

MULTI-YEAR CONCESSION AGREEMENT - AMENDMENT #2

This Multi-Year Concession Agreement ("Agreement") as entered into on the 14th day of March, 2013 and amended on the 12th day of December, 2013, between the State of Florida Department of Environmental Protection ("Department") through its Division of Recreation and Parks ("Division"), an agency of the State of Florida, and Anderson's Outdoor Adventures, LLC ("Concessionaire"), organized as a Florida Limited Liability Corporation, to provide visitor services at Manatee Springs State Park and Fanning Springs State Park ("Parks") is hereby amended.

WHEREAS, changes to the Agreement are necessary to update standard concession agreement language.

NOW, THEREFORE, the parties hereto agree as follows:

1. Paragraph 13 is amended to read:

13. **Construction.** The Concessionaire shall obtain pre-approval, in writing, from the Department for any construction of new facilities, for all alterations or additions to existing facilities, and shall bear the full cost for such construction, alterations, or additions, which shall become state-owned assets upon completion (heretofore and hereinafter called "Capital Improvements"). The Concessionaire is responsible for applying for and paying all costs associated with required permits. The Concessionaire shall be responsible for all costs associated with design, site survey, geotechnical and other site testing, and preparation of construction documents necessary for the successful completion of the project. Concessionaire shall submit to the Department for review and comment, all of the necessary documentation including sealed plans, construction documents, test reports, product submittals, budget estimates and sketches to accurately describe the scope of work, all of which must be pre-approved, in writing, by the Department, prior to commencement of any construction or alterations. Prior to construction, the Concessionaire shall attend a preconstruction meeting with the Park Manager, a representative from the Bureau of Operational Services ("BOS"), a representative from the Bureau of Design and Construction ("BDC") and any other additional personnel required to properly document and coordinate the construction activities and agreement requirements. The Concessionaire shall provide all of the specifics of all projects which involve construction in the Parks, including: timelines, critical paths, methods of construction, approval of plans, amenities, signage, color schemes, advertising, subcontractors, cost estimates, amortization period for the improvements, if applicable, and other information deemed relevant by the Department. Once the permits have been reviewed and final plans have been approved by the Department, the Park Manager shall provide to the Concessionaire a Notice to Proceed. Upon receipt of the Notice to Proceed, the Concessionaire shall begin with the construction.

2. Paragraph 17 is amended to read:

17. **Subcontractor.** The Concessionaire shall be responsible for providing all services as referenced in Paragraph 14. The Concessionaire may subcontract, as necessary, to perform the Services, provided the Department has consented to the subcontractor prior to execution of the subcontract. Unless otherwise granted by amendment, only the Florida Park Service District Bureau Chief or his or her superior may grant consent to utilize a subcontractor. Consent to use a subcontractor must be in writing. The Department reserves the right to disapprove any proposed subcontract or subcontractor, in its sole discretion. Failure to obtain pre-approval of a subcontract or subcontractor may result in termination of this Agreement. The term subcontract, as used in this Agreement, shall include any written or oral agreement, license, or other arrangement in which any

other entity undertakes to perform any of the Services. The term subcontractor, as used in this Agreement, shall include any entity or person offering goods or services in the Parks by written or oral agreement, license, or other arrangement with the Concessionaire. The Concessionaire agrees the Department shall not be liable to any subcontractor for any expenses or liabilities incurred under the subcontract. It is understood by the Concessionaire the Concessionaire is solely liable to the subcontractor for all expenses and liabilities incurred under the subcontract and the Concessionaire is solely responsible for the subcontractor's performance under the subcontract. The Concessionaire shall include a provision in its subcontract which requires the subcontractor to comply with the terms of this Agreement, and to submit reports in the form required by this Agreement. Failure by any subcontractor to perform or to pay the Concessionaire shall not be grounds for excusing the Concessionaire's obligations to the Department. The Concessionaire shall be solely responsible for verifying the subcontractors' reports and for reporting Total Gross Sales attributable to any and all subcontracts, and computing and remitting the monthly fee based on total gross sales, as required by this Agreement. By execution of a subcontract between the Concessionaire and subcontractor, each agrees to be bound by the terms of this Agreement, including but not limited to: the requirements of Chapter 119, Public Records; Audit and Minimum Accounting requirements; and the commission on Total Gross Sales, as stated in this Agreement. In the event a subcontractor refuses to comply with the terms and conditions of this Agreement, the Concessionaire shall replace the subcontractor or such refusal shall immediately and automatically terminate the subcontract and this Agreement without further notice.

3. Paragraph 24 is amended to read:

24. Compensation. The Concessionaire shall pay the Department as compensation for this Agreement a monthly commission fee based on Total Gross Sales for all its operations within the Parks, plus, the applicable State Use Tax, (a percentage of the amount paid to the Department, equal to the sum of the state sales tax and applicable county discretionary sales tax percentages), which shall be implemented on a sliding scale, as follows:

- 2% - Upon commencement of operations through April 30, 2014.
- 3% - May 1, 2014 through April 30, 2015.
- 4% - May 1, 2015 through April 30, 2016.
- 5% - May 1, 2016 through April 30, 2017.
- 6% - May 1, 2017 through October 31, 2018.

