beverage cart services, and operating the concession stands located on each golf course. License payments shall be made pursuant to Section 4.1 and Exhibit A of the Agreement, as modified by this Amendment.

3. Amendment of ARTICLE III. (a) Section 3.1 of the Agreement is hereby amended and restated in its entirety as follows:

The Term is extended through September 30, 2023, with a one-year option to extend the Term, upon the mutual consent of the parties and subject to the approval of the Nassau County Rules Committee, so long as Licensee is current in all of its contractual obligations.

(b) The Agreement is hereby amended by adding the following new Section 3.8:

3.8 Licensee Assistance upon Termination. In connection with the termination or impending termination of this Agreement the Licensee shall, regardless of the reason for termination, take all actions reasonably requested by the County (including those set forth in other provisions of this Agreement) to assist the County in transitioning the Licensee's responsibilities under this Agreement. The provisions of this subsection shall survive the termination of this Agreement.

4. Amendment of Article IV and Exhibit A. Section 4.1 and Exhibit A of the Agreement is hereby amended as follows:

(a) Licensee shall pay a required minimum monthly payment of Six Thousand Six Hundred Forty-Four and 37/100 Dollars (\$6,644.37) commencing March 1, 2020 through

November 30, 2020 and a payment for December 2021 in the amount of Six Thousand Six Hundred Forty-Four and 44/100 Dollars (\$6,644.44).

(b) Commencing January 1, 2021, the required minimum monthly payment, as stated in Schedule A of the Agreement, shall be suspended until the condition stated in sub-section "d" of this section is satisfied. Licensee shall pay the Gross Percentage Fees, as listed in Schedule A of the Agreement, as the License Fee, until such time the condition stated in sub-section "d" of this section is satisfied. The Gross Receipts Percentage Fee shall be paid monthly and accompany the Gross Receipts Reports required in Section 4.3 of the Agreement.

(c) The County shall apply the Paycheck Protection Funds (\$124,000.00) received from Licensee to the re-stated monthly minimum payments totaling Sixty-Six Thousand Four Hundred Forty-Three and 77/100 Dollars (\$66,443.77) and the second, third and fourth quarter utilities payments of Fifty-Seven Thousand Five Hundred Fifty-Six and 23/100 Dollars (\$57,556.23.).

(d) The payment obligations under Section 4.1 and Exhibit A of the Agreement will resume one hundred eighty (180) days following New York State's authorization for restaurants and caterers to operate at one hundred percent (100%) capacity.

5. Amendment of Section 6. Section 6 of the Agreement is hereby amended by the addition of a new Section 6.4:

6.4 The utility payment obligations for the first and second quarters of 2021 shall be deferred until June 30, 2022. Licensee shall pay the said utilities in the amount of Thirty-Eight Thousand Six Hundred Forty-Eight and 14/100 Dollars (\$38,648.14), no later than June 30, 2021. The failure of Licensee to comply with this sub-section shall constitute a material breach of the Agreement, authorizing the County to terminate this License on one (1) days' notice pursuant to Section 3.3(b) of the Agreement.

6. Addition of Article XXXVIII. The Agreement is hereby amended by adding the following new Article XXXVIII (REPAYMENT):

38.1 Licensee shall pay arrears in the amount of One Hundred Forty-Two Thousand Nine Hundred Eight and 09/100 Dollars (\$142,908.09), no later than March 31, 2021. The failure of Licensee to comply with this sub-section shall constitute a material breach of the Agreement, authorizing the County to terminate this License on one (1) days' notice pursuant to Section 3.3(b) of the Agreement. Anthony A. Capetola, principal of Licensee, shall simultaneously execute a guarantee for the payment of these arrears.

7. Amendment of Section 21.1. Section 21.1 is hereby amended to include the following subsections:

(e) Prohibition of Gifts. In accordance with County Executive Order 2-2018, the District shall not offer, give, or agree to give anything of value to any County employee, agent, consultant, construction manager, or other

person or firm representing the County (a "County Representative"), including members of a County Representative's immediate family, in connection with the performance by such County Representative of duties involving transactions with the District on behalf of the County, whether such duties are related to this Agreement or any other County contract or matter. As used herein, "anything of value" shall include, but not be limited to, meals, holiday gifts, holiday baskets, gift cards, tickets to golf outings, tickets to sporting events, currency of any kind, or any other gifts, gratuities, favorable opportunities or preferences. For purposes of this subsection, an immediate family member shall include a spouse, child, parent, or sibling. The District shall include the provisions of this subsection in each subcontract entered into under this Agreement.

(f) Disclosure of Conflicts of Interest. In accordance with County Executive Order 2-2018, the District has disclosed as part of its response to the County's Business History Form, or other disclosure form(s), any and all instances where the District employs any spouse, child, or parent of a County employee of the agency or department that contracted or procured the goods and/or services described under this Agreement. The District shall have a continuing obligation, as circumstances arise, to update this disclosure throughout the term of this Agreement.

(g) Vendor Code of Ethics. By executing this Agreement, the Contractor hereby certifies and covenants that:

- (i) The Contractor has been provided a copy of the Nassau County Vendor Code of Ethics issued on June 5, 2019, as may be amended from time to time (the "Vendor Code of Ethics"), and will comply with all of its provisions;
- (ii) All of the Contractor's Participating Employees, as such term is defined in the Vendor Code of Ethics (the "Participating Employees"), have been provided a copy of the Vendor Code of Ethics prior to their participation in the underlying procurement;
- (iii) All Participating Employees have completed the acknowledgment required by the Vendor Code of Ethics;
- (iv) The Contractor will retain all of the signed Participating Employee acknowledgements for the period it is required to retain other records pertinent to performance under this Agreement;
- (v) The Contractor will continue to distribute the Vendor Code of Ethics, obtain signed Participating Employee acknowledgments as new Participating Employees are added or changed during the term of this Agreement, and retain such signed acknowledgments for the period the Contractor is required to retain other records pertinent to performance under this Agreement; and
- (vi) The Contractor has obtained the certifications required by the Vendor Code of Ethics from any subcontractors or other lower tier

participants who have participated in procurements for work performed under this Agreement.

8. Except as expressly amended hereby, the Agreement and the Stipulation, and all rights and obligations of the County and Licensee thereunder, shall remain in full force and effect. This Amendment shall not, except as expressly provided herein, constitute a waiver, amendment or modification of, or consent under, any other term or condition in the Stipulation or the Agreement, and the parties hereto expressly reaffirm all of their respective obligations under the Stipulation and the Agreement, as amended hereby.


9. This Amendment shall be governed by the laws of the State of New York (regardless of the laws that might otherwise govern under applicable principles of conflicts of law) as to all matters, including, but not limited to, matters of validity, construction, effect, performance and remedies.

10. This Amendment may be executed in counterparts, each of which shall be deemed an original, but both of which together shall constitute one and the same instrument.

[Signature Page Follows]

IN WITNESS WHEREOF, the parties hereto have executed this Amendment as of the date last executed by the parties.

CARLTUN ON THE PARK LTD.

By: 
Name: _____
Title: PRESIDENT

NASSAU COUNTY

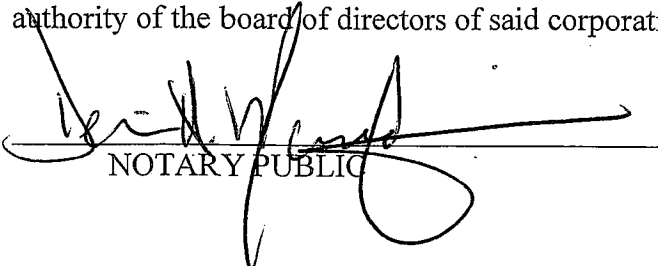
By: _____
Name: _____
Title: _____

[PLEASE EXECUTE IN BLUE INK]

)ss.:

On the 11TH day of January in the year 2021 before me personally came Anthony A. Capetola to me personally known, who, being by me duly sworn, did depose and say that he or she resides in the County of Nassau; that he or she is the President of Carthun on the Park Ltd., the corporation described herein and which executed the above instrument; and that he or she signed his or her name thereto by authority of the board of directors of said corporation.

authority of the board of directors of said corporation



NOTARY PUBLIC

)ss.:

On the ____ day of _____ in the year 20__ before me personally came _____ to me personally known, who, being by me duly sworn, did depose and say that he or she resides in the County of _____; that he or she is a Deputy County Executive of the County of Nassau, the municipal corporation described herein and which executed the above instrument; and that he or she signed his or her name thereto.

7

EXHIBIT A
STIPULATION OF SETTLEMENT

(A)

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF NASSAU

-----X
CARLTUN ON THE PARK LTD.,

Index No. 8035/10

Plaintiff,

STIPULATION OF
SETTLEMENT

* against *

HOWARD S. WEITZMAN, Individually and as
Comptroller of the County of Nassau, THOMAS
SUOZZI, as County Executive of the County of Nassau,
ALINE KHATCHADOURIAN, Individually and as
Deputy Comptroller of the County of Nassau and
LISA S. TSIKOURAS, Individually and as Deputy Director
of Field Audit for the County of Nassau and the COUNTY
OF NASSAU,

Assigned Justice:

Defendants.
-----X

WHEREAS plaintiff commenced this action seeking damages against the
defendants claiming causes of action and damages as alleged in the verified complaint
(the "Complaint") dated April 26, 2010; and

WHEREAS the defendant, County of Nassau (the "County"), asserted
counterclaims against the plaintiff by service of an amended answer dated May 28, 2010
(the "Answer with Counterclaims"); and

WHEREAS the plaintiff either sought to or did assert additional claims against
the defendants by the service of an amended complaint dated June 21, 2010 (the
"Amended Complaint"); and

WHEREAS the parties hereto, recognizing among other things the expenses and
costs of litigation, desire to settle this action and its subject matters, without any findings
of wrongdoing or of liability against any party hereto; and

WHEREAS, the plaintiff has asserted additional financial claims in excess of \$250,000 by reason of its claim that the defendant, County of Nassau has failed to provide electrical service on multiple occasions since the inception of the within lawsuit, as provided for by the existing lease/license between the parties; it is

STIPULATED AND AGREED that since no party is an infant, incompetent person for whom a committee has been appointed or conservatee and no person not a party to this action has an interest in the subject matter or the action, it is agreed by the attorneys for the parties hereto as follows:

1. The County will provide the plaintiff with a release of all claims asserted in Answer with Counterclaims or for any such claims that were or could have been asserted arising from either the 1995 License Agreement or the 2003 License Agreement, which are the subjects of this action, for any claims arising prior to the execution of this stipulation.

2. The plaintiff will provide general releases of any claim arising prior to the execution of this stipulation of any claim, asserted or unasserted, known or unknown running to the benefit of the defendants, HOWARD S. WEITZMAN, Individually and as Comptroller of the County of Nassau, THOMAS SUOZZI, as County Executive of the County of Nassau, ALINE KHATCHADOURIAN, Individually and as Deputy Comptroller of the County of Nassau and LISA S. TSIKOURAS, Individually and as Deputy Director of Field Audit for the County of Nassau.

3. The plaintiff will provide the County with a release of all claims asserted in the Complaint and Amended Complaint or for any such claims that were or could have been asserted arising from either the 1995 License Agreement or the 2003 License

Agreement, which are the subjects of this action, for any claims arising prior to the execution of this stipulation.

4. Plaintiff agrees to pay the County the sum of Three Hundred Eighty-One Thousand Four Hundred Fifty-Six (\$381,456.00) Dollars.

5. Defendant, County of Nassau wishes to be absolved from their further responsibility or liability for the interruption of electrical service to plaintiff's facility at Eisenhower Park and accordingly, after careful study concludes that permitting plaintiff to install a generator(s) at the facility to provide for emergency service shall be the best way of accomplishing same. Accordingly, the County shall give Plaintiff an allowance for the installation of same to the extent of \$550,000 and thereafter the County shall be absolved from any further cost, present or future liability for providing electrical service during any power blackouts or interruption except that the County shall continue to provide regular electrical service as is currently provided. The plaintiff, in turn, shall abandon, waive and withdraw all claims against Defendant, County of Nassau, by reason of its failure to provide electrical service for all occasions through and including the date of this Agreement.

6. The Plaintiff will waive its exclusivity clause and has no objection or cause to object to the current operation of the snack bar located adjacent to the cart barn of Dover Caterers. The County agrees that said operation shall not be expanded beyond its current level of service.

7. All rents or payments therefore, shall be adjusted in accordance with this Agreement.


8. If the payments specified in paragraph 4 of this Stipulation are not received as required, all amounts yet to be paid will become immediately and the County may enter judgment in Nassau County pursuant to CPLR 3118, for the amounts remaining to be paid pursuant to this stipulation.

9. The parties agree to a License Agreement signed simultaneously herewith, amending and extending the current Agreement between the parties, further defining the rights of the parties under this Stipulation.

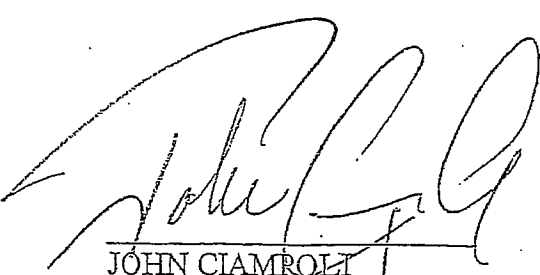
10. All rents will be current and paid or adjusted within 90 days of the date of this Agreement.

11. This action and any claims that were or could have been asserted are hereby discontinued with prejudice and without costs to any of the parties. This stipulation, once executed, may be filed by any of the parties without notice to the others.

Dated: Mineola, New York
February 28, 2013



ANTHONY A. CAPETOLA
Attorney for Plaintiff
Two Hillside Avenue
Building C
Williston Park, New York 11596
(516) 746-2300



JOHN CIAMPOLI
Nassau County Attorney
Attorney for Defendants
1 West Street
Mineola, New York 11501
(516) 571-3056

EXHIBIT B
LICENSE AGREEMENT DATED AS OF JANUARY 1, 2013

This LICENSE AGREEMENT, amending all prior agreements between the parties, ("License" or "Agreement" or "License Agreement") made as of this /⁵ day of January 2013, between the County of Nassau, a municipal corporation having its principal office at 1550 Franklin Avenue, Mineola, NY 11501 (the "County") acting by and through the Department of Parks, Recreation & Museums having its principal office at Administration Building, Eisenhower Park, East Meadow, New York 11554 ("Parks"), and Carltun on the Park LTD having its principal office at Two Hillside Avenue Building C, Williston Park, NY 11596 ("Licensee").

WHEREAS, Parks, pursuant to Section 2165 of the County Charter, has jurisdiction over parklands of the County of Nassau and facilities therein;

WHEREAS, Parks desires to provide for the operation of the Licensed Premises as a concession for the accommodation, enjoyment and convenience of the public;

WHEREAS, Licensee desires to operate and manage the Licensed Premises in accordance with the terms set forth herein; and

WHEREAS, Parks and Licensee desire to enter into this License Agreement specifying rights and obligations with respect to the operation and maintenance of the Licensed Premises; and

WHEREAS in order to clarify the terms of the prior agreements and consolidate those agreements into one document, this License Agreement modifies all prior agreements and entirely replaces and supercedes all existing agreements regarding the Licensed Premises as such term is herein defined.

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

I. DEFINITIONS

1.1. As used throughout this License Agreement, the following terms shall have the meanings set forth below:

- (a) "County" shall mean the County of Nassau, its departments and political subdivisions.
- (b) "Commissioner" shall mean the Commissioner of the Nassau County Department of Parks, Recreation & Museums or his/her successor (as identified by the County) and his/her designee.
- (c) "Comptroller" shall mean the Comptroller of the County of Nassau.
- (d) "DPW" shall mean the Nassau County Department of Public Works.
- (e) "Expendable Equipment" or "Personal Equipment" shall mean all equipment, other than Fixed Equipment, provided by the Licensee.
- (f) "Fixed Equipment" shall mean any property affixed in any way to Licensed Premises, whether or not removal of said equipment would damage the Licensed Premises.

- (i) "Additional Fixed Equipment" shall mean Fixed Equipment affixed to the Licensed Premises subsequent to the date of execution of this License.
- (ii) "Fixed and Additional Fixed Equipment" shall refer to Fixed Equipment and Additional Fixed Equipment jointly and severally.

(g) "Year" or "Operating Year" shall both refer to the period between the Commencement Date in any calendar year and the day before the anniversary of the Commencement Date in the following calendar year.

(h) "Licensed Premises" shall mean the existing food services concession premises located at Eisenhower Park in East Meadow consisting of the Carlton Clubhouse, the Palm Court Restaurant, the Patio, the Wine Cellar, Havana's Private Cigar Club, the Grand Ballroom, all other rooms located within the building, the parking facilities and all roadway area adjacent to the building.

(i) "Gross Receipts" shall include, without limitation, all funds received by, or accruing to, Licensee, without deduction or set-off of any kind, from all revenue producing activities as may be specifically allowed hereunder or approved by Parks, and directly related to and derived from Licensee's activities at the Licensed Premises provided that Gross Receipts shall exclude: (a) the amount of any Gratuities and federal, state or local sales taxes which may now or hereafter be imposed upon or be required to be collected and paid by the Licensee as against its revenues; and (b) deposits actually refunded for cancelled events. Gross Receipts shall include all funds received for orders placed with Licensee or made outside or away from the Licensed Premises for services to be rendered at the Licensed Premises. All sales made or services rendered by Licensee from the Licensed Premises shall be construed as made and completed therein even though payment therefore may be made at some other place and although delivery of services rendered from Licensed Premises may be made at a location other than at the Licensed Premises. Funds received for sales made or services rendered that neither occur at the Licensed Premises nor are the result of services rendered from the Licensed Premises are excluded from Gross Receipts.

