

**FRANCHISE LICENSE AGREEMENT**  
between  
**MANATEE COUNTY**  
and  
**WILD MONKEY GOURMET, INC. d/b/a YOU'VE BEEN SERVED CAFE**  
for  
**CONCESSION AT THE MANATEE COUNTY JUDICIAL CENTER**

This is a Franchise License Agreement by and between MANATEE COUNTY, a political subdivision of the State of Florida, hereinafter referred to as "COUNTY," and WILD MONKEY GOURMET, INC. d/b/a YOU'VE BEEN SERVED CAFE, whose address is 2037 84<sup>th</sup> Street Circle NW, Bradenton, FL, 34209 hereinafter referred to as "LICENSEE."

**WHEREAS**, the COUNTY has a concession facility at the Manatee County Judicial Center, 1051 Manatee Avenue West, Bradenton, Florida as shown in the attached Exhibit "A" (Site Plan); and

**WHEREAS**, the COUNTY solicited competitive proposals for operation of concession services pursuant to Manatee County Request for Proposal No. 11-1247FL (hereinafter RFP), and has successfully negotiated this Agreement with LICENSEE, the successful proposer; and

**WHEREAS**, the LICENSEE possesses the financial, legal, technical and experiential resources to enable it to fully perform the obligations contained herein.

**NOW, THEREFORE**, in consideration of the mutual covenants, provisions, terms, promises, and conditions contained herein, the parties agree as follows:

**ARTICLE I**  
**PURPOSE/GRANT OF LICENSE**

The COUNTY hereby grants unto the LICENSEE the right and privilege to provide the County with Exclusive Concession Services in accordance with the terms, conditions and limitations of this Agreement.

It is intended that LICENSEE to create an inviting food concession at the Manatee County Judicial Center facility through the implementation and operation of a fresh food concession in the existing building.

This Agreement and the rights and privileges granted to LICENSEE hereunder for the sale of food and beverages are exclusive except as follows:

The COUNTY'S periodic authorization of holding and conducting special events outside the Judicial Center which may include the vending of food and beverages which may be in

direct or indirect competition with the LICENSEE'S right to vend food and beverages as provided under this Agreement.

**ARTICLE 2**  
**COMPENSATION**

As compensation to the COUNTY, the LICENSEE shall make a monthly percentage payment to the COUNTY of 10 percent (10%) of the total gross of all sales less sales tax per annum. Payment shall be paid by the fifteenth (15<sup>th</sup>) business day the following month (due date), with interest accruing after ten (10) calendar days.

In addition to applicable sales tax, the LICENSEE shall be solely responsible for any ad valorem, rental or similar taxes levied upon the real property or LICENSEE's equipment or activities arising from this Agreement. LICENSEE shall pay all such taxes directly to the entity or agency assessing the taxes, unless COUNTY is required by law to collect and remit such taxes. LICENSEE shall provide COUNTY with documentation evidencing the payment of any and all taxes paid directly to the entity or agency collecting the taxes.

In the event LICENSEE fails to pay COUNTY any of the fees or charges due under the provisions of this Agreement, interest at one and one half percent (1 ½ %) per month shall accrue against each delinquent payment until same is paid. Interest shall be charged from the date payment is due. Neither the inclusion of this provision, nor its implementation, shall preclude the COUNTY from terminating this Agreement for default or from pursuing any other remedies as provided herein or by law. The COUNTY'S acceptance of late payment of any fees or charges shall not constitute a waiver of COUNTY'S right to terminate this Agreement in the event of any subsequent default by LICENSEE in the payment of any fees or charges on the date the same shall be due and payable.

**ARTICLE 3**  
**PAYMENT**

LICENSEE shall remit monthly payments, fees and charges in the form of an Automatic Clearinghouse (ACH) remittance to the bank account of the Board of County Commissioners of Manatee County, Florida, on or before the due dates specified in Article 2, Compensation. Notification of the total ACH wire amount, the underlying compensation amounts which comprise it, the ACH confirmation number and the settlement date must be provided by the LICENSEE to the COUNTY by e-mail or fax to the Director of Property Management or designee specified in Article 13, Notices. The bank account number and ACH remittance instructions will be separately provided by the Finance Division of the Clerk of the Court, after this Agreement has been executed.

**ARTICLE 4**  
**CASH HANDLING REQUIREMENTS**

LICENSEE shall provide, operate and maintain equipment such as cash registers, or any other electronic or mechanical device used for recording sales. Daily register tapes or electronic transaction detail records shall be dated and number referenced and kept as a permanent record for a period of at least five (5) years. The proper functioning and maintenance of the cash register is the responsibility of the LICENSEE. In the event of a need for repair of a cash register machine, such repair shall be required to occur within a forty eight hour period to assure accountability and proper recordkeeping.