"Total Gross Sales," for the purpose of this Agreement, shall be defined as all sales of goods, inventory, equipment, food, vending and services generated as a result of the Concessionaire's operations at or associated with the Parks. This includes all sales made or advertised within the Parks, advertised on the Concessionaire's website associated with the Parks, transactions conducted through the point of sale and bank accounts utilized by the Concessionaire for its Parks operations, and sales generated by subcontractors or related entities whose sales are associated with the Concessionaire's authorized operations at the Parks. Total Gross Sales shall not include the following:

- 1.) tax collections,
- 2.) gratuities,
- 3.) funds collected on food consumed by the Concessionaire's employees,
- 4.) pass through fees, which include:
 - a. entrance fees collected by the Concessionaire on behalf of the Department,
 - b. events fees collected by the Concessionaire on behalf of the Department,
 - c. security fees collected by the Concessionaire to pay Park staff, or
- 5.) funds which were collected but have been refunded to the customer.

Sales of goods and services and collections of sales tax shall be accounted for separately at the point of sale. If the Concessionaire is unable to do this, it shall calculate sales tax from gross receipts using a method approved by the Florida Department of Revenue.

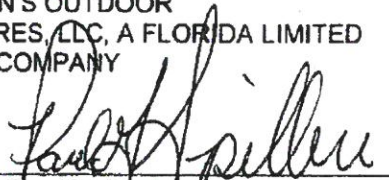
4. Exhibit A, Section 2.e. is amended to read:
 - e. Event Planning Service: The Concessionaire shall provide Event Planning Services at the Parks including, but not limited to, proactively recruiting and scheduling events, catering, event-related equipment rentals and other similar services with pre-approval, in writing, by the Park Manager. Events may include, but are not limited to: concerts, weddings, reunions, conventions, meetings, memorials or other appropriate special events ("Event"). The Concessionaire shall:
 - 1). Obtain pre-approval, in writing, by the Park Manager for the type of event, location, date, time and duration for all Events.
 - 2). Manage all aspects of the event management process including, but not limited to: recruiting and scheduling of Events; establishing appropriate fees for services;
 - 3). Clean all facilities and space utilized for Events; arranging for external vendors; ensuring adequate parking; etc.
 - 4). Manage all aspects of conducting Events, including, but not limited to: set up and removal of all equipment; coordinating external vendors; security; safety; compliance with the Americans with Disabilities Act; additional temporary facilities, if necessary; clean up; etc.
 - 5). Ensure all facilities and space are cleaned, presentable and safe for public use by 8:00 a.m. the following day, and returned to their original condition within 24 hours after each Event, unless otherwise pre-approved, in writing, by the Park Manager.
 - 6). Manage and adequately document third party vendors, including, but not limited to: catering, entertainment, rental equipment, etc.
 - 7). Ensure each Event has adequate staffing for proper management, safety, security and access to facilities.
 - 8). The Concessionaire may be required to utilize Park employees to provide Park security for Events held during or after hours at the Parks. For each Event, the Concessionaire will provide direct payment to the Parks.
 - 9). After hours Events in the Parks shall not be booked for periods in excess of four hours following the close of the Concessionaire's operating hours unless pre-approved, in writing, by the Park Manager.
 - 10). This Agreement shall not preclude visitors from utilizing the Parks for their own special Event so long as the Event does not require reserving a space within the Parks or detract from other visitors' experiences.
 - 11). The Concessionaire shall collect a wedding/special Event fee according to a fee schedule as determined by the Department. The Concessionaire shall collect and pass through the applicable wedding/special event fee directly to the Parks for deposit.
5. In all other respects, the Agreement to which this is an amendment, and attachments and Amendments relative thereto shall remain in full force and effect.
6. This Amendment may be executed in counterparts, each of which shall be deemed to be an original, but all of which taken together shall constitute one and the same Agreement.

The parties hereto have caused this Amendment to be executed the day, month and year last written below.

ANDERSON'S OUTDOOR
ADVENTURES, LLC, A FLORIDA LIMITED
LIABILITY COMPANY

STATE OF FLORIDA DEPARTMENT OF
ENVIRONMENTAL PROTECTION

By:



President's signature or
designee

By:



Secretary's signature or designee

Printed
Name:
Title:

Paul G Spillers
owner

Printed
Name:
Title:

Scott D. Robinson
Assistant Director

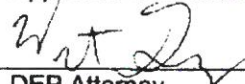
Date:

March 10/2015

Date:

3-18-2015

Approved as to form and legality:

 11/27/14
DEP Attorney