For purposes of this subsection:

(a) With respect to non-catered restaurant services, a "Gratuity" shall mean a customer payment that: (i) is specifically designated or otherwise indicated by the customer as a gratuity, or purports to be a gratuity, and (ii) Licensee receives and pays over in total to its employees who are primarily engaged in the serving of food or beverage to guests, patrons or customers, including, but not limited to, wait staff, bartenders, captains, bussing personnel and similar staff who are paid a cash wage as a "food service worker" pursuant to NY Labor Law §652(4). Licensee shall provide documentation reasonably satisfactory to Parks to prove that Gratuities were paid to employees in addition to their Regular Salaries, and were otherwise in accordance with the foregoing

provisions. Such documentation shall be signed and verified by an officer of Licensee.

(b) With respect to catered events, a "Gratuity" shall be an amount no greater than 22% of the catering food and beverage sales for the event, provided that such Gratuity is a charge that: (i) is separately stated on the bill or invoice given to Licensee's customer, (ii) is specifically designated as a gratuity, or purports to be a gratuity, and (iii) is paid over by Licensee in total to its employees who actually provide services at the event, and who are primarily engaged in the serving of food or beverages to guests, patrons or customers, including, but not limited to, wait staff, bartenders, captains, bussing personnel, and similar staff. "Regular Salary" for purposes of subsections (a) and (b) shall mean the set hourly wage for the applicable employee. Licensee shall provide documentation reasonably satisfactory to Parks to prove that Gratuities were paid to employees in addition to their Regular Salaries, and were otherwise in accordance with the foregoing provisions. Such documentation shall be signed and verified by an officer of Licensee. Party service charges, tips and gratuities are to be reported in the monthly gross receipts but are not subject to the applicable percentage fee rate.

(ii) Gross Receipts shall also include all sales made by any other operator or operators using the Licensed Premises under a properly authorized sublicense or subcontract agreement with Licensee as provided in Section 17 herein, and shall include Licensee's income from rental and sublicense or subcontracting fees and commissions ("Commissions") received by Licensee in connection with all services provided by Licensee's subcontractors or sub-licensees, or instructors functioning as independent Licensees at the Licensed Premises.

(iii) Gross Receipts shall include sales made for cash, debit or credit (debit and credit sales shall be included in gross receipts as of the date of the sale), it being the distinct intention and agreement of the parties that all sums paid to Licensee from all sources from the operation of this License shall be included in Gross Receipts. A four (4) percent deduction from Gross Receipts is allowed for credit card sales. Licensee may not however deduct or exclude from Gross Receipts any other commissions paid to credit card companies, to collection agencies, or to other outside parties engaged to assist in the collection of accounts receivable.

II. GRANT OF LICENSE

2.1 (a) County hereby grants to Licensee, and Licensee hereby accepts from County, throughout the Term (including during the off-season, as applicable) an exclusive

License to operate the existing food services concession premises located at Eisenhower Park in East Meadow consisting of the Carltun Clubhouse, The Palm Court Restaurant, The Patio, The Wine Cellar, Havana's Private Cigar Club, The Grand Ballroom and other rooms located within the building.

- 2.2 Licensee shall obtain any and all approvals, permits, and other licenses required by federal, state, town, village and county laws, rules, regulations and orders which are or may become necessary to lawfully operate the Licensed Premises in accordance with the terms of the License and submit copies of same to County. Whenever any act, consent, approval or permission is required of the County or Parks under this License, the same shall be valid only if it is in writing and signed by a duly authorized representative of Parks.
- 2.3 It is expressly understood that no land, building, space, improvement, or equipment is leased to Licensee, but that during the Term of the License, Licensee shall have the use of the Licensed Property only so long as Licensee is in compliance with each and every term and condition in this License and so long as this License is not terminated by the County.
- 2.4 The Food and Beverage Concessions granted herein pertain solely to the Licensed Premises.

III. TERM OF LICENSE

- 3.1 This modified and consolidated License term shall commence on January 1, 2013 (the "Commencement Date") and, unless terminated earlier as herein provided, shall terminate on December 31, 2019 (the "Term"), with an option to extend the Term for an additional period of two (2) years upon the reasonable mutual agreement of the Licensee and the County.
- 3.2 Termination for Convenience by Parks. As required by the Doctrine of Park Alienation as applied by the courts of the State of New York, notwithstanding any language contained herein, this License is terminable at will by the County in its sole and absolute discretion, at any time, which termination shall not be exercised in an arbitrary or capricious manner. Such termination shall be effective thirty (30) days after written notice is sent to Licensee. Parks, the County, its employees and agents shall not be liable for damages to Licensee in the event that this License is terminated by Parks as provided for herein. In the event such notice is not given, this License shall terminate as described in Sections 3.1 and 3.3 of this agreement.
- 3.3 Termination for Cause. Parks may terminate this License for cause as follows:
 - (a) Should Licensee breach or fail to comply with any of the provisions of this License, any federal, state or local law, rule, regulation or order affecting the License or the Licensed Premises with regard to any and all matters, County may in writing order Licensee to remedy such breach or comply with such provision.

law, rule, regulation or order, and in the event that Licensee fails to comply with such written notice within thirty (30) days from the receipt thereof, subject to unavoidable delays beyond the reasonable control of Licensee, then this License shall immediately terminate. If said breach or failure to comply is corrected, and a repeated violation of the same provision, law, rule, regulation or order follows thereafter, County, by notice in writing, may revoke and terminate this License, such revocation and termination to be immediately effective on the mailing thereof.

(b) The following shall constitute events of default for which this License may be terminated on one-day notice: (i) appointment of any receiver of Licensee's assets; (ii) the making of a general assignment for the benefit of creditor's; (iii) the occurrence of any act which operates to deprive Licensee permanently of the rights, powers, and privileges necessary for the proper conduct and operation of the License; (iv) the levy of any attachment or execution which substantially interferes with Licensee's operations under this License and which attachment or execution is not vacated, dismissed, stayed or set aside within a period of sixty days; (v) should Licensee be the subject of any proceeding under which all or any part of its assets may be subject to seizure, forfeiture or divestiture; and/or (vi) should any principal of Licensee be convicted of a crime involving moral turpitude. Nothing contained in paragraphs (a) or (b) above shall be deemed to imply or to be construed to represent an exclusive enumeration of circumstances under which County may terminate this License.

- 3.4 Upon expiration or sooner termination of this License by County, all rights of Licensee herein shall be forfeited without claim for loss, damages, refund of investment or any other payment whatsoever against the County, or Parks. In the event that this License is terminated by the County pursuant to Paragraph 3.2, Licensee shall be reimbursed, within ninety (90) days, for Capital Improvements actually completed, as reasonably determined by the County pursuant to paragraph 9.3, less an authorized basis of ten percent (10%) of the total value of such Capital Improvements for each year from the commencement date of this License.
- 3.5 In the event County terminates this License for reasons related to Paragraphs 3.3 (a) or (b) above, any property of the Licensee on the Licensed Premises may be held and used by County in order to operate the concessions at the Licensed Premises during the balance of the calendar year and may be held and used thereafter until the indebtedness of the Licensee hereunder, at the time of termination of this License is paid in full.
- 3.6 Licensee agrees that upon the expiration or sooner termination of this License, it shall immediately cease all operations pursuant to this License and shall vacate the Licensed Premises without any further notice by County and without resort to any judicial proceeding by the County. Upon the expiration or sooner termination of this License, County reserves the right to take immediate possession of the Premises.

- 3.7 Licensee shall, on or prior to the expiration or sooner termination of this License, remove all personal possessions from the Premises. Licensee acknowledges that any personal property remaining on the Premises after the expiration or sooner termination of this License is intended by Licensee to be abandoned. Licensee shall remain liable to the County for any damages; including lost revenues and the cost of removal or disposal of property should Licensee fail to remove all possessions from the premises on or before the expiration or termination date.
- 3.8 No receipt of moneys by Parks from Licensee after the termination of this License Agreement, or after the giving of any notice of the termination of this License Agreement, shall reinstate, continue or extend the Term or affect any notice theretofore given to Licensee, or operate as a waiver of the right of Parks to enforce the payment of fees payable by Licensee hereunder or thereafter falling due, or operate as a waiver of the right of Parks to recover possession of the Licensed Premises by proper remedy. After the service of notice to terminate this License Agreement or the commencement of any suit or summary proceedings or after a final order or judgment for the possession of the Licensed Premises, Parks may demand, receive and collect any moneys due or thereafter falling due without in any manner affecting the notice, proceeding, order, suit or judgment, all such moneys collected being deemed payments on account of the use and occupation of the Licensed Premises or, at the election of Parks, on account of Licensee's liability hereunder.

IV. PAYMENT TO COUNTY

- 4.1 Licensee shall make license fee payments (the "License Fees") to the County for each Operating Year. The License Fee payment amounts shall be determined as set forth in Schedule A attached hereto, and shall be due and payable on the twentieth (20th) day of each and every month during the Term. See also Schedule .B
- 4.2 Late charges shall be assessed on any payment that is overdue for more than fifteen (15) days. In the event that payment of License Fees, percentage fees or other charges shall become overdue for fifteen (15) days following the date on which such fees are due and payable as provided in this License Agreement, a late charge of \$100.00 per month on overdue fee payments shall become immediately due and payable to the County. Said late charges shall be payable by Licensee without notice or demand. If such fee(s) and all arrearages (including late charges) are not paid in full by the fifteenth (15th) day of the month following the month in which it shall be due, or is already past due, an additional charge of \$100.00 for each overdue payment shall be added thereto and shall be payable and collectable with the next monthly license fee installment. Failure to abide by the terms of this Article shall be presumed to be a failure to substantially comply with the terms, conditions and covenants of this License Agreement and shall be a default hereunder. No failure by Parks to bill Licensee for late charges shall constitute a waiver by Parks of such late charges or his/her right to enforce the provisions of this Article. If any local, state or federal law or regulation which limits the rate of interest which can be charged pursuant to this Article is enacted.

the rate of interest set forth in this Article shall not exceed the maximum rate permitted under such law or regulation.

- 4.3 (a) On or before the twentieth (20th) day following each month of each Operating Year, Licensee shall submit to Parks, in a form reasonably satisfactory to Parks, a statement of Gross Receipts, signed and verified by an officer of Licensee, reporting any Gross Receipts generated under the License Agreement during the preceding month. Licensee shall also submit a summary report of Gross Receipts for each Operating Year within thirty days (30) of the end of each Operating Year of this License. The yearly report shall be for reporting purposes only. Each of the reports referenced in each preceding two sentences shall report the Gross Receipts generated at the Licensed Premises in the following categories: Snack Bars, Mobile Trucks, Vending Machines, Special Events, Catering and Corporate Picnics, along with all other sources of revenue realized from the Licensee's operation of the Licensed Premises.
- (b) Licensee shall include the amount of sales tax on its statement of Gross Receipts.
- 4.4 On or before the thirtieth (30th) day following Each Operating Year, Licensee shall submit to Parks an income and expense statement pertaining to operations under this License, signed and verified by an officer of Licensee and a member of a Certified Professional Accounting firm.
- 4.5 Accounting Procedures: Records. The Licensee shall maintain and retain, for a period of six (6) years following the later of termination of or final payment under this Agreement, complete and accurate records, documents, accounts and other evidence, whether maintained electronically or manually ("Records"), pertinent to performance under this Agreement. Records shall be maintained in accordance with Generally Accepted Accounting Principles and, if the Licensee is a non-profit entity, must comply with the accounting guidelines set forth in the federal Office of Management & Budget Circular A-122, "Cost Principles for Non-Profit Organizations." Such Records shall at all times be available for audit and inspection by the Comptroller, Parks, any other governmental authority with jurisdiction over the provision of services hereunder and/or the payment therefore, and any of their duly designated representatives. The provisions of this Section shall survive the termination of this Agreement.
- 4.6 In the event Parks reasonably determines that Licensee or Licensee's employees, agents, sub-licensees, or subcontractors have breached any of the provisions contained in Section 4.1 through 4.4 hereinabove, Licensee will be charged \$500.00 with respect to each incident of breach, provided that Licensee has been given reasonable written notice of such breach and has failed to cure within thirty (30) days of such notice. Parks, in its own discretion, may elect to waive said charge.
- 4.7 The License Fees shall be made payable to the Treasurer of Nassau County and delivered or mailed in time to arrive by the due date at the following address:

Nassau County Department of Parks, Recreation & Museums
Administration Building, Eisenhower Park
East Meadow, NY 11554

- 4.8 (a) At the County's discretion, the Licensee may be required to execute a performance bond in the amount of \$250,000.00. As an alternative to a performance bond, Licensee may, in its sole discretion, instead submit to the County a security deposit (the "Security Deposit") in the amount of \$250,000 as security for the faithful performance of this License Agreement, with the understanding that the whole or any part thereof may be used by County to remedy any deficiency that may arise from any default on the part of Licensee. This \$250,000 Security Deposit shall remain in effect for the life of this License Agreement and shall be held by the County, without liability for the County to pay interest thereon or any obligation to place or to keep cash deposited hereunder in interest-bearing bank accounts.
- (b) If any fees or other charges or sums payable by Licensee to the County shall be overdue and unpaid or should the County make payments on behalf of the Licensee, or should the Licensee fail to perform any of the terms of this License, then Parks may, at its option, and without prejudice to any other remedy which the County may have on account thereof, after five (5) days' notice, appropriate and apply the Security Deposit or as much thereof as may be necessary or make a claim under any bond posted by it hereunder to compensate the County toward the payment of License fees, late charges, liquidated damages or other sums due from the Licensee or towards any loss, damage or expense sustained by the County resulting from such default on the part of Licensee. In such event, the Licensee shall restore the Security Deposit to the original sum deposited within five (5) business days after written demand therefor. In the event Licensee shall fully and faithfully comply with all of the terms, covenants and conditions of this License and pay all License fees and other charges and sums payable by Licensee to the County, the Security Deposit shall be returned to Licensee upon the surrender of the Licensed Premises by the Licensee in compliance with the provisions of this License.
- 4.9 Licensee is solely responsible for the payment of all federal, state and local taxes applicable to the operation of the Licensed Premises. With the exception of federal, state and County sales tax, pursuant to Section 1.1(i) (i) of this License Agreement, no such applicable taxes may be deducted from Gross Receipts or from the compensation due under this License.

V. RIGHT TO AUDIT

- 5.1 Parks, the Comptroller and other duly authorized representatives of the County shall have the right, during business hours, after giving the Licensee twenty four (24) hours advanced written notice, to examine or audit Licensee's Records to verify Gross Receipts as reported by the Licensee. Notwithstanding the

requirement for twenty-four (24) hour advance notice with respect to access to the Licensee's Records for the purpose of audit; Parks, the Comptroller or other duly authorized County representative reserves the right to conduct, and Licensee hereby permits, periodic "spot" inspections of the Licensed Premises at any time during business hours for the purpose of inspecting any equipment used by Licensee, including, but not limited to, cash registers and recording machines, and all reports or data generated from or by the equipment and to include health code and regulatory inspections, maintenance inspections and quality assurance inspections. Licensee shall cooperate fully and assist Parks, the Comptroller or other duly authorized representatives of the County in any inspection, examination or audit thereof. In the event that the Licensee's Records, including supporting documentation, are situated at a location fifty (50) miles or more from the County, the Records must be brought to the County for examination and audit or Licensee must pay food, board and travel costs incidental to two (2) auditors conducting such examination or audit at said location.

- 5.2 The failure or refusal of the Licensee to permit Parks, the Comptroller, or their designees to audit and examine the Licensee's Records or otherwise conduct an inspection of the type referred to herein, or the interference in any way by the Licensee in such an audit, examination, or inspection, is presumed to be a failure to substantially comply with the terms and conditions of this License and a default hereunder which shall entitle Parks to terminate this License.
- 5.3 The failure or refusal of the Licensee to furnish any of the statements required to be furnished under this Agreement within thirty (30) days of its due date, the failure or refusal of the Licensee to maintain adequate internal controls or to keep any of the records as reasonably required by this Agreement or the existence of any unexplained discrepancy in the amount of fees required to be due and paid hereunder, as disclosed by audit conducted by Parks or the Comptroller, of more than five (5) percent in any two out of three consecutive months or more than ten (10) percent in one month, shall be presumed to be a failure to substantially comply with the terms and conditions of this License and a default hereunder, which shall entitle Parks, at its option, to terminate this License. In addition, the failure or refusal of Licensee to furnish the required statements, to keep the required records or to maintain adequate internal controls shall authorize Parks or the Comptroller to make reasonable projections of the amount of Gross Receipts which would have been disclosed had the required statements been furnished or the required records maintained, based upon such extrinsic factors as the auditors deem appropriate in making such projections. Licensee shall pay any assessment based upon such reasonable projections within fifteen (15) days after receipt thereof, and the failure to do so shall constitute an additional substantial violation of this License and a default hereunder.

VI. UTILITIES

- 6.1 County shall install or cause to be installed and maintained at its sole cost and expense all utility lines, service lines, conduits, meters, pipes, and supplies of

power (excluding generators) necessary for the proper operation of this License. County will be required to remove any unsuitable existing materials, as required. The County does not make representation or warranty that existing cables, lines, meters, or supplies of power are adequate for Licensee's needs, or that any entity can or will make such service available. Licensee shall not install any additional heating or air conditioning equipment without the prior written approval of the County. Any structure constructed by Licensee for its exclusive use shall be separately metered for utility usage, and all utility costs incurred thereat shall be paid by Licensee.

- 6.2 County shall, at its sole cost and expense, pay all utility costs incurred under this License Agreement throughout the Term hereof in the operation of the License Premises. Utilities, as described in this License Agreement, may include, but shall not be limited to, electricity, gas, heat, coolant, telephone, water and sewer charges.
- 6.3 The licensee will pay the annul sum of \$ 70,000.00 for utilities (gas, electricity, water, heat) payable quarterly and to be adjusted annually on August 1st of each year based on the CPI index for December of the prior year. The starting year for the CPI adjustment is 2013.