All cash registers and devices used in recording sales to customers shall have a non-resettable grand total that accumulates each transaction entered into the device. All transaction devices shall be visibly displayed so that the amount can be viewed by customers from a reasonable distance and the LICENSEE shall provide a sales receipt to customers for all goods and services sold. No register or device in which cash sales are recorded and deposited may be opened without recording the date and the time of said opening. Cash register or device drawers must be kept closed at all times except when sales are made, change is made, or routine audits are conducted.

Cash registers must have sufficient keys for proper segregation of transactions and meet all accepted standards of accounting systems and cash control.

All persons handling sales shall promptly record said sales (cash or credit) in cash registers and other electronic or mechanical devices immediately upon sale to each paying customer and shall not delay or "gang" register or record such sales.

**ARTICLE 5**  
**REPORTS, RECORDS, AUDIT**

LICENSEE shall provide a monthly financial accounting report and gross receipts applicable to the quarter for which payment is being made along with the payment that is being made in accordance with the established due date. This report shall be signed by an officer of the LICENSEE certifying to the accuracy of the report and gross receipts.

LICENSEE shall provide on an annual basis, a review of the balance sheet, income statement, retained earnings and statement of cash for the calendar year ending in December in accordance with standards established by the American Institute of Certified Public Accountants. The statements should be reviewed by a Certified Public Accountant with an active license to practice in the state of Florida.

LICENSEE shall maintain during the term of this Agreement, all books of account, reports, and records customarily used in this type of operation and such records as are necessary to document LICENSEE'S activities pursuant to this Agreement and all monies collected by LICENSEE in its operations under this Agreement, not limited to gross receipts. The form of all such records, cash registers, tapes, books, ledgers, journals, sales slips, and invoices, installed or to be used for recording the operations of the LICENSEE under this Agreement shall be subject to the written approval of the COUNTY prior to commencement of operations. The COUNTY reserves the right to reasonably modify reports and records requirements to be provided by LICENSEE.

The term "gross receipts" as used in this Agreement means all monies paid or payable to or considerations of determinable value received by the LICENSEE for sales made, transactions had, or for services rendered from all sources in the operation of the concession under this Agreement regardless of when or where the order is received or the goods delivered or services rendered, whether paid or unpaid, whether for cash or on a credit basis or in consideration of any other thing of value; provided, however, that any sales taxes imposed by law directly payable by the LICENSEE to a taxing authority and sales refunds may be excluded therefrom.

The LICENSEE shall allow the COUNTY or the COUNTY'S auditors to inspect and examine all documents used in the compilation of the aforesaid reports at such reasonable times as may be required by the COUNTY. Records shall be available Monday through Friday between the hours of 9:00 a.m. and 5:00 p.m. at a location within Manatee County.

All records, including tax returns and tax reports, of the LICENSEE necessary to verify any report referred to herein shall be available to the COUNTY and the COUNTY'S auditors at a reasonable location in Manatee County for a period of five years after the end of the Agreement including any extensions thereof.

LICENSEE shall cooperate with and provide the COUNTY, or its duly authorized representative, with any additional information or reports concerning its activities, income, revenues, expenses, and disbursements on request. The LICENSEE shall keep and maintain an accurate accounting system in accordance with Generally Accepted Accounting Principles.

The LICENSEE'S performance shall be reviewed at least annually by the COUNTY at which time a Vendor Performance Report will be completed. Any operational or compliance deficiencies shall be noted in the Report and promptly remedied by LICENSEE. During this annual review period, LICENSEE and COUNTY shall discuss any operational, policy or service modifications one or both Parties identify as desirable to enhance the benefit and value of the concession to the public. However, no such modification may be implemented by LICENSEE without prior COUNTY approval.

**ARTICLE 6**  
**TERM AND RENEWAL**

The initial term of this Agreement is approximately five (5) years beginning at 12:01 a.m. on the 9<sup>th</sup> day of November, 2011 (herein the “effective date”), and ending at 11:59 p.m. on the 8<sup>th</sup> day of November, 2016, unless this term is earlier terminated as herein provided.

Provided there has been no default under this Agreement by LICENSEE prior to the expiration of the initial term, LICENSEE may, by written notice to the COUNTY at least one hundred twenty (120) days before the end of the initial term, request renewal for a second five (5) calendar year term through November 8<sup>th</sup>, 2021. Unless the COUNTY exercises its right not to renew, the Agreement shall there upon renew.