VII. INFLAMMABLES

- 7.1 Except for properly stored gasoline, or as otherwise agreed to in writing by County or Parks, Licensee shall not use or permit the storage of any illuminating oils, oil lamps, turpentine, benzene, naphtha, or similar substances or explosives of any kind or any substances or items prohibited in the standard policies of insurance companies in the State of New York.

VIII. OPERATIONS

- 8.1 (a) Licensee, at its sole cost and expense, shall operate this License for the benefit of the public. Licensee shall maintain and operate the Licensed Premises in an exceptionally attractive, first class, safe, sanitary and inviting manner at all times, and in such further manner as Parks shall prescribe and as permitted by the laws, rules, regulations and orders of government agencies having jurisdiction. Licensee accepts the Licensed Premises in their "as-is" condition and shall obtain necessary permits and approvals related to all operations at the Licensed Premises. Licensee shall perform such ongoing and preventive maintenance activities necessary to maintain the Licensed Premises in good order and repair, and consistent with prevailing, professional and industry or trade standards. Licensee shall provide the necessary number of personnel having the requisite skills together with the necessary personal equipment and consumable supplies to properly operate the Licenses Premises. All sales will be limited to tobacco products, food items and beverages only. No other items may be sold, except as provided within this License Agreement.

- 8.2 (a) Licensee shall provide an adequate number of staff members possessing the requisite qualifications to conduct all its operations at the Licensed Premises six (6) days a week for such hours as Parks shall reasonably approve. With prior approval from Parks, Licensee may close that portion of the Premises that requires either renovation or repair. Licensee's employees at the Licensed Premises shall be qualified for their respective functions, clean, courteous, helpful, and neat in appearances at all times, and shall be made to wear appropriate uniforms, subject to approval of Parks. Parks reserves the right to discipline, retrain, or replace any employee whose conduct or appearance is unprofessional and/or inconsistent with the reasonable standards of Parks.
- (b) Consistent with Local Law 14-2003, and prior to the commencement of services, the Licensee shall ensure that all current and prospective personnel who, in carrying out the License, will have unsupervised or regular and substantial contact with minors are fingerprinted by the Nassau County Police Department. Where the criminal history record of any personnel reveals a conviction of a felony or crime of moral turpitude, the Licensee shall, upon notice from the County, remove such personnel from duties involving unsupervised or regular and substantial contact with minors. Within ten (10) business days of making any changes that involve adding or removing personnel who have unsupervised or regular and substantial contact with minors, the Licensee shall notify the County, in writing, that such addition or removal has occurred, and the basis for such addition or removal. Failure to comply with a lawful order of the County to remove personnel from duty shall constitute a material breach of the contract.
- (c) Licensee shall be responsible for the recruitment and screening of appropriate personnel and verification of credentials, references and suitability for working with the public, including children. At a minimum, Licensee shall comply with guidelines and procedures of Parks provided to Licensee in writing, including the following:
- i. Licensee shall be responsible for screening of all personnel, including substantiating credentials and reference checks. In addition, Licensee shall check each prospective personnel against the Statewide Sexual Offenders Registry.
 - ii. Licensee agrees not to hire or retain any personnel who refuse to: provide the names of references; provide documentation of credentials; provide information on criminal conviction records; or provide any other requested information that bears on the applicant's fitness to work with or in close proximity to the public, including children.
 - iii. Licensee agrees not to hire or retain any personnel who have not completely and truthfully reported information concerning their criminal convictions: whose criminal convictions record directly bears on their

fitness to work with or in close proximity to the public, including children, or whose employment would involve an unreasonable risk to the safety or welfare of the public, including children, subject to and consistent with Article 23-A of the New York State Correction Law; or who have been the alleged perpetrator of an indicated child abuse and maltreatment report on file with the State Central Registry, or are the alleged perpetrator in an ongoing investigation pursuant to a child abuse and maltreatment report on file with the Registry.

- 8.3 Parks may make use of the Licensed Premises as provided in Section 9 herein.
- 8.4 Licensee shall, at its sole cost and expense, obtain all licenses and permits that may be required to operate the Licensed Premises in accordance with applicable rules, laws and regulations. Licensee shall at all times operate the Licensed Premises in accordance with the provisions of any Certificates of Occupancy. Licensee may not occupy the premises until any existing violations are cured and the Fire Marshall's approval is obtained.
- 8.5 Licensee shall submit to Parks for prior approval, not less than sixty (60) days before the first day of each Operating Year, schedules for the coming Operating Year concerning operating days and hours, and proposed schedule of prices and rates for the services and products to be provided under the License during the forthcoming Operating Year, including a proposed menu and prices showing all food and beverage items to be sold by Licensee. All schedules are subject to the reasonable approval of Parks. Following approval of such schedules, Licensee shall, at its sole cost and expense, print, frame, and prominently display in a place and manner designated by Parks, the current approved schedule of operating days, hours, fees and rates, and public safety rules pertaining to the operations of the facility. Any change in such approved hours and fees during the course of an Operating Year must receive prior approval from Parks in writing.
- 8.6 (a) Licensee shall record contemporaneously all transactions involved in the operation of this License on New York State tested, non-resettable, cash registers and vending machine meters, and shall keep Records as required by Section 4 and as deemed acceptable by the County. In the event that any future Federal, State, or County law requires County vendors to provide real time auditable software or other cash register, Licensee shall comply with such law. All registers or other point of sale systems shall be equipped with tamper proof totalizers provided at the sole cost of Licensee. Throughout the Term, Licensee shall work with the County to monitor and evaluate Licensee's cash registers to maintain their accuracy.
- (b) No reset of cumulative cash register readings shall be permitted or performed by Licensee. All keys for reset purposes shall be turned over to Parks. If a cash register or point of sale system must be repaired, or otherwise removed from the Licensed Premises, Licensee shall allow for the readings to be recorded and verified by Parks personnel both before the equipment leaves and when it re-

enters the Licensed Premises. Parks reserves the right to audit register or point of sale readings at any time.

(c) In the event that sales are conducted without operable cash registers or without following the procedure specified in the above paragraphs 8.6(a) and (b), a penalty of \$150 per day will be assessed by and is immediately payable to Parks. Parks, in its own discretion, may elect to waive said charge. A persistent pattern of inoperable registers or failure to follow the above procedures consistently may, at the sole discretion of Parks, be cause for termination of this License.

- 8.7 Licensee warrants that all services provided, and all food, beverages, or other items sold, pursuant to this License shall be of high grade and good quality. Licensee shall operate in such a manner as to maintain a very high health inspection rating.

The Licensee shall personally operate this License or employ an operations manager ("Manager") possessing appropriate qualifications to manage operations at the Licensed Premises in a manner that is satisfactory to Parks. The Manager must be available by telephone during all hours of operation, and Licensee shall provide the Parks with a telephone number at which Parks may contact the Manager directly in the event of an emergency. Licensee shall replace any Manager, employee, subcontractor or subcontractor whenever reasonably demanded by Parks.

- 8.9 Licensee shall provide equipment which will provide security for all monies received. Licensee shall provide for the transfer of all monies collected to Licensee's banking institution. Licensee shall bear the loss of any lost, stolen, misappropriated or counterfeit monies derived from operations under this License.

- 8.10 Licensee shall, at its sole cost and expense, use its best efforts to recruit personnel from the communities immediately surrounding the Licensed Premises, and provide, hire, train, supervise, and be responsible for the acts of all personnel necessary for the proper operation of this License, including, but not limited to:

- (a) Collecting and safeguarding all monies generated under this License;
- (b) Maintaining the Licensed Premises;
- (c) Conducting and supervising all activities to be engaged in at the Licensed Premises.
- (d) Securing the Licensed Premises.

- 8.11 Licensee shall provide access to disabled members of the public at any facilities which are newly constructed or reconstructed by Licensee at the Licensed Premises. The accessibility shall be clearly indicated by signs and included in all advertising by Licensee. Licensee shall include in its advertising and promotion program a plan that describes how it intends to make available programs, services and activities at the Licensed Premises readily accessible and useable by individuals with disabilities. Such plan shall provide for compliance with the

applicable provisions of the American with Disabilities Act ("ADA") and any similarly applicable laws.

- 8.12 Licensee shall, at its sole cost and expense, provide any lighting, music, music programming, and sound equipment which Licensee determines may be necessary for its operation under this License, subject to approval by Parks. Licensee shall operate and play such sound equipment and music only at a sound level acceptable to Parks. Licensee shall be responsible for payment of any and all fees or royalties to ASCAP, BMI, or such entity as they may require for such music or music programming. Licensee shall not have any outdoor, amplified music without the Commissioner's prior written approval, on a time schedule approved by the Commissioner.
- 8.13 Licensee shall promptly notify the Commissioner of accidents or unusual incidents occurring at the Licensed Premises. Such notice, including documents filed with any County, law enforcement, or insurance agencies, shall also be provided in writing within twenty-four (24) hours of the discovery of such accident or occurrence. Such accidents or incidents shall include, without limitation, damage to person or property, fire, flood, and casualty. Licensee shall also designate a person to handle all such claims, including all claims for loss or damage including all insured claims for loss or damage pertaining to the operation of the Licensed Premises, and Licensee shall notify the Commissioner in writing as to said person's name and address.
- 8.14 Licensee shall cooperate with Parks in providing use of the Licensed Premises without charge for programs conducted by or arranged for by Parks pursuant to Section IX herein. Parks shall consult with Licensee in an effort to schedule such events at times mutually agreeable to Licensee and to Parks, with the final decision to be reasonably made by Parks. Fees paid for food service provided to the County shall be discounted and not included in the calculation of Gross Receipts.
- 8.15 The Licensee will be required to pay the prevailing wage rate as published by the New York State Department of Labor, if applicable, and comply with all applicable New York State Labor laws and local labor laws, including, but not limited to, Local Law 1998.
- 8.16 Any sign posted by the Licensee at the Licensed Premises, or any advertisement used in connection with such facility, shall be subject to the prior written approval of Parks, which approval shall not be unreasonably withheld, shall be appropriately located, and shall state that the Licensed Premises is a Nassau County municipal concession operated by the Licensee.
- 8.17 Licensee shall, at its sole cost and expense, post throughout the Licensed Premises such signs as may be necessary to direct patrons to its services and facilities. Said signs shall indicate the schedule of hours of operation. It is expressly understood that if Licensee contemplates placing any sign off-site, such as on nearby highways or streets, it shall be Licensee's responsibility to obtain any necessary

approvals or permits from any governmental agency having jurisdiction over such highways, streets or locations. The design and content of all such signs are subject to Parks prior approval, which approval shall not be unreasonably withheld.

- 8.18 The County reserves for its sole benefit all other rights to the Licensed Premises, including, but not limited to, intellectual property rights, the right to issue permits, and the right to retain revenues derived from other sources not specifically granted to Licensee.
- 8.19 Licensee shall assume all risk in the operation of this License Agreement and agrees to comply with all Federal, State and Local regulations and all rules, regulations and ordinances of Nassau County affecting said premises in regard to all matters, and especially in the sale of, use of and storage of foodstuffs, beverages and tobacco and the limitation of parts of the premises to special uses or for the use of special classes of patrons and to indemnify and hold said County, Parks, and their agents, officers and employees harmless from any claims arising out of any violation of any law, ordinance or regulation.
- 8.21 The County reserves the right to inspect, at anytime, in order to insure that the operator maintains the facility and equipment in a clean and sanitary manner, and Licensee shall provide, at all times, free access to the Licensed Premises to Parks or its representatives and to other County, State or Federal officials having jurisdiction, for inspection purposes.
- 8.22 The Licensee will be responsible for all maintenance of the facility and equipment. Licensee shall obtain and pay for appropriate service licenses to keep the facility, including the maintenance equipment, HVAC system if any, and any other major operational systems in good working order, or shall provide necessary maintenance staff for such purpose. Licensee shall follow manufacturers recommended maintenance schedule for all equipment.
- 8.23 Deliveries of supplies and equipment to the Licensed Premises by commercial vehicle shall be scheduled and coordinated by Licensee so as not to conflict with Parks' operations at the Licensed Premises.
- 8.24 Licensee will not be authorized to sell, lease, license, market or otherwise offer so called "naming rights" and "sponsorship rights" to the Licensed Premises. The County specifically reserves all such rights.

IX. RESERVATION FOR PARKS SPECIAL EVENTS

Parks agrees to use its reasonable efforts to notify Licensee at least thirty (30) days in advance of any Special Events. It is expressly understood that this Section 9 shall in no way limit Parks right to itself sponsor or promote Special Events, as defined herein, at the Licensed Premises. Commissioner represents to Licensee that he has not granted to any other person or entity any license, permit,

or right of possession or use which would prevent Licensee in any way from performing its obligations and realizing its rights under this License, except as otherwise disclosed herein.

X. MAINTENANCE, SANITATION, AND REPAIRS

- 10.1 Licensee shall, at its sole cost and expense and to the satisfaction of the County, put, keep, repair and preserve in good order all non-structural interior and exterior components of the Licensed Premises, including, without limitation, all mechanical and electrical systems. Licensee shall also be responsible for structural repairs caused by its negligence or willful misconduct. Licensee shall at all times keep the Licensed Premises clean, neat and with respect to the food and beverage service operations, fumigated, disinfected, deodorized and in every respect sanitary. Licensee shall provide regular cleaning and maintenance services for the Licensed Premises, up to and including the perimeter of the Licensed Premises. Licensee shall repair and maintain in good working order and replace when necessary any and all equipment installed at the Licensed Premises necessary for the proper operation of this License. Notwithstanding the above, nothing herein shall be construed to require Licensee to remove, repair or replace the septic system, septic tank, septic or leeching fields, or any part thereof that at any time during the License period. The sole responsibility with regard to the septic system, tank or fields shall be with the County. Licensee shall promptly notify the Commissioner of any problem or malfunction regarding the same, and the County shall within thirty (30) days of said notification, take reasonable steps to remedy said problem at the County's sole cost and expense. Licensee shall provide equipment maintenance contracts, or directly provide maintenance services reasonably deemed by Parks to be equivalent to service contracts for the equipment on the Licensed Premises. Licensee shall adhere to the maintenance schedules recommended by the manufacturer for all mechanical systems and equipment.
- 10.2 Licensee shall maintain the Licensed Premises to the satisfaction of the County. Licensee shall perform such maintenance in a good and worker-like manner.
- 10.3 No later than thirty (30) days before the end of each Operating Year, Licensee shall conduct a site inspection at the Licensed Premises with a representative of Parks. Such inspection shall assess the condition of the Licensed Premises and all fixed equipment therein, and determine the nature and extent of repairs performed by Licensee. In addition, Parks may perform site inspections at random.
- 10.4 Licensee shall provide covered waste receptacles at the Licensed Premises within fifty (50) feet of all facilities (excluding vending machines) operated by Licensee. All waste, garbage, refuse, rubbish, and litter ("Trash") which collects upon the Licensed Premises and within fifty (50) feet of all facilities (excluding vending machines) operated by Licensee without regard to its sources, shall be daily

collected, recycled if necessary, bagged and placed in an area designated by County for County pick-up at the County's sole cost and expense, or when County dumpsters are provided, empty said receptacles into those containers. Conversely, all Trash generated at the Licensed Premises during Licensee sponsored Special Events shall be collected and removed by Licensee at its sole cost and expense. Licensee shall not bring in any off-site waste, garbage, refuse, rubbish, and litter for disposal at the Licensed Premises, and waste receptacles shall be kept clean. In performing its duties under this section, Licensee shall comply with all applicable ordinances and programs of the Village, Town, County, State and Federal governments. Subject to the provisions stated above, Licensee shall properly bundle and/or separate, as required, for pickup pursuant to Village, Town, County, State and Federal law, all corrugated cardboard, magazines and catalogs, newspapers, high-grade office paper and envelopes, computer paper, phone books, paper bags, cardboard boxes, pizza boxes, non-Styrofoam egg cartons, milk and juice cartons, aluminum products (including foil and trays), metal cans, plastic and glass bottles, detergent bottles, glass jars, milk jugs, metals (pans, irons), aerosol cans, wire hangars, and paint cans. These recyclables must be rinsed or rid of all food products, as necessary. Licensee shall provide appropriate colored receptacles to allow the public the opportunity to separate recyclable material from biodegradable waste resulting from sales made at the Licensed Premises.

At the expiration or sooner termination of this License, Licensee shall turn over the Licensed Premises to County in good condition, ordinary wear and tear excepted.

- 10.5 At its sole cost and expense, Licensee shall remove any and all graffiti that may appear on the buildings and structures on the Licensed Premises. Such graffiti removal shall be commenced within twenty-four (24) hours from the appearance of any such graffiti and shall continue until such graffiti is removed.
- 10.6 Licensee shall not use or permit the storage at the Licensed Premises of any hazardous substances or materials, including illuminating oils, oil lamps, turpentine, benzene, naphtha or other similar substances or explosives of any kind, or any substance or thing prohibited by the standard policies of fire insurance companies in the State of New York. Licensee shall properly handle, store, and use all fuel, including propane and associated tanks and equipment, in a manner that meets all applicable building and fire codes, rules, and regulations.

XI. IMPROVEMENT AND/OR CORRECTION IN OPERATIONS

- 11.1 Should the County reasonably decide that Licensee is not operating the Licensed Premises in a satisfactory manner, Parks may, in writing, mailed certified mail, return receipt requested, order Licensee to improve operations to acceptable standards or to correct such conditions, as County may reasonably deem appropriate. In the event that Licensee fails to comply with such written notice or respond in a manner satisfactory to Parks within thirty (30) days from the receipt

of said notice, notwithstanding any other provision herein, then County may terminate this License.

- 11.2 Should County, in its sole judgment, decide that an unsafe or emergency condition exists on the Licensed Premises after written notification, Licensee shall have twenty-four (24) hours to correct such unsafe or emergency condition. If such unsafe or emergency condition cannot be corrected within said period of time, the Licensee shall notify the County in writing and indicate the period within such condition shall be corrected. County, in its sole discretion, may extend such period of time in order to permit Licensee to cure, under such terms and conditions as appropriate, or terminate this License.

XII. FIXED EQUIPMENT

- 12.1 Licensee shall, at its sole cost and expense and to the satisfaction of County, provide and replace if necessary all equipment necessary for the operation of this License, and put, keep, repair, preserve and maintain in good order all equipment found on, placed in, installed in or affixed to the Licensed Premises.
- 12.2 County has title to all Fixed Equipment. Licensee shall have the use of all Fixed Equipment located on the Licensed Premises.
- 12.3 Title to any Additional Fixed Equipment and to all construction, renovation, or improvements made to Licensed Premises, shall vest in and belong to the County at County's option, which option may be exercised at any time after the substantial completion of the affixing of said equipment or the substantial completion of such construction, renovation or improvement. To the extent the County chooses not to exercise such option it shall be the responsibility of Licensee to remove such items at its sole cost and expense after the termination of this License.
- 12.4 Licensee must acquire, replace, install or affix, at its sole cost and expense, any equipment materials, and supplies required for the proper operation of Licensed Premises as described herein or as reasonably required by County.

XIII. EXPENDABLE OR PERSONAL EQUIPMENT

- 13.1 Licensee shall supply at its own cost and expense all Expendable or Personal Equipment required for the proper operation of this License, and shall replace the same at its own cost and expense when requested by County.
- 13.2 Title to all Expendable or Personal Equipment provided by Licensee shall remain in Licensee and such equipment shall be removed by Licensee at the termination or expiration of this License, except as may be otherwise provided herein. Should any property remain in the Premises after such expiration or termination, the County shall notify the Licensee to remove such property within ten (10) days

from the date of such writing and, if Licensee should fail to remove such property, the County may deal with such as though same had been abandoned and charge all costs and expenses incurred in the removal thereof to the Licensee. The Licensee's obligation to observe and perform all the terms, covenants, and conditions of the agreement shall survive the expiration or other termination thereof. If Licensee's equipment is removed, the Licensee shall repair any damage caused to the Licensed Premises by said removal, to the reasonable satisfaction of the County.

- 13.3 The Equipment to be removed by Licensee pursuant to Section 13.2 above shall be removed from the Licensed Premises in such a way as shall cause no damage to the Licensed Premises. Notwithstanding its vacating and surrender of the Licensed Premises, Licensee shall remain liable to County for any damage it may have caused to the Licensed Premises beyond ordinary wear and tear.

XIV. EQUIPMENT AND CONDITION UPON SURRENDER

- 14.1 Notwithstanding the foregoing, at the expiration or sooner termination of this License, Licensee shall surrender the Licensed Premises, and the Fixed and Additional Fixed Equipment to which County holds title, in at least as good a condition as said Licensed Premises and the Fixed and Additional Fixed Equipment were found by Licensee, reasonable wear and tear excepted.
- 14.2 Licensee acknowledges that it is acquiring a license to use the Licensed Premises and Fixed Equipment thereon solely on reliance on its own investigation, that no representations, warranties or statements have been made by the County concerning the fitness thereof, and that by taking possession of the Licensed Premises and Fixed Equipment Licensee accepts them "as is" in their present condition.

XV. INTENTIONALLY OMITTED

XVI. INTENTIONALLY OMITTED

XVII. ASSIGNMENT, AMENDMENT, WAIVER, SUBCONTRACTING

- 17.1 This Agreement and the rights and obligations hereunder may not be in whole or part (i) assigned, transferred or disposed of, (ii) amended, (iii) waived, or (iv) subcontracted, without the prior written consent of the County Executive or his or her duly designated deputy (the "County Executive"), and any purported assignment, other disposal or modification without such prior written consent shall be null and void. The failure of a party to assert any of its rights under this Agreement, including the right to demand strict performance, shall not constitute a waiver of such rights.

- 17.2 It shall be a condition to the consent of the County Executive to any assignment or subcontract that the Person to or with whom or which such assignment or subcontract is made agrees in writing that, except as provided in the following sentence with respect to amounts payable by the County, such Person shall be bound by the terms and conditions of this Agreement as though an original party hereto. Unless the action being approved is an assignment of every right and obligation of the Licensee under this Agreement, (i) the Licensee shall remain responsible for the full performance of its obligations under this Agreement, and (ii) no amounts payable by the County under this Agreement shall be or become payable by the County to any Person other than the Licensee.

XVIII. ALTERATIONS

- 18.1 (a) "Alteration" shall mean (excepting ordinary repair and maintenance): any restoration (to original premises or in the event of fire or other cause), rehabilitation, modification, addition or improvement to Licensed Premises; or any work affecting the plumbing, heating, electrical, water, mechanical, ventilating or other systems of Licensed Premises.
- (b) Alterations shall become property of County upon their attachment, installation or affixing.
- (c) In order to Alter the Licensed Premises Licensee must: (i) Obtain County's written approval (which shall not be unreasonably withheld) for whatever designs, plans, specifications, cost estimates, agreements and contractual understandings that may pertain to contemplated purchases and/or work; (ii) Insure that work performed and alterations made on Licensed Premises are undertaken and completed in accordance with submissions approved pursuant to section (i) of this Article in a good and workmanlike manner, and within a reasonable time; and (iii) Notify County of the completion of, and the making final payment for, any alteration within ten (10) days after the occurrence of said completion or final payment.
- (d) County may, in its discretion, make repairs, alterations, decorations, additions or improvements to the Licensed Premises at the County's expense, but nothing herein shall be deemed to obligate or require the County to make any repairs, alterations, decorations, additions, or improvements, nor shall this provision in any way affect or impair Licensee's obligation herein in any respect. Any work performed by County will not interfere with Licensed activities under the License.
- 18.2 County reserves the right to perform construction or maintenance work in its discretion at the Licensed Premises at any time during the term of this License. Licensee agrees to cooperate with County, to accommodate any such work by County and provide public and construction access through the Licensed Premises as deemed necessary by Parks. County shall use its best efforts to give Licensee at least fourteen (14) days prior written notice of any such work, and not to

interfere substantially with Licensee's operation or use of the Licensed Premises. County may temporarily close a part or all of the Licensed Premises for County's purpose as determined by the County. In the event that Licensee must close the Licensed Premises for the purposes provided for in this License because of such Parks' construction, then Licensee may propose and submit for Parks approval a plan to equitably address the impact of the closure. Licensee shall be responsible for security of all of Licensee's property on the Licensed Premises at all times.

XIX. INDEPENDENT CONTRACTOR

- 19.1 The Licensee is an independent contractor of the County. The Licensee shall not, nor shall any officer, director, employee, servant, agent or independent contractor of the Licensee (a "Licensee Agent"), be (i) deemed a County employee, (ii) commit the County to any obligation, or (iii) hold itself, himself, or herself out as a County employee or Person with the authority to commit the County to any obligation. As used in this Agreement the word "Person" means any individual person, entity (including partnerships, corporations and limited liability companies), and government or political subdivision thereof (including agencies, bureaus, offices and departments thereof).

XX. NO ARREARS OR DEFAULT

- 20.1 The Licensee is not in arrears to the County upon any debt or contract, and it is not in default as surety, contractor, or otherwise upon any obligation to the County, including any obligation to pay taxes to, or perform services for or on behalf of, the County.

XXI. COMPLIANCE WITH LAW

- 21.1 Compliance With Law. (a) Generally, Licensee shall comply with any and all applicable Federal, State and local Laws, including those relating to a living wage, conflicts of interest, discrimination, and confidentiality, in connection with its performance under this Agreement. In furtherance of the foregoing, Licensee is bound by and shall comply with the terms of Appendices A and B attached hereto and hereby made a part hereof, and with the provisions of Local Law No. 9-2002 entitled "A Local Law to Require Apprenticeship Training Programs for County Licenses." As used in this Agreement the word "Law" includes any and all statutes, local laws, ordinances, rules, regulations, applicable orders, and/or decrees, as the same may be amended from time to time, enacted, or adopted.

(b) Personnel Screening. Consistent with Local Law 14-2003, and prior to the commencement of services, Licensee shall ensure that all current and prospective personnel who, in carrying out the contract, will have unsupervised or regular and substantial contact with minors, are fingerprinted by the Nassau County Police Department. Where the criminal history record of any personnel reveals a

conviction of a crime. Licensee shall, upon notice from the head of the department charged with administering the contract, remove such personnel from duties involving unsupervised or regular and substantial contact with minors. Within five (5) business days of making any changes that involve adding or removing personnel who have unsupervised or regular and substantial contact with minors, Licensee shall notify the Commissioner, in writing, that such addition or removal has occurred, and the basis for such addition or removal. Failure to comply with a lawful order of the County to remove personnel from duty shall constitute a material breach of the contract.

(c) Records Access. The parties agree that public access to records, documents and information produced under or as a result of this Agreement shall be controlled by applicable State and Federal laws concerning the disclosure of governmental records and/or information. In the event a party receives a request for disclosure of a record, document or information, reasonable efforts shall be used to notify the other party prior to disclosing the information in order to enable that party to take such action it deems appropriate. All information disclosed by Parks, in tangible form, which is clearly marked with a "CONFIDENTIAL", "PROPRIETARY", "RESTRICTED" or similar legend, shall be deemed and protected as confidential Parks information.

(d) Nassau County Living Wage Law. Pursuant to LL 1-2006, as amended, and to the extent that a waiver has not been obtained in accordance with such law or any rules of the County Executive, the Licensee agrees as follows:

(i) Licensee shall comply with the applicable requirements of the Living Wage Law, as amended.

(ii) Failure to comply with the Living Wage Law, as amended, may constitute a material breach of this Agreement, such breach being determined solely by the County. Licensee has the right to cure such breach within thirty days of receipt of notice of breach from the County. In the event that such breach is not timely cured, the County may terminate this Agreement as well as exercise any other rights available to the County under applicable law.

(iii) On a yearly basis, Licensee shall provide the County with any material changes to its Certificate of Compliance, attached to this Agreement as Appendix C.

XXII. MINIMUM SERVICE STANDARDS

22.1 Regardless of whether required by Law:

(a) The Licensee shall, and shall cause Licensee agents to, conduct its, his or her activities in connection with this Agreement so as not to endanger or harm any Person or property.

(b) The Licensee shall deliver services under this Agreement in a professional manner consistent with the best practices of the industry in which the Licensee operates. The Licensee shall take all actions necessary or appropriate to meet the obligation described in the immediately preceding sentence, including obtaining and maintaining, and causing all Licensee agents to obtain and maintain, all approvals, licenses, and certifications ("Approvals") necessary or appropriate in connection with this Agreement.

XXIII. INDEMNIFICATION, DEFENSE, COOPERATION

- 23.1 (a) The Licensee assumes all risk in its performance of all activities authorized by this License and shall be solely responsible for and shall indemnify and hold harmless the County, Parks, and its officers, employees, and agents (the "Indemnified Parties") from and against any and all liabilities, losses, costs, expenses (including, without limitation, attorneys' fees and disbursements) and damages ("Losses"), arising out of or in connection with any acts or omissions of the Licensee or a Licensee Agent, including, without limitation, Licensee's operations pursuant to this License, regardless of whether due to negligence, fault, or default, including Losses in connection with any threatened investigation, litigation or other proceeding or preparing a defense to or prosecuting the same, provided, however, that the Licensee shall not be liable for a Loss, if any, caused by the negligence of the County.
- (b) The Licensee shall, upon the County's demand and at the County's direction, promptly and diligently defend, at the Licensee's own risk and expense, any and all suits, actions, or proceedings which may be brought or instituted against one or more Indemnified Parties, and the Licensee shall pay and satisfy any judgment, decree, loss or settlement in connection therewith.
- (c) The Licensee shall, and shall cause Licensee agents to, cooperate with the County and Parks in connection with the investigation, defense or prosecution of any action, suit or proceeding.
- (d) The provisions of this Section shall survive the termination of this Agreement.

XXIV. INSURANCE

- 24.1 (a) Types and Amounts. The Licensee shall obtain and maintain throughout the term of this Agreement, at its own expense: (i) one or more policies for commercial general liability insurance, which policy(ies) shall name "Nassau County" as an additional insured and have a minimum single combined limit of liability of not less than five million dollars (\$5,000,000) per occurrence and ten million dollars (\$10,000,000) aggregate coverage. (ii) if contracting in whole or part to provide professional services, one or more policies for professional

liability insurance, which policy(ies) shall have a minimum single combined limit liability of not less than five million dollars (\$5,000,000) per occurrence and ten million dollars (\$10,000,000) aggregate coverage, (iii) compensation insurance for the benefit of the Licensee's employees ("Workers' Compensation Insurance"), which insurance is in compliance with the New York State Workers' Compensation Law, and (iv) such additional insurance, such as "Contractor's Liability Insurance" including Builder's All-Risk Insurance, as the County may from time to time specify.

(b) Acceptability; Deductibles; Subcontractors. All insurance obtained and maintained by the Licensee pursuant to this Agreement shall be (i) written by one or more commercial insurance carriers licensed to do business in New York State and reasonably acceptable to the County, and (ii) in form and substance reasonably acceptable to the County. The Licensee shall be solely responsible for the payment of all deductibles to which such policies are subject. The Licensee shall require any subcontractor hired in connection with this Agreement to carry insurance with the same limits and provisions required to be carried by the Licensee under this Agreement.

(c) Delivery; Coverage Change; No Inconsistent Action. Prior to the execution of this Agreement, copies of current certificates of insurance evidencing the insurance coverage required by this Agreement shall be delivered to Parks. Not less than thirty (30) days prior to the date of any expiration or renewal of, or actual, proposed or threatened reduction or cancellation of coverage under, any insurance required hereunder, the Licensee shall provide written notice to Parks of the same and deliver to Parks renewal or replacement certificates of insurance. The Licensee shall cause all insurance to remain in full force and effect throughout the term of this Agreement, and shall not take any action, or omit to take any action that would suspend or invalidate any of the required coverage's. The failure of the Licensee to maintain Workers' Compensation Insurance shall render this contract void and of no effect. The failure of the Licensee to maintain the other required coverage's shall be deemed a material breach of this Agreement, upon which the County reserves the right to consider this Agreement terminated as of the date of such failure.

XXV. LIMITATIONS ON ACTIONS AND SPECIAL PROCEEDINGS AGAINST THE COUNTY

25.1 No action or special proceeding shall lie or be prosecuted or maintained against the County upon any claims arising out of or in connection with this Agreement unless:

(a) Notice. At least thirty (30) days prior to seeking relief, the Licensee shall present the demand or claim(s) upon which such action or special proceeding is based in writing to the applicable Deputy County Executive ("Applicable DCE") for adjustment and the County shall have neglected or refused to make an adjustment or payment on the demand or claim for thirty (30) days after

presentment. The Licensee shall send or deliver copies of the documents presented to each of (i) Parks and the (ii) the County Attorney (at the address specified above for the County) on the same day that documents are sent or delivered to the Applicable DCE. The complaint or necessary moving papers of the Licensee shall allege that the above-described actions and inactions preceded the Licensee's action or special proceeding against the County.

(b) Time Limitation. Such action or special proceeding is commenced within the earlier of (i) one (1) year of the first to occur of (A) final payment under or the termination of this Agreement, and (B) the accrual of the cause of action, and (ii) the time specified in any other provision of this Agreement.

XXVI. CONSENT TO JURISDICTION AND VENUE; GOVERNING LAW

- 26.1 Unless otherwise specified in this Agreement or required by Law, all claims or actions with respect to this Agreement shall be resolved exclusively by a court of competent jurisdiction located in Nassau County in New York State, and the parties expressly waive any objections to the same on any grounds, including venue and forum non conveniens. This Agreement is intended as a contract under, and shall be governed and construed in accordance with, the Laws of New York State, without regard to the conflict of law's provisions thereof.

XXVII. NOTICES

- 27.1 Any notice, request, demand or other communication required to be given or made in connection with this Agreement shall be (a) in writing, (b) delivered or sent (i) by hand delivery, evidenced by a signed, dated receipt, (ii) postage prepaid via certified mail, return receipt requested, or (iii) overnight delivery via a nationally recognized courier service, (c) deemed given or made on the date the delivery receipt was signed by a County employee, three (3) business days after it is mailed or one (1) business day after it is released to a courier service, as applicable, and (d) (i) if to Parks, to the attention of Parks at the address specified above for Parks, (ii) if to an Applicable DCE, to the attention of the Applicable DCE (whose name Licensee shall obtain from Parks) at the address specified above for the County, (iii) if to the Comptroller, to the attention of the Comptroller at 240 Old Country Road, Mineola, NY 11501, and (iv) if to the Licensee, to the attention of the person who executed this Agreement on behalf of the Licensee at the address specified above for the Licensee, or in each case to such other persons or addresses as shall be designated by written notice.

XXVIII. ALL LEGAL PROVISIONS DEEMED INCLUDED; SEVERABILITY, SUPREMACY

- 28.1 (a) Every provision required by law to be inserted into or referenced by this Agreement is intended to be a part of this Agreement. If any such provision is not

inserted or referenced or is not inserted or referenced in correct form then (i) such provision shall be deemed inserted into or referenced by this Agreement for purposes of interpretation and (ii) upon the application of either party this Agreement shall be formally amended to comply strictly with the Law, without prejudice to the rights of either party.

(b) In the event that any provision of this Agreement shall be held to be invalid, illegal or unenforceable, the validity, legality and enforceability of the remaining provisions shall not in any way be affected or impaired thereby.

(c) Unless the application of this subsection will cause a provision required by law to be excluded from this Agreement, in the event of an actual conflict between the terms set forth above, the signature page to this Agreement and those contained in any schedule, exhibit, appendix, or attachment to this Agreement, the terms and conditions set forth above the signature page shall control. To the extent possible, all the terms of this Agreement should be read together as not conflicting.

(d) Each party has cooperated in the negotiation and preparation of this Agreement, so if any construction is made of the Agreement it shall not be construed against either party as drafter.

XXIX. SECTION AND OTHER HEADINGS

- 29.1 The section and other headings contained in this Agreement are for reference purposes only, and shall not affect the meaning or interpretation of this Agreement.