Should LICENSEE fail to provide notice at least one hundred twenty (120) days prior to the end of the first five (5) year term as required above, COUNTY shall make written demand upon LICENSEE and LICENSEE shall within seven (7) days thereafter advise COUNTY in writing of LICENSEE’S desire to renew this Agreement. If LICENSEE should fail to respond within such seven (7) day period, LICENSEE’S right to any additional term as provided for above shall terminate.

**ARTICLE 7**  
**THE FACILITIES: EQUIPMENT, MAINTENANCE AND ADDITIONAL IMPROVEMENTS**

As used herein, the Facility is that depicted in Exhibit “B” attached hereto and made a part hereof.

LICENSEE confirms it is fully familiar with the condition of the Facility and accepts the physical facilities “as is” for the purposes of performing under this Agreement.

LICENSEE shall provide all equipment to be used at the Facility needed to perform under this Agreement. LICENSEE shall bear the cost of all charges and expenses related to any and all improvements in the equipment and fixtures as shall be necessary for the LICENSEE’S performance of this Agreement.

So long as this Agreement shall be in effect, LICENSEE shall, except as otherwise provided herein, maintain the Facilities in good order and repair and shall keep the Facilities in a clean and functioning condition at all times, free of all trash, litter and debris. This obligation includes, but is not limited to:

- a. Maintain eating area to included but not limited to: clear all tables of debris; wash and wipe down all tables; keep the floors swept and clean; and keep all condiment dispensers clean and stocked.
- b. Telephone jacks will be available in the Café area, specific telephone services will have to be arranged with a local telephone provider and paid for by the LICENSEE.
- c. Maintaining and replacing as needed all internal fixtures, such as ceilings, walls, decorations, furnishings, lighting and floor coverings and any showcases, racks, other display and sales facilities, including concession identification and signage.
- d. All plumbing and electrical repair, maintenance, or upgrades pertaining to food and beverage storage and preparation, including, but not limited to, kitchen sinks, lift station or disposals.
- e. Providing and maintaining adequate fire protection and inspections, fire extinguishers, in compliance with all applicable fire, restaurant, or other codes.
- f. Providing and maintaining all food and beverage storage and preparation equipment, including but not limited to, stoves, refrigerators, ice machines and sinks.
- g. Routine monthly pest control for the Facilities to a standard approved by the County.
- h. Ensure compliance with Florida law concerning smoking in places of public accommodation.
- i. Ensure compliance with Americans with Disabilities Act requirements concerning places of public accommodation.
- j. Ensure all staff act professionally, are clean, well groomed, uniformed and trained in effective customer service. Uniforms must be apparel that is acceptable to the COUNTY.
- k. Maintain, repair or replace plumbing fixtures in food preparation areas.
- l. Ensure compliance with all Health Department requirements as established for this facility and obtain all necessary licenses and approvals.

- m. Ensure compliance with all judicial center rules and security policies.
- n. Provide odor control as necessary in the concession and public area near the concession.

The COUNTY shall provide and/or maintain the following:

- a. Monthly water and electrical service.
- b. Storage room located on the North side of the building near the main entrance (82 square feet).
- c. Two internal telephone jacks for the café.
- d. Three (3) parking permits for the Judicial Center Garage.
- f. Daily trash removal and bag replacement from the café's public trash containers and bagged trash from the LICENSEE on an as needed basis. Specific time frames for pick up may be established after customer flow is established at the cafe.

The COUNTY reserves the right to approve all equipment, furnishings, signage, and advertising installed, removed, or replaced by LICENSEE at the Facilities.

All new equipment, furnishings, repairs and improvements provided by LICENSEE shall meet and comply with the requirements of all applicable building, fire, restaurant, pollution, and other applicable codes.

All maintenance, service, and inspections shall be completed by qualified personnel and in compliance with manufacturer guidelines, and state and local laws, if applicable.

LICENSEE will maintain records of all maintenance and inspections completed. These records will be made available to the COUNTY upon request.

## **ARTICLE 8** **CAPITAL IMPROVEMENTS BY LICENSEE**

The capital improvements and repairs identified in order of the priorities outlined in Exhibit "C" shall be completed by LICENSEE within the timeframes set forth therein.

The capital improvements referred to above which address the physical appearance of the interior of the Facility shall be made so as to substantially resemble the design drawing of those areas which have been approved by COUNTY.