XXX. ENTIRE AGREEMENT

- 30.1 This Agreement represents the full and entire understanding and agreement between the parties with regard to the subject matter hereof, and supersedes all prior agreements (whether written or oral) of the parties relating to the subject matter of this Agreement. In the event of a conflict or ambiguity between any term of this Agreement above the signature page and any Exhibit, the Agreement above the signature page shall take precedence followed by the County RFP and then the Licensee's Proposal.

XXXI. EXECUTORY CLAUSE

- 31.1 Notwithstanding any other provision of this Agreement:

(a) Approval and Execution. The County shall have no liability under this Agreement (including any extension or other modification of this Agreement) to any Person unless (i) all County approvals have been obtained, including, if

required, approval by the County Legislature, and (ii) this Agreement has been executed by the County Executive (as defined in this Agreement).

(b) Availability of Funds. The County shall have no liability under this Agreement (including any extension or other modification of this Agreement) to any Person beyond funds appropriated or otherwise lawfully available for this Agreement, and, if any portion of the funds for this Agreement are from the state and/or federal governments, then beyond funds available to the County from the state and/or federal governments.

XXXII. WAIVER OF COMPENSATION

32.1 Unless arising from the County's willful or negligent conduct hereunder, Licensee hereby expressly waives any and all claims for compensation for any and all loss or damage sustained by reason of any defects, including, but not limited to, deficiency or impairment of the water supply system, gas mains, electrical apparatus or wires furnished for the Licensed Premises, or by reason of any loss of any gas supply, water supply, heat or current which may occur from time to time, or for any loss resulting from fire, water, windstorm, tornado, explosion, civil commotion, strike or riot, and Licensee hereby expressly releases and discharges Parks, its agents, and the County from any demands, claims, actions and causes of action arising from any of the causes aforesaid.

32.2 Except as provided in Section 3.4 hereof, Licensee further expressly waives any and all claims for compensation, loss, of profit, or refund of its investment, if any, or any other payment whatsoever, in the event this License is terminated by County.

XXXIII. WAIVER OF TRIAL BY JURY

33.1 Licensee hereby waives trial by jury in any action, proceeding, or counterclaim brought by the County against Licensee in any matter related to this License.

XXXIV. CONFLICT OF INTEREST

34.1 Licensee represents and warrants that neither it nor any of its directors, officers, members, partners or employees, has any interest, directly or indirectly which would or may conflict in any manner or degree with the performance or rendering of the services herein provided. Licensee further represents and warrants that in the performance of this License no person having such an interest or possible interest shall be employed by it. No elected official or other officer or employee of the County or Parks, nor any person whose salary is payable, in whole or part, from the County treasury, shall participate in any decision relating to this License which affects his/her personal interest or the interest of any corporation, partnership or association in which he/she is, directly or indirectly, interested nor

shall any such person have any interest, direct or indirect, in this License or in the proceeds thereof.

XXXV. PROCUREMENT OF AGREEMENT

35.1 Licensee represents and warrants that no person or selling agency has been employed or retained to solicit or secure this License upon an agreement or understanding for a commission, percentage, brokerage fee or any other compensation. Licensee further represents and warrants that no payment, gift or thing of value has been made, given, or promised to obtain this or any other agreement between the parties. Licensee makes such representation and warranties to induce the County to enter into this License and the County relies upon such representations and warranties in the execution hereof.

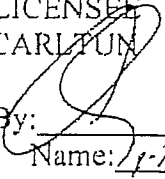
35.2 In the event of a breach or violation by Licensee of its representations or warranties made under Section 35.1 hereof, the County shall have the right to annul this License without liability to Licensee for any monies paid hereunder, if any.

XXXVI. JUDICIAL INTERPRETATION

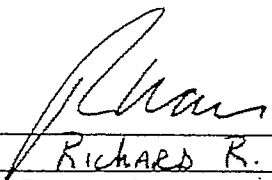
36.1 Should any provision of this License require judicial interpretation, it is agreed that the court interpreting or considering same shall not apply the presumption that the terms hereof shall be more strictly construed against a party by reason of the rule of conclusion that a document should be construed more strictly against the party who itself or through its agent prepared the same, it being agreed that all parties hereto have participated in the preparation of this License Agreement and that legal counsel was consulted by each responsible party before the execution of this License Agreement.

IN WITNESS WHEREOF, the Licensee and the County have executed this Agreement as of the date first above written.

LICENSEE
CARLTON

By: 
Name: J. INTANON, A. CAPEZOLI
Title: PRESIDENT
Date: 3/8/13

NASSAU COUNTY

By: 
Name: RICHARD R. WALKER
Title: Deputy County Executive
Date: 2/28/13

PLEASE EXECUTE IN BLUE INK

STATE OF NEW YORK)
) ss.:
COUNTY OF *NASSAU*)

On this 8 day of MARCH, in the year 2013, before me, the undersigned, a Notary Public in and for said State, personally appeared ANTHONY A. CAPECELA, personally known to me, or proved to me on the basis of satisfactory evidence to be the person whose name is subscribed to the within instrument, and acknowledged to me that he/she executed the same in his/her capacity, and that by his/her signature on the instrument, the person, or entity, upon behalf of which the person acted executed the instrument.

Donna DiStasio
Notary Public State of New York
NO.01DI4779184
Qualified in Queens County
Certified in NASSAU County
Commission Expires 03/30/2015

Donald A. Benge
Notary Public

STATE OF NEW YORK)
) ss.:
COUNTY OF)

On this 28 day of February, in the year 2013, before me, the undersigned, a Notary Public in and for said State, personally appeared Richard R. Walker, personally known who, being by me duly sworn, did depose and say that he or she resides in the County of NASSAU; that he or she is a Deputy County Executive of the County of Nassau, the municipal corporation described herein and which executed the above instrument; and that he or she signed his or her name thereto pursuant to Section 205 of the County Government Law of Nassau County.

~~SECRET~~

Doreen M. Ermecca
Notary Public

**SCHEDULE A
LICENSE FEE**

Throughout the Term hereof, Licensee shall pay to the County a License Fee in an annual aggregate amount equal:

a) Minimum rent as follows:

<u>Period</u>	<u>Amount per Annum</u>	<u>Amount per Month</u>
1/1/2013-12/31/2013	\$371,441.52	\$30,953.46

For each succeeding year the annual minimum rent shall be increased based on the consumer Price Index (C.P.I.) for December of the previous year and compounded annually thereafter.

b) In addition to the minimum rent an amount equal to the extent by which the following schedule of percent (%) of "Gross Receipt" made during any/every period hereof exceeds the minimum rent amount payment payable during such sales month:

<u>Period</u>	<u>Percentage of Gross Receipt</u>
1/1/2013-12/31/2021	18.5% (13% for services rendered to tax exempt entities)

The minimum monthly rent shall be payable on the 1st day of each and every month and the percentage fee shall be payable in monthly installments due on the 20th day of each and every month during the Term, and shall be determined based on the amount of Gross Receipts during the prior month.

{At the end of each year during the Term, Licensee and the County shall calculate and determine the total aggregate annual amount of Licensee Fee payments made hereunder during said year (the "Measured Year"), to determine if total License Fee payments have equaled or exceeded the Minimum License Fee Amount. To the extent said aggregate annual payments have been less than the Minimum License Fee Amount (the "Shortfall"); the amount of said Shortfall shall be due and payable on the next January 20th immediately following the end of said Measured Year.}

SCHEDULE B

Any and all fees to be paid and moneys required to be expended for capital improvements by Licensee under its existing license agreement with the County have been fully satisfied and offset by the costs and expenses paid by Licensee to repair and improve the Licensed Premises.

APPENDIX A

FACILITY REQUIREMENTS

1. Licensee shall construct and operate the facility and build out any approved capital improvements at their own cost and in compliance with all applicable laws, rules, codes and regulations. All areas are to provide handicapped access in compliance with any local, state or federal laws for people with disabilities if applicable. Licensee shall procure all vendors and shall be responsible for all costs to bring the facility to full operational status. These costs will include, but not be limited to, design, construction, permits, etc. All plans and specifications for all new construction and renovation must be submitted to the Commissioner of the Department of Parks, Recreation and Museums, and the Commissioner of the Department of Public Works, or their designees for formal approval prior to the commencement of any work. Three (3) sets of all construction documents are to be submitted for review and approval. The Licensee will pay the County a design review fee equal to 0.5% of the project value upon approval of the construction documents. Said fee shall be payable within thirty (30) days of acceptance of the bid and prior to commencement of construction. Licensee shall secure the site during the construction phase. The following Guidelines apply for any Capital Improvement executed pursuant to the terms of any Agreement between the County and the Licensee. The Licensee must have the work designed by a New York State licensed Engineer or Architect and constructed in accordance with all applicable codes including, but not limited to, the following codes and standards, unless more stringent requirements are appropriate:

A. New York State Uniform Fire Prevention & Building Code

B. New York State Energy Conservation Construction Code

C. New York State Sanitary Code

D. National Electric Code

E. Occupational Safety and Health Administration Code

F. State Laws, Local Ordinances, and Utility Company Regulations

G. New York State Industrial Code

H. Nassau County D.P.W. Standard Specs. For Construction of Highways

I. Nassau County D.P.W. Standard Specs. for Construction of Sanitary Sewers

J. Americans With Disabilities Act

2. If the Licensee proposes a pre-engineered metal building system, it shall be manufactured and built per the guidelines of the Metal Building Manufacturers Assoc. (MBMA); and the producer/manufacturer of the building shall be a member of the MBMA.

3. The license documents shall be signed and sealed by the Architect/Engineer of record.
4. The Licensee or its Architect/Engineer shall obtain all applicable approvals, permits, and certificates required by all regulatory and permitting agencies having jurisdiction, including; village, town, county, state and federal agencies, including but not limited to the N.Y.S.D.E.C.
5. The Architect/Engineer of record shall certify in writing to the County and all other public agencies having jurisdiction that the facility was constructed in accordance with the license documents and all applicable codes and standards.
6. Record "as-built" drawings sealed and certified by the Architect/Engineer of record shall be submitted to the County if the improvement is a permanent improvement to a County facility.
7. The Licensee will be responsible for the cost of all equipment for operation of the License. Said cost shall include repair and /or replacement.
8. Any proposed Capital Improvement project that involves electrical or HVAC equipment must use equipment that qualifies for the Long Island Power Authority (LIPA) Clean Energy Initiative program.

Appendix B

Equal Employment Opportunities for Minorities and Women

The provisions of this Appendix B are hereby made a part of the document to which it is attached.

The Contractor shall comply with all federal, State and local statutory and constitutional anti-discrimination provisions. In addition, Local Law No. 14-2002, entitled "Participation by Minority Group Members and Women in Nassau County Contracts," governs all County Contracts as defined herein and solicitations for bids or proposals for County Contracts. In accordance with Local Law 14-2002:

(a) The Contractor shall not discriminate against employees or applicants for employment because of race, creed, color, national origin, sex, age, disability or marital status in recruitment, employment, job assignments, promotions, upgradings, demotions, transfers, layoffs, terminations, and rates of pay or other forms of compensation. The Contractor will undertake or continue existing programs related to recruitment, employment, job assignments, promotions, upgradings, transfers, and rates of pay or other forms of compensation to ensure that minority group members and women are afforded equal employment opportunities without discrimination.

(b) At the request of the County contracting agency, the Contractor shall request each employment agency, labor union, or authorized representative of workers with which it has a collective bargaining or other agreement or understanding, to furnish a written statement that such employment agency, union, or representative will not discriminate on the basis of race, creed, color, national origin, sex, age, disability, or marital status and that such employment agency, labor union, or representative will affirmatively cooperate in the implementation of the Contractor's obligations herein.

(c) The Contractor shall state, in all solicitations or advertisements for employees, that, in the performance of the County Contract, all qualified applicants will be afforded equal employment opportunities without discrimination because of race, creed, color, national origin, sex, age, disability or marital status.

(d) The Contractor shall make best efforts to solicit active participation by certified minority or women-owned business enterprises ("Certified M/WBEs") as defined in Section 101 of Local Law No. 14-2002, for the purpose of granting of Subcontracts.

(e) The Contractor shall, in its advertisements and solicitations for Subcontractors, indicate its interest in receiving bids from Certified M/WBEs and the requirement that Subcontractors must be equal opportunity employers.

(f) Contractors must notify and receive approval from the respective Department Head prior to issuing any Subcontracts and, at the time of requesting such authorization, must submit a signed Best Efforts Checklist.

(g) Contractors for projects under the supervision of the County's Department of Public Works shall also submit a utilization plan listing all proposed

Subcontractors so that, to the greatest extent feasible, all Subcontractors will be approved prior to commencement of work. Any additions or changes to the list of subcontractors under the utilization plan shall be approved by the Commissioner of the Department of Public Works when made. A copy of the utilization plan any additions or changes thereto shall be submitted by the Contractor to the Office of Minority Affairs simultaneously with the submission to the Department of Public Works.

(h) At any time after Subcontractor approval has been requested and prior to being granted, the contracting agency may require the Contractor to submit Documentation Demonstrating Best Efforts to Obtain Certified Minority or Women-owned Business Enterprises. In addition, the contracting agency may require the Contractor to submit such documentation at any time after Subcontractor approval when the contracting agency has reasonable cause to believe that the existing Best Efforts Checklist may be inaccurate. Within ten working days (10) of any such request by the contracting agency, the Contractor must submit Documentation.

(i) In the case where a request is made by the contracting agency or a Deputy County Executive acting on behalf of the contracting agency, the Contractor must, within two (2) working days of such request, submit evidence to demonstrate that it employed Best Efforts to obtain Certified M/WBE participation through proper documentation.

(j) Award of a County Contract alone shall not be deemed or interpreted as approval of all Contractors' Subcontracts and Contractor's fulfillment of Best Efforts to obtain participation by Certified M/WBEs.

(k) A Contractor shall maintain Documentation Demonstrating Best Efforts to Obtain Certified Minority or Women-owned Business Enterprises for a period of six (6) years. Failure to maintain such records shall be deemed failure to make Best Efforts to comply with this Appendix B, evidence of false certification as M/WBE compliant or considered breach of the County Contract.

(l) The Contractor shall be bound by the provisions of Section 109 of Local Law No. 14-2002 providing for enforcement of violations as follows:

- a. Upon receipt by the Executive Director of a complaint from a contracting agency that a County Contractor has failed to comply with the provisions of Local Law No. 14-2002, this Appendix B or any other contractual provisions included in furtherance of Local Law No. 14-2002, the Executive Director will try to resolve the matter.
- b. If efforts to resolve such matter to the satisfaction of all parties are unsuccessful, the Executive Director shall refer the matter, within thirty days (30) of receipt of the complaint, to the American Arbitration Association for proceeding thereon.
- c. Upon conclusion of the arbitration proceedings, the arbitrator shall submit to the Executive Director his recommendations regarding the imposition of sanctions, fines or penalties. The Executive Director shall either (i) adopt the recommendation of the arbitrator (ii) determine that no sanctions, fines or penalties should be imposed or (iii) modify the recommendation of the arbitrator, provided that such modification shall not expand upon any sanction recommended or impose any new sanction, or increase the amount of any recommended fine or penalty. The Executive Director, within ten

days (10) of receipt of the arbitrators' award and recommendations, shall file a determination of such matter and shall cause a copy of such determination to be served upon the respondent by personal service or by certified mail return receipt requested. The award of the arbitrator, and the fines and penalties imposed by the Executive Director, shall be final determinations and may only be vacated or modified as provided in the civil practice law and rules ("CPLR").

(m) The contractor shall provide contracting agency with information regarding all subcontracts awarded under any County Contract, including the amount of compensation paid to each Subcontractor and shall complete all forms provided by the Executive Director or the Department Head relating to subcontractor utilization and efforts to obtain M/WBE participation.

Failure to comply with provisions (a) through (m) above, as ultimately determined by the Executive Director, shall be a material breach of the contract constituting grounds for immediate termination. Once a final determination of failure to comply has been reached by the Executive Director, the determination of whether to terminate a contract shall rest with the Deputy County Executive with oversight responsibility for the contracting agency.

Provisions (a), (b) and (c) shall not be binding upon Contractors or Subcontractors in the performance of work or the provision of services or any other activity that are unrelated, separate, or distinct from the County Contract as expressed by its terms.

The requirements of the provisions (a), (b) and (c) shall not apply to any employment or application for employment outside of this County or solicitations or advertisements therefor or any existing programs of affirmative action regarding employment outside of this County and the effect of contract provisions required by these provisions (a), (b) and (c) shall be so limited.

The Contractor shall include provisions (a), (b) and (c) in every Subcontract in such a manner that these provisions shall be binding upon each Subcontractor as to work in connection with the County Contract.

As used in this Appendix B the term "Best Efforts Checklist" shall mean a list signed by the Contractor, listing the procedures it has undertaken to procure Subcontractors in accordance with this Appendix B.

As used in this Appendix B the term "County Contract" shall mean (i) a written agreement or purchase order instrument, providing for a total expenditure in excess of twenty-five thousand dollars (\$25,000), whereby a County contracting agency is committed to expend or does expend funds in return for labor, services, supplies, equipment, materials or any combination of the foregoing, to be performed for, or rendered or furnished to the County; or (ii) a written agreement in excess of one hundred thousand dollars (\$100,000), whereby a County contracting agency is committed to expend or does expend funds for the acquisition, construction, demolition, replacement, major repair or renovation of real property and improvements thereon. However, the term "County Contract" does not include agreements or orders for the following services: banking services, insurance policies or contracts, or contracts with a County contracting agency for the sale of bonds, notes or other securities.

As used in this Appendix B the term "County Contractor" means an individual, business enterprise, including sole proprietorship, partnership, corporation, not-for-profit corporation, or any other person or entity other than the County, whether a contractor, licensor, licensee or any other party, that is (i) a party to a County Contract, (ii) a bidder in connection with the award of a County Contract, or (iii) a proposed party to a County Contract, but shall not include any Subcontractor.

As used in this Appendix B the term "County Contractor" shall mean a person or firm who will manage and be responsible for an entire contracted project.

As used in this Appendix B "Documentation Demonstrating Best Efforts to Obtain Certified Minority or Women-owned Business Enterprises" shall include, but is not limited to the following:

- a. Proof of having advertised for bids, where appropriate, in minority publications, trade newspapers/notices and magazines, trade and union publications, and publications of general circulation in Nassau County and surrounding areas or having verbally solicited M/WBEs whom the County Contractor reasonably believed might have the qualifications to do the work. A copy of the advertisement, if used, shall be included to demonstrate that it contained language indicating that the County Contractor welcomed bids and quotes from M/WBE Subcontractors. In addition, proof of the date(s) any such advertisements appeared must be included in the Best Effort Documentation. If verbal solicitation is used, a County Contractor's affidavit with a notary's signature and stamp shall be required as part of the documentation.
- b. Proof of having provided reasonable time for M/WBE Subcontractors to respond to bid opportunities according to industry norms and standards. A chart outlining the schedule/time frame used to obtain bids from M/WBEs is suggested to be included with the Best Effort Documentation
- c. Proof or affidavit of follow-up of telephone calls with potential M/WBE subcontractors encouraging their participation. Telephone logs indicating such action can be included with the Best Effort Documentation
- d. Proof or affidavit that M/WBE Subcontractors were allowed to review bid specifications, blue prints and all other bid/RFP related items at no charge to the M/WBEs, other than reasonable documentation costs incurred by the County Contractor that are passed onto the M/WBE.
- e. Proof or affidavit that sufficient time prior to making award was allowed for M/WBEs to participate effectively, to the extent practicable given the timeframe of the County Contract.
- f. Proof or affidavit that negotiations were held in good faith with interested M/WBEs, and that M/WBEs were not rejected as unqualified or unacceptable without sound business reasons based on (1) a thorough investigation of M/WBE qualifications and capabilities reviewed against industry custom and standards and (2) cost of performance. The basis for rejecting any M/WBE deemed unqualified by the County Contractor shall be included in the Best Effort Documentation
- g. If an M/WBE is rejected based on cost, the County Contractor must submit a list of all sub-bidders for each item of work solicited and their bid prices for the work.
- h. The conditions of performance expected of Subcontractors by the County Contractor must also be included with the Best Effort Documentation
- i. County Contractors may include any other type of documentation they feel necessary to further demonstrate their Best Efforts regarding their bid documents.

As used in this Appendix B the term "Executive Director" shall mean the Executive Director of the Nassau County Office of Minority Affairs; provided, however, that Executive Director shall include a designee of the Executive Director except in the case of final determinations issued pursuant to Section (a) through (l) of these rules.

As used in this Appendix B the term "Subcontract" shall mean an agreement consisting of part or parts of the contracted work of the County Contractor.

As used in this Appendix B, the term "Subcontractor" shall mean a person or firm who performs part or parts of the contracted work of a prime contractor providing services, including construction services, to the County pursuant to a county contract. Subcontractor shall include a person or firm that provides labor, professional or other services, materials or supplies to a prime contractor that are necessary for the prime contractor to fulfill its obligations to provide services to the County pursuant to a county contract. Subcontractor shall not include a supplier of materials to a contractor who has contracted to provide goods but no services to the County, nor a supplier of incidental materials to a contractor, such as office supplies, tools and other items of nominal cost that are utilized in the performance of a service contract.

Provisions requiring contractors to retain or submit documentation of best efforts to utilize certified subcontractors and requiring Department head approval prior to subcontracting shall not apply to inter-governmental agreements. In addition, the tracking of expenditures of County dollars by not-for-profit corporations, other municipalities, States, or the federal government is not required.

Appendix C

Certificate of Compliance

In compliance with Local Law 1-2006, as amended (the "Law"), the Contractor hereby certifies the following:

1. The chief executive officer of the Contractor is:

CARLEIN ON THE PARIL LTD (Name)

20 HILLSIDE AVE. WILLISTON PARK NY (Address)

516-542-0700 (Telephone Number)

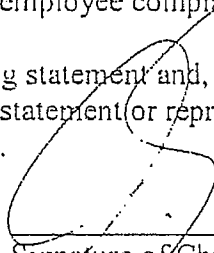
2. The Contractor agrees to either (1) comply with the requirements of the Nassau County Living Wage Law or (2) as applicable, obtain a waiver of the requirements of the Law pursuant to section 9 of the Law. In the event that the contractor does not comply with the requirements of the Law or obtain a waiver of the requirements of the Law, and such contractor establishes to the satisfaction of the Department that at the time of execution of this agreement, it had a reasonable certainty that it would receive such waiver based on the Law and Rules pertaining to waivers, the County will agree to terminate the contract without imposing costs or seeking damages against the Contractor
3. In the past five years, Contractor _____ has ☒ has not been found by a court or a government agency to have violated federal, state, or local laws regulating payment of wages or benefits, labor relations, or occupational safety and health. If a violation has been assessed against the Contractor, describe below:

4. In the past five years, an administrative ~~proceeding~~, investigation, or government body-initiated judicial action _____ has _____ has not been commenced against or relating to the Contractor in connection with federal, state, or local laws regulating payment of wages or benefits, labor relations, or occupational safety and health. If such a proceeding, action, or investigation has been commenced, describe below:

5. Contractor agrees to permit access to work sites and relevant payroll records by authorized County representatives for the purpose of monitoring compliance with the Living Wage Law and investigating employee complaints of noncompliance.

I hereby certify that I have read the foregoing statement and, to the best of my knowledge and belief, it is true, correct and complete. Any statement or representation made herein shall be accurate and true as of the date stated below.

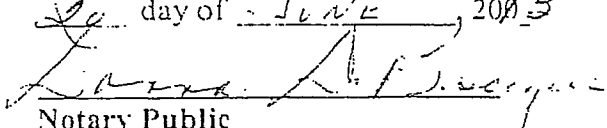
JUNE 20, 2013
Dated


Signature of Chief Executive Officer

Donna D. Bisceglie
Name of Chief Executive Officer

Sworn to before me this

20 day of June, 2013


Notary Public

DONNA DIBISCEGLIE
Notary Public, State of New York
No. 01D14779164
Qualified in Queens County
Certified in 1/13/13 County
Commission Expires 03/30/2015

Appendix C

Certificate of Compliance

In compliance with Local Law 1-2006, as amended (the "Law"), the Contractor hereby certifies the following:

1. The chief executive officer of the Contractor is:

CARLEIN ON THE PARIL LTD (Name)

20 HILLSIDE AVE. WILLISTON PARK NY (Address)

516-542-0700 (Telephone Number)

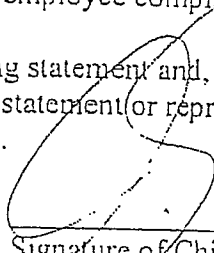
2. The Contractor agrees to either (1) comply with the requirements of the Nassau County Living Wage Law or (2) as applicable, obtain a waiver of the requirements of the Law pursuant to section 9 of the Law. In the event that the contractor does not comply with the requirements of the Law or obtain a waiver of the requirements of the Law, and such contractor establishes to the satisfaction of the Department that at the time of execution of this agreement, it had a reasonable certainty that it would receive such waiver based on the Law and Rules pertaining to waivers, the County will agree to terminate the contract without imposing costs or seeking damages against the Contractor
3. In the past five years, Contractor _____ has ☒ has not been found by a court or a government agency to have violated federal, state, or local laws regulating payment of wages or benefits, labor relations, or occupational safety and health. If a violation has been assessed against the Contractor, describe below:

4. In the past five years, an administrative proceeding, investigation, or government body-initiated judicial action _____ has ✓ has not been commenced against or relating to the Contractor in connection with federal, state, or local laws regulating payment of wages or benefits, labor relations, or occupational safety and health. If such a proceeding, action, or investigation has been commenced, describe below:

5. Contractor agrees to permit access to work sites and relevant payroll records by authorized County representatives for the purpose of monitoring compliance with the Living Wage Law and investigating employee complaints of noncompliance.

I hereby certify that I have read the foregoing statement and, to the best of my knowledge and belief, it is true, correct and complete. Any statement or representation made herein shall be accurate and true as of the date stated below.

JUNE 20, 2013
Dated

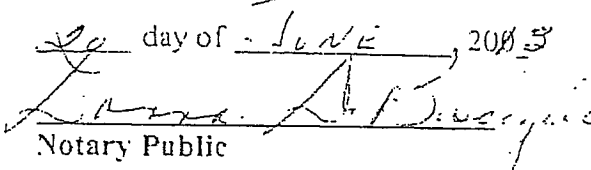


Signature of Chief Executive Officer

Donna DiBisceglie
Name of Chief Executive Officer

Sworn to before me this

20 day of JUNE, 2013


Notary Public

DONNA DIBISCEGLIE
Notary Public, State of New York
No. 01D14779164
Qualified in Queens County
Certified in 1/25/13 County
Commission Expires 03/30/2015

EXHIBIT C
LICENSE AMENDMENT DATED AS OF APRIL 29, 2015

AMENDMENT TO
LICENSE AGREEMENT

THIS AMENDMENT (this "*Amendment*") to the License Agreement dated as of January 1, 2013 (the "*Agreement*"), is entered into as of the date last executed by the parties, by and between the County of Nassau, a municipal corporation having its principal offices at 1550 Franklin Avenue, Mineola, NY 11501 (the "*County*"), acting on behalf of the County Department of Parks, Recreation and Museums, having its principal office at the Administration Building, Eisenhower Park, East Meadow, NY 11554 (the "*Department*"), as licensor, and Carlton on the Park LTD, having its principal office at Two Hillside Avenue, Building C, Williston Park, New York 11596 ("*Licensee*").

WITNESSETH:

WHEREAS, pursuant to that certain Stipulation of Settlement dated February 28, 2013 (the "*Stipulation*"), So Ordered by the Honorable Thomas A. Adams on April 8, 2013 in the action entitled "Carlton on the Park LTD v. Howard S. Weitzman, *et al.*" (Nassau County Supreme Court: Index No. 8035/10), the County and Licensee entered into the Agreement to clarify certain rights and responsibilities and resolve disputes arising under the prior license agreement dated as of July 24, 1995, as amended, with respect to Licensee's operation of the food and beverage services concession at Eisenhower Park in East Meadow consisting of the Carlton Clubhouse, the Palm Court Restaurant, the Patio, the Wine Cellar, Havana's Cigar Club, the Grand Ballroom, and all other rooms located within the building, as well as the parking facilities and all roadway area adjacent to the building (collectively, the "*Licensed Premises*") (The Stipulation and the Agreement are attached hereto as Exhibits "A" and "B," respectively); and

WHEREAS, as part of the Stipulation, Licensee was required to install a generator at the Licensed Premises to provide emergency electrical service to address a recurring problem with power interruption at the Licensed Premises, which generator was mutually understood by the parties to cost approximately \$550,000.00; and

WHEREAS, due to issues with the configuration of the electrical lines at the Licensed Premises, specifically, that the electrical systems at The Licensed Premises are intertwined with two (2) Nassau County Parks buildings and lights on Park Boulevard, two generators are needed and it is necessary that the generator installation be done simultaneously, thereby supplying emergency electrical service to include the Nassau County Parks buildings and Park Boulevard; and

WHEREAS, the cost of installing the generators is anticipated to materially exceed the estimate used by the parties for the Stipulation and is anticipated to cost in excess of \$950,000.00; and

WHEREAS, The County is discarding the electrical service entering the premises from the north side that serves the Premises, thereby causing the Licensee to relocate the electrical grid/panel to the south side of the Premises; and

WHEREAS, certain safety issues have arisen respecting missing slate, uneven settling of slate and uneven levels of the paths in the area of the Licensed Premises, and that also includes the golf course starting area and the golf administration building, that constitutes a danger to all those who walk in these areas; and

WHEREAS, the cost of installing the slate and making all of the area rehabilitation is anticipated to cost approximately \$264,000.00 (the "Slate Work"); and

WHEREAS, the County has complied with all of its obligations respecting the Slate Work pursuant to the current labor contract; and

WHEREAS, the County and Licensee now desire to amend the Agreement as set forth herein to address the increase in the cost of installing the generator so that Licensee can proceed to purchase and install the generator to improve operations at the Licensed Premises and to address the safety issue respecting the Slate Work surrounding the Licensed Premises which will provide such public traffic safety and improved appearance for approximately fifty (50) years.

NOW, THEREFORE, in consideration of the foregoing and the mutual covenants contained in this Amendment, and for other good and valuable consideration the receipt and sufficiency of which are hereby acknowledged, the parties hereto hereby agree as follows:

1. Defined Terms. All capitalized terms used herein but not otherwise defined herein shall have the respective meanings ascribed to such terms in the Agreement.

2. Addition of Article XXXVII. The Agreement is hereby amended by adding the following new Article XXXVII:

37.1 THE GENERATOR. On or promptly following the execution of this Amendment, Licensee shall commence installation of a generator at the Licensed Premises to provide for emergency electrical service and shall substantially complete the same with commercially reasonable diligence and continuity. All of Licensee's construction and installation work, and Licensee's operation of the generator, shall be performed at Licensee's sole cost and expense and in a good and workmanlike manner, and shall be in compliance with all applicable laws, rules and regulations, and with all applicable provisions of this Agreement. Prior to commencing the installation, Licensee shall submit copies of the site plan and project specifications to the County, through the County's Department of Public Works, and shall make application to all other applicable municipal and regulatory authorities, so as to obtain any requisite building permits and other governmental approvals. The County's approval will not be unreasonably withheld or conditioned. The County shall give such approval or provide Licensee with its requests for changes within thirty (30) business days of the County's receipt of Licensee's plans. If the County does not provide such approval or request for changes

within such **thirty (30)** business day period, the County shall be deemed to have approved the plans. Licensee shall provide the County with such documentation as the County may reasonably request with respect to the installation of the generator and the status of the project so as to keep the County informed, including providing documentation necessary to substantiate the actual cost of the project, such as construction documents, bills, invoices, labor time books, accounts payable, daily reports, bank deposit books, bank statements, checkbooks and canceled checks. Upon installation, the generator shall become Fixed Equipment subject to the provisions of Article XII of the Agreement.

37.2 SLATE WORK. On or promptly following the execution of this Amendment, Licensee shall commence installation of the Slate Work at the Licensed Premises and adjoining golf course starting area and the golf administration building, and resurface the dog houses above the ladies locker room with all ancillary work required, and shall substantially complete the same with commercially reasonable diligence and continuity. If required, Licensee shall include the construction of a ramp in compliance with the American with Disabilities Acts' accessibility requirements as it pertains to both the Premises and the golf course starting area and the golf administration building. All of Licensee's construction and installation work shall be performed at Licensee's sole cost and expense and in a good and workmanlike manner, and shall be in compliance with all applicable laws, rules and regulations, and with all applicable provisions of this Agreement. Prior to commencing the installation, Licensee shall submit copies of the site plan and project specifications to the County, through the County's Department of Public Works, and shall make application to all other applicable municipal and regulatory authorities, so as to obtain any requisite building permits and other governmental approvals. The County's approval will not be unreasonably withheld or conditioned. The County shall give such approval or provide Licensee with its requests for changes within **thirty (30)** business days of the County's receipt of Licensee's plans. If the County does not provide such approval or request for changes within such **thirty (30)** business day period, the County shall be deemed to have approved the plans. Licensee shall provide the County with such documentation as the County may reasonably request with respect to the installation of the Slate Work and the status of the project so as to keep the County informed, including providing documentation necessary to substantiate the actual cost of the project, such as construction documents, bills, invoices, labor time books, accounts payable, daily reports, bank deposit books, bank statements, checkbooks and canceled checks. Upon installation, the Slate Work

shall become Fixed Equipment subject to the provisions of Article XII of the Agreement.

37.3 On or promptly following the execution of this Amendment, Licensee shall commence installation of the new electrical panel, moving said panel from the north side of the Premises to the South side, pursuant to the directions of the Department of Public Works. All of Licensee's construction and installation work shall be performed at Licensee's sole cost and expense and in a good and workmanlike manner, and shall be in compliance with all applicable laws, rules and regulations, and with all applicable provisions of this Agreement. Prior to commencing the installation, Licensee shall submit copies of the site plan and project specifications to the County, through the County's Department of Public Works, and shall make application to all other applicable municipal and regulatory authorities, so as to obtain any requisite building permits and other governmental approvals. The County's approval will not be unreasonably withheld or conditioned. The County shall give such approval or provide Licensee with its requests for changes within thirty (30) business days of the County's receipt of Licensee's plans. If the County does not provide such approval or request for changes within such thirty (30) business day period, the County shall be deemed to have approved the plans. Licensee shall provide the County with such documentation as the County may reasonably request with respect to the installation of the Slate Work and the status of the project so as to keep the County informed, including providing documentation necessary to substantiate the actual cost of the project, such as construction documents, bills, invoices, labor time books, accounts payable, daily reports, bank deposit books, bank statements, checkbooks and canceled checks. Upon installation, the Slate Work shall become Fixed Equipment subject to the provisions of Article XII of the Agreement.

3. Amendment of Section 3.1. Section 3.1 of the Agreement is hereby amended and restated in its entirety as follows:

The parties, in accordance with Section 3.1 of the Agreement, agree to exercise the option to extend the Term for an additional two (2) year period, with the new termination date of December 31, 2021.

4. Addition of Section 4.10. Section 4 of the Agreement is hereby amended by adding the following new Section 4.10:

In addition to the \$550,000 credit that the County previously gave to Licensee pursuant to the provisions of paragraph 5 of the Stipulation, which \$550,000 credit the County has applied against License Fees due the County under the Agreement, the County hereby gives Licensee an additional allowance of \$400,000 in recognition of the higher-than-anticipated cost of installing the generator. This additional \$400,000 credit shall be applied by the County as a partial payment against amounts due the County under the Agreement, as amended by the Amendment, including against outstanding License Fees.