The LICENSEE shall be solely responsible for ensuring the safety of its staff and customers during the periods in which improvements are occurring.

The LICENSEE shall be solely responsible for insuring, maintaining, repairing, and replacing LICENSEE's equipment, fixtures and improvements during the entire term of the Agreement and any extensions thereof.

LICENSEE shall obtain the prior written approval of the COUNTY for any proposed capital improvements, all of which shall become County owned assets upon termination of the Agreement. All improvements and all new equipment shall meet federal, state, county and local laws. The LICENSEE is responsible for applying for all and paying all costs of any required permits. The LICENSEE shall submit sealed architectural plans for all construction or renovation projects which include details on any affected plumbing, electrical, mechanical or other required utility system, including floor plan and material specifications for COUNTY approval prior to beginning any construction or alterations. All projects shall be required to provide specifics such as timelines, critical paths, methods of construction, approval of plans, amenities, signage, color schemes, advertising, total cost, amortization period for the improvements and other information deemed relevant by the County. The LICENSEE shall pay for all charges for labor, services and materials used in connection with any improvements or repairs to the facility undertaken by the LICENSEE.

All such additions, improvements and fixtures except movable equipment and inventory shall become the property of the COUNTY upon completion and remain in and/or upon the facility and be surrendered upon termination of the Agreement. Any construction liens against the facility, Contractor's license, or the land and buildings arising out of work performed by or for the LICENSEE are expressly prohibited. In the event of the filing of any claim of lien, LICENSEE shall promptly satisfy same or transfer it to a bond and LICENSEE shall in any event protect the COUNTY's interest in underlying real estate and shall hold COUNTY harmless against any such claims.

The LICENSEE shall not allow activities in the facilities which are prohibited by federal, state or local laws, rules, regulations or ordinances.

Notwithstanding any other provision of this Agreement, COUNTY reserves the right to take such action as may be required to maintain, repair, enhance and improve the Facilities where LICENSEE fails to do so. Any work required as the result of LICENSEE'S failure to comply with LICENSEE'S obligations under this Agreement shall be charged to LICENSEE provided COUNTY has advised LICENSEE in writing of the failure to comply and provided a reasonable time for cure. Any charges assessed against LICENSEE shall be due with LICENSEE'S next due monthly payment. Any work by COUNTY, or COUNTY'S agents shall not be undertaken without a



minimum of fifteen (15) days advance notice to LICENSEE and shall be scheduled and provided in a manner that will not substantially interfere with LICENSEE'S use or enjoyment of the Facilities unless such work is required on an emergency basis to preserve the Facilities from imminent harm or correct an unsafe condition endangering the Public.

**ARTICLE 9**  
**LICENSEE'S PRODUCTS, OPERATIONS AND SERVICES**

The LICENSEE shall offer for sale or use, the food and beverages as identified on Exhibit "D". Any significant revisions to these categories are subject to pre-approval by the COUNTY.

LICENSEE shall provide the COUNTY with a list of any changes in the products and the maximum price that will be charged for each product as LICENSEE'S products and prices are from time to time amended. LICENSEE acknowledges that the COUNTY shall be entitled to set price ceilings on sale items deemed core to the Facility. Such designations shall be made by the County Administrator or designee from time to time.

The LICENSEE'S performance under this Agreement shall be in conformance with all rules, regulations, laws and ordinances which may be applicable to LICENSEE's operations.

**HOURS OF OPERATIONS.** The Manatee County Judicial Center Concession shall be open to the public and in operation Monday thru Friday, 7:30am to 4:30pm (unless the Judicial Center is closed). LICENSEE shall not change the normal hours of operation without the written consent of COUNTY. The Office of Court Administration shall be notified of all approved deviations in schedule.

The LICENSEE shall have on site a full-time qualified, experienced Manager for its operations at the Facilities. LICENSEE'S Manager will have no other off site duties or responsibilities and will be physically available during reasonable operating hours. Upon COUNTY'S request, the qualifications of LICENSEE'S Manager shall be submitted to the COUNTY. During the hours when the Manager is not on duty or available, there shall be an Assistant Manager on duty designated by the LICENSEE. The Manager and Assistant Manager shall each be an authorized representative of the LICENSEE and be entitled to act in all matters relating to the Services provided hereunder. The COUNTY shall be advised in writing of the names and contact information of the Manager(s) and Assistant Manager(s) prior to contract commencement and shall be promptly notified of any changes in Management. LICENSEE'S employees, agents, representatives, independent contractors, subcontractors, volunteers, or others involved in the maintenance or operation of the Facilities in contact with the public shall perform their duties in a safe, efficient and courteous manner.