5. **Addition of Section 4.11.** Section 4 of the Agreement is hereby amended by adding the following new Section 4.11:

The County hereby gives Licensee an allowance of \$264,000 in recognition of the estimated cost of performing the installation of the Slate Work. This credit shall be applied by the County as a partial payment against amounts due the County under the Agreement, as amended by the Amendment, including against outstanding License Fees. This allowance is limited to the actual documented expenses of said installation.

6. **Payment Status Current.** The effectiveness of this Amendment shall be conditioned on Licensee being current on all amounts due the County under the Agreement, as amended by this Amendment, including Licensee's payment in full of any and all amounts due the County for unpaid License Fees. Upon Licensee's execution of this Amendment, Licensee shall deliver to the County, by bank or certified check, payment of any outstanding License Fees and other amounts then owing, which payment the County shall hold in a non-interest bearing escrow pending approval of this Amendment by the Rules Committee of the Nassau County Legislature.

7. Except as expressly amended hereby, the Agreement and the Stipulation, and all rights and obligations of the County and Licensee thereunder, shall remain in full force and effect. This Amendment shall not, except as expressly provided herein, constitute a waiver, amendment or modification of, or consent under, any other term or condition in the Stipulation or the Agreement, and the parties hereto expressly reaffirm all of their respective obligations under the Stipulation and the Agreement, as amended hereby.

8. This Amendment shall be governed by the laws of the State of New York (regardless of the laws that might otherwise govern under applicable principles of conflicts of law) as to all matters, including, but not limited to, matters of validity, construction, effect, performance and remedies.

9. This Amendment may be executed in counterparts, each of which shall be deemed an original, but both of which together shall constitute one and the same instrument.

[Signature Page Follows]

IN WITNESS WHEREOF, the parties hereto have executed this Amendment as of the date first above written.

CARLTUN ON THE PARK LTD.

By: 

Name: _____

Title: *Man.*

NASSAU COUNTY

By: 

Name: _____

Title: _____

CHARLES RIBANDO
DEPUTY COUNTY EXECUTIVE

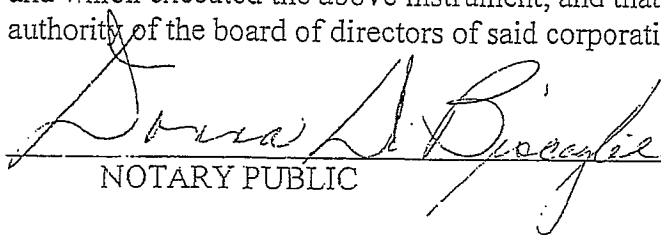
[PLEASE EXECUTE IN BLUE INK]

STATE OF NEW YORK)

)ss.:

COUNTY OF NASSAU)

On the 22 day of January in the year 2015 before me personally came Anthony A. Capetola to me personally known, who, being by me duly sworn, did depose and say that he or she resides in the County of Nassau; that he or she is the President of Carlton on the Park, Ltd., the corporation described herein and which executed the above instrument; and that he or she signed his or her name thereto by authority of the board of directors of said corporation.


NOTARY PUBLIC

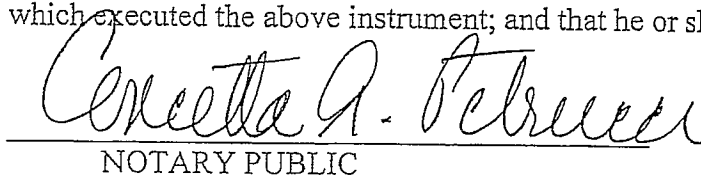
DONNA DIBISCEGLIE
Notary Public, State of New York
No. 01DI4779164
Qualified in Queens County
Certified in NASSAU County
Commission Expires 03/30/2015

STATE OF NEW YORK)

)ss.:

COUNTY OF NASSAU)

On the 29 day of APRIL in the year 2015 before me personally came Charles R. Bando to me personally known, who, being by me duly sworn, did depose and say that he or she resides in the County of Nassau; that he or she is a Deputy County Executive of the County of Nassau, the municipal corporation described herein and which executed the above instrument; and that he or she signed his or her name thereto.


NOTARY PUBLIC

CONCETTA A. PETRILLO
Notary Public, State of New York
No. 01PE325026
Qualified in Nassau County
Commission Expires April 02, 2016

I. Appendix EE - Equal Employment Opportunities for Minorities and Women

The provisions of this Appendix EE are hereby made a part of the document to which it is attached.

The Contractor shall comply with all federal, State and local statutory and constitutional anti-discrimination provisions. In addition, Local Law No. 14-2002, entitled "Participation by Minority Group Members and Women in Nassau County Contracts," governs all County Contracts as defined herein and solicitations for bids or proposals for County Contracts. In accordance with Local Law 14-2002:

- (a) The Contractor shall not discriminate against employees or applicants for employment because of race, creed, color, national origin, sex, age, disability or marital status in recruitment, employment, job assignments, promotions, upgradings, demotions, transfers, layoffs, terminations, and rates of pay or other forms of compensation. The Contractor will undertake or continue existing programs related to recruitment, employment, job assignments, promotions, upgradings, transfers, and rates of pay or other forms of compensation to ensure that minority group members and women are afforded equal employment opportunities without discrimination.
- (b) At the request of the County contracting agency, the Contractor shall request each employment agency, labor union, or authorized representative of workers with which it has a collective bargaining or other agreement or understanding, to furnish a written statement that such employment agency, union, or representative will not discriminate on the basis of race, creed, color, national origin, sex, age, disability, or marital status and that such employment agency, labor union, or representative will affirmatively cooperate in the implementation of the Contractor's obligations herein.
- (c) The Contractor shall state, in all solicitations or advertisements for employees, that, in the performance of the County Contract, all qualified applicants will be afforded equal employment opportunities without discrimination because of race, creed, color, national origin, sex, age, disability or marital status.
- (d) The Contractor shall make best efforts to solicit active participation by certified minority or women-owned business enterprises ("Certified M/WBEs") as defined in Section 101 of Local Law No. 14-2002, for the purpose of granting of Subcontracts.
- (e) The Contractor shall, in its advertisements and solicitations for Subcontractors, indicate its interest in receiving bids from Certified M/WBEs and the requirement that Subcontractors must be equal opportunity employers.
- (f) Contractors must notify and receive approval from the respective Department Head prior to issuing any Subcontracts and, at the time of requesting such authorization, must submit a signed Best Efforts Checklist.

(g) Contractors for projects under the supervision of the County's Department of Public Works shall also submit a utilization plan listing all proposed Subcontractors so that, to the greatest extent feasible, all Subcontractors will be approved prior to commencement of work. Any additions or changes to the list of subcontractors under the utilization plan shall be approved by the Commissioner of the Department of Public Works when made. A copy of the utilization plans any additions or changes thereto shall be submitted by the Contractor to the Office of Minority Affairs simultaneously with the submission to the Department of Public Works.

(h) At any time after Subcontractor approval has been requested and prior to being granted, the contracting agency may require the Contractor to submit Documentation Demonstrating Best Efforts to Obtain Certified Minority or Women-owned Business Enterprises. In addition, the contracting agency may require the Contractor to submit such documentation at any time after Subcontractor approval when the contracting agency has reasonable cause to believe that the existing Best Efforts Checklist may be inaccurate. Within ten working days (10) of any such request by the contracting agency, the Contractor must submit Documentation.

(i) In the case where a request is made by the contracting agency or a Deputy County Executive acting on behalf of the contracting agency, the Contractor must, within two (2) working days of such request, submit evidence to demonstrate that it employed Best Efforts to obtain Certified M/WBE participation through proper documentation.

(j) Award of a County Contract alone shall not be deemed or interpreted as approval of all Contractor's Subcontracts and Contractor's fulfillment of Best Efforts to obtain participation by Certified M/WBEs.

(k) A Contractor shall maintain Documentation Demonstrating Best Efforts to Obtain Certified Minority or Women-owned Business Enterprises for a period of six (6) years. Failure to maintain such records shall be deemed failure to make Best Efforts to comply with this Appendix EE, evidence of false certification as M/WBE compliant or considered breach of the County Contract.

(l) The Contractor shall be bound by the provisions of Section 109 of Local Law No. 14-2002 providing for enforcement of violations as follows:

- a. Upon receipt by the Executive Director of a complaint from a contracting agency that a County Contractor has failed to comply with the provisions of Local Law No. 14-2002, this Appendix EE or any other contractual provisions included in furtherance of Local Law No. 14-2002, the Executive Director will try to resolve the matter.
- b. If efforts to resolve such matter to the satisfaction of all parties are unsuccessful, the Executive Director shall refer the matter, within thirty days (30) of receipt of the complaint, to the American Arbitration Association for proceeding thereon.

- c. Upon conclusion of the arbitration proceedings, the arbitrator shall submit to the Executive Director his recommendations regarding the imposition of sanctions, fines or penalties. The Executive Director shall either (i) adopt the recommendation of the arbitrator (ii) determine that no sanctions, fines or penalties should be imposed or (iii) modify the recommendation of the arbitrator, provided that such modification shall not expand upon any sanction recommended or impose any new sanction, or increase the amount of any recommended fine or penalty. The Executive Director, within ten days (10) of receipt of the arbitrator's award and recommendations, shall file a determination of such matter and shall cause a copy of such determination to be served upon the respondent by personal service or by certified mail return receipt requested. The award of the arbitrator, and the fines and penalties imposed by the Executive Director, shall be final determinations and may only be vacated or modified as provided in the civil practice law and rules ("CPLR").

(m) The contractor shall provide contracting agency with information regarding all subcontracts awarded under any County Contract, including the amount of compensation paid to each Subcontractor and shall complete all forms provided by the Executive Director or the Department Head relating to subcontractor utilization and efforts to obtain M/WBE participation.

Failure to comply with provisions (a) through (m) above, as ultimately determined by the Executive Director, shall be a material breach of the contract constituting grounds for immediate termination. Once a final determination of failure to comply has been reached by the Executive Director, the determination of whether to terminate a contract shall rest with the Deputy County Executive with oversight responsibility for the contracting agency.

Provisions (a), (b) and (c) shall not be binding upon Contractors or Subcontractors in the performance of work or the provision of services or any other activity that are unrelated, separate, or distinct from the County Contract as expressed by its terms.

The requirements of the provisions (a), (b) and (c) shall not apply to any employment or application for employment outside of this County or solicitations or advertisements therefor or any existing programs of affirmative action regarding employment outside of this County and the effect of contract provisions required by these provisions (a), (b) and (c) shall be so limited.

The Contractor shall include provisions (a), (b) and (c) in every Subcontract in such a manner that these provisions shall be binding upon each Subcontractor as to work in connection with the County Contract.

As used in this Appendix EE the term "Best Efforts Checklist" shall mean a list signed by the Contractor, listing the procedures it has undertaken to procure Subcontractors in accordance with this Appendix EE.

As used in this Appendix EE the term "County Contract" shall mean (i) a written agreement or purchase order instrument, providing for a total expenditure in excess of twenty-five thousand dollars (\$25,000), whereby a County contracting agency is committed to expend or does expend funds in return for labor, services, supplies, equipment, materials or any combination of the foregoing, to be performed for, or rendered or furnished to the County; or (ii) a written agreement in excess of one hundred thousand dollars (\$100,000), whereby a County contracting agency is committed to expend or does expend funds for the acquisition, construction, demolition, replacement, major repair or renovation of real property and improvements thereon. However, the term "County Contract" does not include agreements or orders for the following services: banking services, insurance policies or contracts, or contracts with a County contracting agency for the sale of bonds, notes or other securities.

As used in this Appendix EE the term "County Contractor" means an individual, business enterprise, including sole proprietorship, partnership, corporation, not-for-profit corporation, or any other person or entity other than the County, whether a contractor, licensor, licensee or any other party, that is (i) a party to a County Contract, (ii) a bidder in connection with the award of a County Contract, or (iii) a proposed party to a County Contract, but shall not include any Subcontractor.

As used in this Appendix EE the term "County Contractor" shall mean a person or firm who will manage and be responsible for an entire contracted project.

As used in this Appendix EE "Documentation Demonstrating Best Efforts to Obtain Certified Minority or Women-owned Business Enterprises" shall include, but is not limited to the following:

- a. Proof of having advertised for bids, where appropriate, in minority publications, trade newspapers/notices and magazines, trade and union publications, and publications of general circulation in Nassau County and surrounding areas or having verbally solicited M/WBEs whom the County Contractor reasonably believed might have the qualifications to do the work. A copy of the advertisement, if used, shall be included to demonstrate that it contained language indicating that the County Contractor welcomed bids and quotes from M/WBE Subcontractors. In addition, proof of the date(s) any such advertisements appeared must be included in the Best Effort Documentation. If verbal solicitation is used, a County Contractor's affidavit with a notary's signature and stamp shall be required as part of the documentation.
- b. Proof of having provided reasonable time for M/WBE Subcontractors to respond to bid opportunities according to industry norms and standards. A chart outlining the schedule/time frame used to obtain bids from M/WBEs is suggested to be included with the Best Effort Documentation
- c. Proof or affidavit of follow-up of telephone calls with potential M/WBE subcontractors encouraging their participation. Telephone logs indicating such action can be included with the Best Effort Documentation

- d. Proof or affidavit that M/WBE Subcontractors were allowed to review bid specifications, blue-prints and all other bid/RFP related items at no charge to the M/WBEs, other than reasonable documentation costs incurred by the County Contractor that are passed onto the M/WBE.
- e. Proof or affidavit that sufficient time prior to making award was allowed for M/WBEs to participate effectively, to the extent practicable given the timeframe of the County Contract.
- f. Proof or affidavit that negotiations were held in good faith with interested M/WBEs, and that M/WBEs were not rejected as unqualified or unacceptable without sound business reasons based on (1) a thorough investigation of M/WBE qualifications and capabilities reviewed against industry custom and standards and (2) cost of performance. The basis for rejecting any M/WBE deemed unqualified by the County Contractor shall be included in the Best Effort Documentation.
- g. If an M/WBE is rejected based on cost, the County Contractor must submit a list of all sub-bidders for each item of work solicited and their bid prices for the work.
- h. The conditions of performance expected of Subcontractors by the County Contractor must also be included with the Best Effort Documentation.
- i. County Contractors may include any other type of documentation they feel necessary to further demonstrate their Best Efforts regarding their bid documents.

As used in this Appendix EE the term "Executive Director" shall mean the Executive Director of the Nassau County Office of Minority Affairs; provided, however, that Executive Director shall include a designee of the Executive Director except in the case of final determinations issued pursuant to Section (a) through (l) of these rules.

As used in this Appendix EE the term "Subcontract" shall mean an agreement consisting of part or parts of the contracted work of the County Contractor.

As used in this Appendix EE, the term "Subcontractor" shall mean a person or firm who performs part or parts of the contracted work of a prime contractor providing services, including construction services, to the County pursuant to a county contract. Subcontractor shall include a person or firm that provides labor, professional or other services, materials or supplies to a prime contractor that are necessary for the prime contractor to fulfill its obligations to provide services to the County pursuant to a county contract. Subcontractor shall not include a supplier of materials to a contractor who has contracted to provide goods but no services to the County, nor a supplier of incidental materials to a contractor, such as office supplies, tools and other items of nominal cost that are utilized in the performance of a service contract.

Provisions requiring contractors to retain or submit documentation of best efforts to utilize certified subcontractors and requiring Department head approval prior to subcontracting shall not apply to inter-governmental agreements. In addition, the tracking of expenditures of County dollars by not-for-profit corporations, other municipalities, States, or the federal government is not required.

Appendix L

Certificate of Compliance

In compliance with Local Law 1-2006, as amended (the "Law"), the Permittee hereby certifies the following:

1. The chief executive officer of the Permittee is:

Anthony A. Capetola (Name)

2 Hillside Avenue, Suite C, Williston Park, N.Y. (Address)

11596
(516) 746-2300 (Telephone Number)

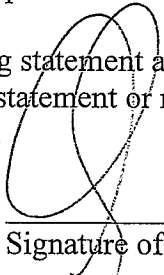
2. The Permittee agrees to either (1) comply with the requirements of the Nassau County Living Wage Law or (2) as applicable, obtain a waiver of the requirements of the Law pursuant to section 9 of the Law. In the event that the contractor does not comply with the requirements of the Law or obtain a waiver of the requirements of the Law, and such contractor establishes to the satisfaction of the Department that at the time of execution of this agreement, it had a reasonable certainty that it would receive such waiver based on the Law and Rules pertaining to waivers, the County will agree to terminate the contract without imposing costs or seeking damages against the Contractor
3. In the past five years, Permittee _____ has X has not been found by a court or a government agency to have violated federal, state, or local laws regulating payment of wages or benefits, labor relations, or occupational safety and health. If a violation has been assessed against the Permittee, describe below:

4. In the past five years, an administrative proceeding, investigation, or government body-initiated judicial action _____ has X has not been commenced against or relating to the Permittee in connection with federal, state, or local laws regulating payment of wages or benefits, labor relations, or occupational safety and health. If such a proceeding, action, or investigation has been commenced, describe below:

5. Permittee agrees to permit access to work sites and relevant payroll records by authorized County representatives for the purpose of monitoring compliance with the Living Wage Law and investigating employee complaints of noncompliance.

I hereby certify that I have read the foregoing statement and, to the best of my knowledge and belief, it is true, correct and complete. Any statement or representation made herein shall be accurate and true as of the date stated below.

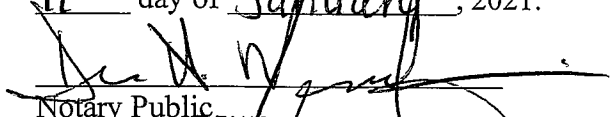
January 11, 2021
Dated



Signature of Chief Executive Officer

Anthony A. Capetola
Name of Chief Executive Officer

Sworn to before me this
11th day of January, 2021.