The LICENSEE shall not conduct any business or activity not specifically authorized by this Agreement, unless approved in writing by the COUNTY. It is expressly understood and agreed that the LICENSEE'S operations shall not unreasonably interfere in any manner with the use

of public areas or infringe upon the rights of others authorized to conduct business in the location. The LICENSEE agrees that a determination by the COUNTY will be accepted as final in evaluating LICENSEE'S activities that unreasonably infringe on the rights of others and that LICENSEE will fully comply with any such decisions.

LICENSEE agrees that no person on the ground of race, color, religion, national origin, sex, age, or disability shall be excluded from participation in, be denied the benefits of or be otherwise subjected to discrimination in the hiring of personnel, the performance of this Agreement, or the use of and access to the Facilities.

LICENSEE shall be responsible for obtaining all permits, licenses and approvals required for or in connection with and to enable LICENSEE'S performance under this Agreement.

LICENSEE shall permit and the COUNTY shall have the authority to review any reports, citations or records issued by any governmental entity or agency regulating LICENSEE'S operations and services and to make periodic reasonable inspections of the Facilities during normal operating hours to determine if the Facility is being maintained in accordance with the terms of this Agreement. The LICENSEE shall be required to make any improvements or operational changes resulting from such review.

## **ARTICLE 10** **LIABILITY FOR DAMAGE, INDEMNITY, AND INSURANCE**

**LIABILITY FOR DAMAGE OR INJURY.** The LICENSEE shall be liable for damage or injury to any property or party at the Facilities (as identified in Exhibit B) other than the damage or injury caused by its or its agent's negligence or intentional actions. LICENSEE shall, at its expense, promptly repair all damage to the Facilities caused by the LICENSEE, its employees, agents, customers, vendors or independent contractors contracting with LICENSEE.

**INDEMNIFICATION OF COUNTY.** LICENSEE shall at all times indemnify, hold harmless and defend COUNTY, its agents, officers and employees from any and all claims, liability, loss or cause of action of any kind or nature arising out of the actions, omissions, or negligence, in whole or in part of the LICENSEE, its officials, agents, or employees, in the performance of this Agreement. The LICENSEE shall pay all valid claims, losses and judgments of any nature whatsoever in connection therewith, and shall defend all suits, in the name of the COUNTY when applicable, and shall pay all costs and judgments which may result therefrom. COUNTY reserves the right to defend itself with its own counsel or retained counsel at LICENSEE'S expense, unless COUNTY is found negligent or otherwise responsible for the occasion of the litigation.

**DAMAGE OR DESTRUCTION OF FACILITIES.** If the Facility or any structure thereon is partially damaged by fire, flood, wind or other casualty, excluding the negligent or intentional acts of LICENSEE or its Agents, COUNTY may repair the damage at its own costs and expense, and no adjustment shall be made in the monthly license fee.

In the event the Facility is destroyed or so damaged by fire, flood, wind or other casualty, excluding the negligent or intentional acts of LICENSEE, that such of the Facilities is unusable for the purpose of this Agreement, neither the LICENSEE nor the COUNTY shall be under any obligation to repair or reconstruct the Facilities and the Agreement shall terminate on the date that determination is made by the COUNTY.

**INSURANCE.** Without limiting any obligation or liability of LICENSEE, LICENSEE, prior to the commencement of operations, shall furnish to the COUNTY evidence of the following insurance, which insurance coverages LICENSEE shall maintain and keep in full force and effect during the term of this Agreement.

**Comprehensive General Liability Insurance** in an amount not less than One Million Dollars (\$1,000,000) per occurrence combined single limit for bodily injury and property damage and must include:

- a. Premises and/or Operations.
- b. Independent Contractors. COUNTY is to be included as an “Additional Insured” in the name of “Manatee County Board of County Commissioners”, with respect to liability arising out of Facilities’ operations performed for COUNTY by or on behalf of LICENSEE or acts of omissions of COUNTY in connection with general supervision of such Facilities’ operations.

**Business Automobile Liability Insurance** covering all owned, non-owned, and hired vehicles used in connection with the Agreement in an amount not less than \$1,000,000 combined single limit for bodily injury and property damage.

**Worker’s Compensation Insurance** – as required by the Worker’s Compensation Law of the State of Florida.

The insurance coverage required shall include those classifications, as listed in standard liability manuals, which most nearly reflect the operations of LICENSEE. All insurance policies required above shall be issued by companies authorized to do business under the laws of the State of Florida with an A.M. Best rating of A or better. Certificates will provide that no modification or change in insurance shall be made without a 30-day written advance notice to the certificate holder (Manatee County) and approval by the COUNTY. Compliance with the foregoing requirements shall not relieve LICENSEE of any liability or obligation under this section or under any other section of this Agreement. LICENSEE shall name the COUNTY as additional insured on the general liability policy required herein.

LICENSEE shall provide to COUNTY prior to commencement of this Agreement, Certificates of Insurance evidencing the insurance coverage as specified above. If the initial insurance period

expires prior to the completion of the Agreement, renewal Certificates of Insurance shall be furnished 30 days prior to the date of expiration of any insurance coverage. Insurance shall not be canceled without 30 days prior written notice to COUNTY, and must be endorsed to provide the same. Failure of LICENSEE to obtain and maintain proper amounts and types of insurance under this Agreement shall constitute material breach of this Agreement by LICENSEE.

COUNTY reserves the right to modify the insurance requirements by the issuance of a notice in writing to LICENSEE to the extent reasonably deemed necessary to protect COUNTY from loss damage or liability for the acts, errors and omissions of LICENSEE in the use and operations of the Facilities by LICENSEE.

COUNTY shall have no duty or responsibility to insure, replace or protect LICENSEE'S equipment, furnishings or other personal property or improvements provided or paid for by LICENSEE, and all risk of loss and insurance against such risks shall be the sole responsibility of LICENSEE.

**NO WAIVER OF IMMUNITY.** Nothing herein shall be interpreted as a waiver the COUNTY of its rights, including the limited waiver of sovereign immunity, as set forth in Florida Statutes § 768.28, or any other statute, and the COUNTY expressly reserves these rights to the full extent allowed by law.

#### **ARTICLE 11** **OWNERSHIP OF RIGHTS, SALE OR ASSIGNMENT**

The identity of the person or the entity, if not an individual, who or which shall be the owner or holder of the rights granted under this Agreement is very important to the COUNTY.

LICENSEE shall not, without prior written consent of the COUNTY, sell, assign, pledge, transfer or otherwise encumber this Agreement or the rights granted therein. Assignment, pledging, sale, transferring, or encumbering of any interest in or under this Agreement or the rights thereunder, to anyone other than the LICENSEE, without the prior written consent of the COUNTY, shall be grounds for immediate termination of this Agreement.

All terms and conditions of this Agreement shall extend to and be binding on any approved purchaser, assignee, or other successor in interest.

#### **ARTICLE 12** **APPROVALS**

Except as provided otherwise, whenever any prior approval is required by either party, such approval shall not be unreasonably withheld. Matters requiring the consent of the COUNTY are wholly within the discretion of the COUNTY.

LICENSEE shall not change or alter the following without the written approval of the COUNTY:

Use of any type of vending machines, inside or outside of the building at the Facilities which have been approved pursuant to Article 7.

COUNTY Modifications to the Facilities.

Equipment LICENSEE installs or plans to install requiring any building modifications.

Any COUNTY or municipally-installed signs or logos.

**ARTICLE 13**  
**NOTICE**

Whenever either party desires to give notice to the other, it must be given by written notice, by either hand delivery or registered or certified United States mail, with return receipt requested, addressed as noted below. Until notice of change is given, the parties designate the following as the respective individuals and places for giving notice, to wit:

**FOR MANATEE COUNTY:**

Property Management Director  
MANATEE COUNTY GOVERNMENT  
1112 Manatee Avenue West  
Bradenton, FL 34205

**FOR LICENSEE:**

Pamela C. Edwards  
Wild Monkey Gourmet, Inc. d/b/a  
You've Been Served Café  
2037 84<sup>th</sup> Street Circle NW  
Bradenton, FL 34209

**With a copy to:**

Court Administrator  
Twelfth Judicial Circuit Court of Florida  
1051 Manatee Avenue West  
Bradenton, FL 34205

**FOR ACH remittance information or wire transfer:**

Email: jon.berry@mymanatee.org  
Fax: 941.749-3038

**ARTICLE 14**  
**TERMINATION**

AUTOMATIC TERMINATION. The occurrence of any of the following shall cause this Agreement to be terminated automatically:

Institution of proceedings in voluntary bankruptcy by the LICENSEE.

Institution of proceedings in involuntary bankruptcy against the LICENSEE or appointment of Receiver if such proceedings continue for a period of 90 days.

Assignment by the LICENSEE for the benefit of creditors.