Notary Public
DENISE H. MANFREDONIA
NOTARY PUBLIC-STATE OF NEW YORK
No. 01MA6372636
Qualified In Nassau County
My Commission Expires 03-26-2022



CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY)
01/07/2021

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

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

PRODUCER Walter P Geoghan Agency, Inc 870 Montauk Highway Bayport NY 11705		CONTACT NAME: Linda Otero PHONE (A/C, No, Ext): (631) 472-5000 FAX (A/C, No): (631) 472-5611 E-MAIL ADDRESS: lotero@geoghanagency.com	
		INSURER(S) AFFORDING COVERAGE	
		INSURER A: Burlington Insurance Co	
		INSURER B: Firemen's Fund Ins Co	
		INSURER C: Illinois Union Insurance Company	
		INSURER D:	
		INSURER E:	
		INSURER F:	
INSURED Carlton On The Park LTD, DBA: d/b/a Palm Court Restaurant 2 Hillside Avenue Bldg C Williston Park 11596			

COVERAGES

CERTIFICATE NUMBER: CL2051211320

REVISION NUMBER:

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

INSR LTR	TYPE OF INSURANCE	ADDL INSD	SUBR WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS
A	<input checked="" type="checkbox"/> COMMERCIAL GENERAL LIABILITY			229BW56456	02/23/2020	02/23/2021	EACH OCCURRENCE \$ 1,000,000
	<input type="checkbox"/> CLAIMS-MADE <input checked="" type="checkbox"/> OCCUR						DAMAGE TO RENTED PREMISES (Ea occurrence) \$ 100,000
							MED EXP (Any one person) \$ EXCLUDED
							PERSONAL & ADV INJURY \$ 1,000,000
	GEN'L AGGREGATE LIMIT APPLIES PER:						GENERAL AGGREGATE \$ 2,000,000
	<input type="checkbox"/> POLICY <input type="checkbox"/> PRO-JECT <input type="checkbox"/> LOC						PRODUCTS - COMP/OP AGG \$ 2,000,000
	OTHER:						\$
	AUTOMOBILE LIABILITY						COMBINED SINGLE LIMIT (Ea accident) \$
	<input type="checkbox"/> ANY AUTO						BODILY INJURY (Per person) \$
	<input type="checkbox"/> OWNED AUTOS ONLY <input type="checkbox"/> SCHEDULED AUTOS						BODILY INJURY (Per accident) \$
	<input type="checkbox"/> HIRED AUTOS ONLY <input type="checkbox"/> NON-OWNED AUTOS ONLY						PROPERTY DAMAGE (Per accident) \$
							\$
B	<input checked="" type="checkbox"/> UMBRELLA LIAB			USL004841201	02/23/2020	02/23/2021	EACH OCCURRENCE \$ 4,000,000
	<input type="checkbox"/> EXCESS LIAB	<input type="checkbox"/> OCCUR					AGGREGATE \$
	<input type="checkbox"/> CLAIMS-MADE						\$
	DED \$	RETENTION \$					
	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY						<input type="checkbox"/> PER STATUTE <input type="checkbox"/> OTH-ER
	ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH)	<input type="checkbox"/> Y/N	N/A				E.L. EACH ACCIDENT \$
	If yes, describe under DESCRIPTION OF OPERATIONS below						E.L. DISEASE - EA EMPLOYEE \$
							E.L. DISEASE - POLICY LIMIT \$
C	Liquor Liability			LQRNYD390022434005	02/23/2020	02/23/2021	1,000,000

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

County of Nassau, 1550 Franklin Avenue, Mineola, NY 11501 named as Additional Insured
Restaurant and Catering Premises located and situate at Park Boulevard, Eisenhower Park, East Meadow, New York 11554. County of Nassau, 1550 Franklin Avenue, Mineola, NY 11501, is included as an Additional Insured and Certificate Holder as per the terms of written agreement

CERTIFICATE HOLDER**CANCELLATION**

County of Nassau 1550 Franklin Avenue Mineola NY 11501	SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS. AUTHORIZED REPRESENTATIVE Michael H. Geoghan
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Additional Named Insureds

Other Named Insureds

d/b/a Palm Court Restaurant

Doing Business As

Palm Court Restaurant

Doing Business As

STATE OF NEW YORK
WORKERS' COMPENSATION BOARD
NOTICE OF COMPLIANCE

New York State Disability Benefits

Disability Benefits For Employees

1. If you are unable to work because of an illness or injury, not work-related, you may be entitled to receive weekly benefits from your employer, his or her insurance carrier, or from the Special Fund for Disability Benefits.
2. To claim benefits you must file a claim form within 30 days from the first date of your disability, but in no event more than 26 weeks from such date.
3. Complete claim form DB-450 (Notice and Proof of Claim for Disability Benefits)
You may obtain the form from your employer, his or her insurance carrier, your health provider, any Unemployment Insurance Office, the Workers' Compensation Board's website (www.wcb.ny.gov) or any office of the Board.
IMPORTANT: Before filing your claim, your health provider must complete the "Health Care Provider's Statement" on the form showing your period of disability.
 - If you are employed, or have been unemployed for four weeks or less when your disability begins, send the completed form to your employer or the insurance carrier named below.
 - If you have been unemployed more than four weeks when your disability begins, send the completed form to the Workers' Compensation Board, Disability Benefits Bureau, 328 State Street, Schenectady, New York 12305.
4. You are entitled to be treated by any physician, chiropractor, dentist, nurse-midwife, podiatrist or psychologist of your choice. However, unlike workers' compensation, your medical bills will not be paid unless your employer and/or union provide for the payment of such bills under a Disability Benefits Plan or Agreement.
5. If you are ill or injured during the time you are receiving Unemployment Insurance Benefits, file a claim for Disability Benefits as soon as you sustain the injury or illness, by following the instructions outlined above.
6. If you are out of work in excess of seven days, your employer is required to send you a Disability Benefits Statement of Rights (Form DB-271S).
7. You may not take disability benefits at the same time as paid family leave benefits. The total amount of disability and paid family leave in a 52 week period cannot exceed 26 weeks.
8. Other information about disability benefits may be obtained by writing or calling the Workers' Compensation Board.

Guardian Life Insurance Company of America
10 Hudson Yards
New York, NY 10001
800-268-2525

Policy #: 00986954-0000

Effective From: 04/01/2004

To: 03/31/2021

☒ Statutory ☐ Under a Plan or Agreement

Class(es) of Employees Covered:

All eligible New York covered employees

NYS Workers' Compensation Board
Customer Service: (877) 632-4996
www.wcb.ny.gov

PRESCRIBED BY THE CHAIR, WORKERS' COMPENSATION BOARD
THIS NOTICE MUST BE POSTED CONSPICUOUSLY IN AND ABOUT THE EMPLOYER'S PLACE OR PLACES OF BUSINESS.
Employers must post DB-120 so that all classes of their employees know who will pay their benefits.

CARLTUN ON THE PARK LTD.
D/B/A THE CARLTUN
TWO HILLSIDE AVE BUILDING C
WILLISTON PARK, NY 11596



Paid Family Leave

NOTICE TO EMPLOYEES

Paid Family Leave Insurance
Coverage Provided by:

Guardian Life Insurance Company of America

INSERT INSURER NAME HERE

Covering Employees of:

CARLTUN ON THE PARK LTD. D/B/A THE CARLTUN

INSERT EMPLOYER NAME HERE

Paid Family Leave is insurance that provides job protected paid time off to:

- **Bond** with a newly born, adopted, or fostered child
- **Care** for a family member with a serious health condition
- **Assist** loved ones when a family member is deployed abroad on active military service

How to File:

- **Notify** your employer at least 30 days in advance, if foreseeable, or as soon as possible
- **Submit** the Request for Paid Family Leave form to your employer
- **Complete** and attach the additional documentation as instructed on the request form and submit to the insurance carrier listed below

Employers should NEVER discriminate or retaliate against anyone who requests or takes Paid Family Leave

FOR MORE INFORMATION AND HELP:
Visit **ny.gov/PaidFamilyLeave**
or call **(844) 337-6303**

You can get forms to take Paid Family Leave from

- Your employer,
- The insurance carrier below, or
- **ny.gov/PaidFamilyLeave**

INSERT NAME, ADDRESS, AND TELEPHONE NUMBER OF INSURER OR MAIN OFFICE OF AUTHORIZED NEW YORK SELF-INSURER
Guardian Life Insurance Company of America
10 Hudson Yards, New York, NY 10001
800-268-2525

Policy #: 00986954-0000

Effective From: 01/01/2018

To: 03/31/2021

☒ Statutory ☐ Under a Plan or Agreement

Class(es) of Employees Covered:

All eligible New York covered employees

NOTICE OF COMPLIANCE

PRESCRIBED BY THE CHAIR, WORKERS' COMPENSATION BOARD

THIS NOTICE MUST BE POSTED CONSPICUOUSLY IN AND ABOUT THE EMPLOYER'S PLACE OR PLACES OF BUSINESS.

GUARANTOR AGREEMENT
Attachment to License Amendment

This Guaranty is given by Anthony A. Capetola, (the "Guarantor"), a principal of Carlton on the Park LTD (the "Carlton") to County of Nassau (the "County") as part of a License amendment between the County and the Carlton.

1. Guaranty of Payment.

(a) Guarantor unconditionally guarantees the full and prompt payment to the County when due, whether by acceleration or otherwise, of any and all indebtedness (as hereinafter defined) of the Carlton ("Licensee") to the County. On the date of this Guaranty, the Licensee is in arrears to the County in the sum of One Hundred Forty-Two Thousand Nine Hundred Eight and 09/100 Dollars (\$142,908.09) .

(b) As used in this Guaranty, "Indebtedness" shall mean the indebtedness and other liabilities of Licensee to the County under a License dated January 1, 2013 and all extensions, renewals and replacements thereof, including, without limitation, all unpaid accrued interest thereon and all costs and expenses payable: (i) whether now existing or hereafter incurred; (ii) whether direct, indirect, primary, absolute, secondary, contingent, secured, unsecured, matured or unmatured; (iii) whether that Indebtedness is from time to time reduced or increased, or entirely extinguished and thereafter re-incurred; (iv) whether that Indebtedness was originally contracted with the County or with another or others; (v) whether or not that Indebtedness is evidenced by a negotiable or non-negotiable instrument or any other writing; and (vi) whether that Indebtedness is contracted by Licensee alone or jointly or severally with another or others.

(c) Guarantor acknowledges that valuable consideration supports this Guaranty, including, without limitation, the extension by the County of credit or other financial accommodation to the Licensee, whether heretofore or hereafter made by the County to Licensee; any extension, renewal or replacement of any Indebtedness, any forbearance with respect to any Indebtedness or otherwise; or any other valuable consideration.

2. County's Costs and Expenses. Guarantor agrees to pay on demand all costs and expenses of every kind incurred by the County: (a) in enforcing this Guaranty; (b) in collecting the Indebtedness from Licensee or Guarantor; (c) in realizing upon or protecting any collateral for this Guaranty or for payment of any Indebtedness; and (d) for any other purpose related to the Indebtedness or this Guaranty. "Costs and expenses" as used in the preceding sentence shall include, without limitation, the actual attorneys' fees incurred by the County in retaining counsel for advice, suit, appeal, any insolvency or other proceedings under the Federal Bankruptcy Code or otherwise, or for any purpose specified in the preceding sentence.

3. Nature of Guaranty: Continuing, Absolute and Unconditional. (a) This Guaranty is and is intended to be a continuing guaranty of payment of the Indebtedness (irrespective of the aggregate amount thereof), independent of and in addition to any other guaranty, indorsement, collateral or other agreement held by the County therefor or with respect thereto, whether or not furnished by Guarantor. Guarantor shall have no right of subrogation with respect to any

payments made by Guarantor hereunder until all Indebtedness outstanding or contracted or committed for (whether or not outstanding) is paid in full.

(b) This Guaranty is absolute and unconditional and shall not be changed or affected by any representation, oral agreement, act or thing whatsoever, except as herein provided. This Guaranty is intended by Guarantor to be the final, complete and exclusive expression of the agreement between Guarantor and the Corporation. No modification or amendment of any provision of this Guaranty shall be effective unless in writing and signed by a duly authorized officer of the Corporation.

4. Certain Rights and Obligations.

(a) Guarantor authorizes the County, without notice, demand or any reservation of rights against Guarantor and without affecting Guarantor's obligations hereunder, from time to time: (i) to renew, extend, increase, accelerate or otherwise change the time for payment of the terms of the interest on the Indebtedness or any part thereof; (ii) to accept from any person or entity and hold collateral for the payment of the Indebtedness or any part thereof, and to exchange, enforce or refrain from enforcing, or release such collateral or any part thereof; (iii) to accept and hold any indorsement or guaranty of payment of the Indebtedness or any part thereof, and to discharge, release or substitute any such obligation of any such indorser or guarantor, or any person or entity who has given any security interest in any collateral as security for the payment of the Indebtedness or any part thereof, or any other person or entity in any way obligated to pay the Indebtedness or any part thereof, and to enforce or refrain from enforcing, or compromise or modify, the terms of any obligation of any such indorser, guarantor, person or entity; (iv) to dispose of any and all collateral securing the Indebtedness in any manner as the County, in its sole discretion, may deem appropriate and to direct the order or manner of such disposition and the enforcement of any and all indorsements and guaranties relating to the Indebtedness of any party thereof as the County, in its sole discretion, may determine; and (v) to determine the manner, amount and time of application of payments and credits, if any, to be made on all or any part of any component or components of the Indebtedness (whether principal, interest, costs and expenses, or otherwise).

(b) If any default shall be made in the payment of any Indebtedness, Guarantor hereby agrees to pay the same in full: (i) without deduction by reason of any setoff, defense or counterclaim of Licensee; (ii) without requiring protest or notice of nonpayment or notice of default to Guarantor, to Licensee or to any other person; (iii) without demand for payment or proof of such demand; (iv) without requiring the County to resort first to Licensee (this being a guaranty of payment and not of collection) or to any other guaranty or any collateral which the County may hold; (v) without requiring notice of acceptance hereof or assent hereto by the County; and (vi) without requiring notice that any Indebtedness has been incurred or of the reliance by the County upon this Guaranty; all of which Guarantor hereby waives.

(c) Guarantor's obligation shall not be affected by any of the following, all of which Guarantor waives: (i) any failure to perfect or continue the perfection of any security interest in or other lien on any collateral securing payment of any Indebtedness or Guarantor's obligation; (ii) the invalidity, unenforceability, propriety of manner of enforcement of, or loss or change in priority of any such security interest or other lien; (iii) any failure to protect, preserve or insure any such collateral; (iv) failure of Guarantor to receive notice of any intended disposition of such

collateral; (v) any defense arising by reason of the cessation from any cause whatsoever of liability of the Debtor including, without limitation, any failure, negligence or omission by the Corporation in enforcing its claims against the Debtor; (vi) any release, settlement or compromise of any obligation of Debtor; or (vii) the invalidity or unenforceability of any of the Indebtedness.

5. Guaranty of Performance. Guarantor also guarantees the full, prompt and unconditional performance of all obligations and agreements of every kind owed or hereafter to be owed by Licensee to the County. Every provision for the benefit of the County contained in this Guaranty shall apply to the guaranty of performance given in this paragraph.

6. Termination. This guaranty shall remain in full force and effect until all Indebtedness outstanding shall be finally and irrevocably paid in full. If after receipt of any payment of all or any part of the Indebtedness, the County is for any reason compelled to surrender such payment to any person or entity because such payment is determined to be void or voidable as a preference, impermissible setoff, or a diversion of trust funds, or for any reason, this Guaranty shall continue in full force notwithstanding any contrary action which may have been taken by the County in reliance upon such payment, and any such contrary action so taken shall be without prejudice to the County's rights under this Guaranty and shall be deemed to have been conditioned upon such payment having become final and irrevocable.

7. Miscellaneous.

(a) "Licensee" and "Guarantor" as used in this Guaranty shall include any successor individual or individuals, association, partnership or County to which all or a substantial part of the business or assets of Licensee or Guarantor shall have been transferred and any other County into or with which Licensee shall have been merged, consolidated, reorganized or absorbed.

(b) Guarantor's obligation hereunder is to pay the Indebtedness in full when due according to its terms and shall not be affected by any extension of time for payment by the Licensee resulting from any proceeding under the Federal Bankruptcy Code or any similar law.

(c) No course of dealing between Licensee or Guarantor and the County and no act, delay or omission by the County in exercising any right or remedy hereunder or with respect to any Indebtedness shall operate as a waiver thereof or of any other right or remedy, and no single or partial exercise thereof shall preclude any other or further exercise thereof of the exercise of any other right or remedy. The County may remedy any default by Licensee under any agreement with Licensee or with respect to any Indebtedness in any reasonable manner without waiving the default remedied and without waiving any other prior or subsequent default by Licensee. All rights and remedies of the County hereunder are cumulative.

(d) The County and Guarantor as used herein shall include the heirs, executors or administrators, or successors or assigns of those parties. The rights and benefits of the County hereunder shall if the County so directs inure to any party acquiring any interest in the Indebtedness or any part thereof. If any right of the County hereunder is construed to be a power of attorney, such power of attorney shall not be affected by the subsequent disability or incompetence of Licensee.

(e) Captions of the paragraphs of this Guaranty are solely for the convenience of the County and Guarantor and are not an aid in the interpretation of this Guaranty.

(g) This Guaranty and the transactions evidenced hereby shall be construed under the laws of the State of New York.

ANTHONY A. CAPETOLA

STATE OF NEW YORK)) ss.:
COUNTY OF NASSAU)

On the ____ day of _____ in the year ____ before me personally came Anthony A. Capetola, personally known to me or proved to me on the basis of satisfactory evidence to be the individual(s) whose name(s) is (are) subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their capacity(ies), and that by his/her/their signature(s) on the instrument, the individual(s), or the person upon behalf of which the individual(s) acted, executed the instrument

NOTARY PUBLIC