Abandonment or discontinuance of operations hereunder.

Unauthorized sale, assignment or transfer of this Agreement or interest thereunder.

**TERMINATION BY COUNTY.** COUNTY may terminate this Agreement upon fourteen (14) days written notice to LICENSEE of any condition posing a threat to health or safety of the public or patrons and not remedied by LICENSEE within 14 days, or where LICENSEE does not proceed with due diligence to remedy such condition where the condition could not reasonably be remedied in such time.

COUNTY may terminate this Agreement immediately upon notice to LICENSEE of the discovery of any materially false representation in the LICENSEE'S proposal leading to award of this Agreement which, in the determination of COUNTY, significantly affects the LICENSEE'S qualifications to perform.

COUNTY may terminate this Agreement upon ten (10) days notice to LICENSEE of any sum due hereunder after the due date for such payment; provided, however, that such termination shall not be effective if LICENSEE makes the required payment(s) within the 10-day period following receipt of the notice.

COUNTY may terminate this Agreement upon thirty (30) days notice to LICENSEE with respect to:

Nonperformance of or failure to comply with any provision of this Agreement and failure of LICENSEE to remedy such nonperformance within the thirty (30) day period following delivery or mailing of the written notice.

The conduct of any activity or the sale of any product or service category not authorized herein.

**TERMINATION FOR PUBLIC CONVENIENCE.** COUNTY shall have the right to terminate this Agreement for public convenience upon at least 120 days notice to LICENSEE.

**TERMINATION BY LICENSEE.** LICENSEE shall have the right upon 120 calendar days from receipt of notice to COUNTY to terminate this Agreement at any time after the occurrence of one or more of the following events:

Issuance of any court of competent jurisdiction of any injunction or order of taking substantially restricting the use of the Facilities for the purposes set forth herein, and the remaining in force of said injunction or order for a period of more than 30 calendar days.

The assumption by the United States Government or any authorized agency thereof, or any other governmental agency, of substantial part, or parts, thereof in such a manner as to substantially restrict LICENSEE'S operations for a period of 90 calendar days or more.

TERMINATION WITHOUT CAUSE. LICENSEE shall have the right to terminate this Agreement without cause by providing written notice to COUNTY at least 120 days prior to termination. Should LICENSEE elect to terminate this Agreement without cause, LICENSEE'S rights and privileges as stated in this Agreement shall cease at the termination date provided in the notice.

#### **ARTICLE 15** **ENTIRE AGREEMENT AND AMENDMENTS**

This Agreement and the exhibits and attachments hereto, and other documents and agreements specifically incorporated herein, constitute the entire, fully integrated agreement between the parties with respect to the subject matter hereof and supersedes all prior or contemporaneous verbal or written agreements between the parties with respect thereto, excepting any past or contemporaneous written or verbal agreements expressly and clearly incorporated by reference within the four corners of this Agreement. This Agreement may be amended only by written document, properly authorized, executed, and delivered by both parties hereto. This Agreement shall be interpreted as a whole unit and section headings are for convenience only. Any act or delivery that must be completed on a Saturday, Sunday or County holiday shall be adequate if performed or delivered on the following business day. All interpretations shall be governed by laws of the State of Florida.

#### **ARTICLE 16** **MISCELLANEOUS PROVISIONS**

**No Waiver.** The indulgence of either party with regard to any breach or failure to perform any provision of this Agreement shall not be deemed to constitute a waiver of the provision of any portion of this License Agreement, either at the time the breach or failure occurs, or at any time throughout the term of this Agreement.

**Subcontracting.** The LICENSEE shall not sub-contract, sublet, assign or transfer any duty under this Agreement to another party without the prior written consent of the COUNTY.

**Dispute Resolution.** Disputes shall be resolved as follows: good faith negotiations by the designated agents of the Parties and if not resolved by such designated agents after twenty-one (21) days, LICENSEE shall submit its claim, with the basis for the dispute, in writing to the Manatee County Purchasing Manager for a determination and handling in accordance with the provisions of the Manatee County Procurement Code.

**Force Majeure.** Neither Party shall be in default of its obligations hereunder to the extent that performance of such obligations or any of them is delayed or prevented by Force Majeure. Force Majeure shall include, but not be limited to, hostility, revolution, civil commotion, strike, epidemic, fire, flood, wind, earthquake, hurricane, or other disruptive event of nature, act of terrorism, explosion, oil spill reaching Manatee County waters, lack of or failure of transportation or bridge/roadway facilities, any law, proclamation, regulation, ordinance or other act of government, or any act of God or any cause whether of the same or different nature, existing or future; provided that the cause, whether or not enumerated in this Article, is beyond the control and without the fault of the party seeking relief under this Article. In the event that an event covered herein and/or the concession site falls under a declared state or local emergency as provided for by Florida Statutes or the Manatee County Code, the only compensation that shall be paid shall be ten (10%) of gross daily sales based on a per day calculation.

**Local Hiring and Buying Preference.** In hiring staff for the operation of this concession, LICENSEE shall actively recruit and hire qualified residents with first preference given to residents of the COUNTY. In purchasing supplies or services for or related to the operation of this concession, where confirmed costs or prices from a local provider (as defined by Manatee County's Purchasing Code) are within five percent (5%) of a provider who is not local, LICENSEE shall give preference to the local provider. LICENSEE shall include a summary of its efforts and the results of those efforts in its annual reporting to the COUNTY.

**Environmental Sustainability.** LICENSEE shall work with COUNTY staff to develop and implement policies and procedures of concession operations aimed at minimizing the production of solid waste, and the use of energy and water resources. LICENSEE shall ensure all staff are trained in and comply with such policies and procedures. LICENSEE shall include a summary of its efforts and the results of those efforts in its annual reporting to the COUNTY.

**Facility Name and Logo.** COUNTY reserves the right to approve the name of the facility/concession and any related logo design. Said name and logo design shall be property of the COUNTY.

**Governing Law, Jurisdiction and Venue.** LICENSEE consents and agrees that all legal proceedings related to the subject matter of this Agreement shall be governed by the laws of and maintained in courts sitting within the State of Florida. LICENSEE further consents and agrees that jurisdiction for such proceedings shall lie exclusively with such court and venue shall be in Manatee County, Florida or if in Federal Court the Middle District of Florida, Tampa Division.



**Attorneys Fees and Costs.** Each Party hereto shall be solely responsible for paying its attorneys fees and costs in any dispute, litigation, dispute resolution proceeding, settlement negotiation or pre-litigation negotiation arising under this Agreement.

**No Conflict.** By accepting award of this Agreement, LICENSEE, which shall include its directors, officers and employees, represents that it presently has no interest in and shall acquire no interest in any business or activity which would conflict in any manner with the performance of duties or services required hereunder.

**Public Records.** By accepting award of this Agreement, LICENSEE acknowledges that the portion of its books and records related to its contracting activities with COUNTY may become subject to inspection and copying under the Florida Public Records Act, and that it will in all respects comply with any requirements of that Act.

**Public Entity Crimes.** LICENSEE has been made aware of the Florida Public Entity Crimes Act, § 287.133, Florida Statutes, specifically section 2(a), and the COUNTY'S requirement that the LICENSEE comply with it in all respects prior to and during the term of this Agreement.

**No Third-Party Beneficiaries.** This Agreement is solely for the benefit of the Parties hereto, and no right, privilege, or cause of action shall by reason hereof accrue upon, to, or for the benefit of any third party. Nothing in this Agreement is intended or shall be construed to confer upon or give any person, corporation, partnership, trust, private entity, agency, or other governmental entity any right, privilege, remedy, or claim under or by reason of this Agreement or any provisions or conditions hereof.

**Legal References.** All references to statutory sections or chapters shall be construed to include subsequent amendments to such provisions, and to refer to the successor provision of any such provision. References to "applicable law" and "general law" shall be construed to include provisions of local, state and federal law, whether established by legislative action, administrative rule or regulation, or judicial decision.

**Severability.** The provisions of this Agreement are declared by the parties hereto to be severable. In the event any term or provision of this Agreement shall be held invalid by a Court of competent jurisdiction, such invalid term or provision should not affect the validity of any term or provision hereof; and all such terms and provisions hereof shall be enforceable to the fullest extent permitted by law as if such invalid term or provision had never been part of this Agreement; provided, however, if any term or provision of this Agreement is held to be invalid due to the scope or extent here thereof, then, to the extent permitted by law, such term or provision shall be automatically deemed modified in order that it may be enforced to the maximum scope and extent permitted by law.

WHEREFORE, the Parties have made and executed this Agreement for a concession at Manatee County Judicial Center as of the effective date stated herein.

**WILD MONKEY GOURMET, INC. d/b/a  
YOU'VE BEEN SERVED CAFE**

By: *Pamela Edwards*

Print Name: PAMELA Edwards

Title: owner

Date: October 31, 2011

**COUNTY OF MANATEE**

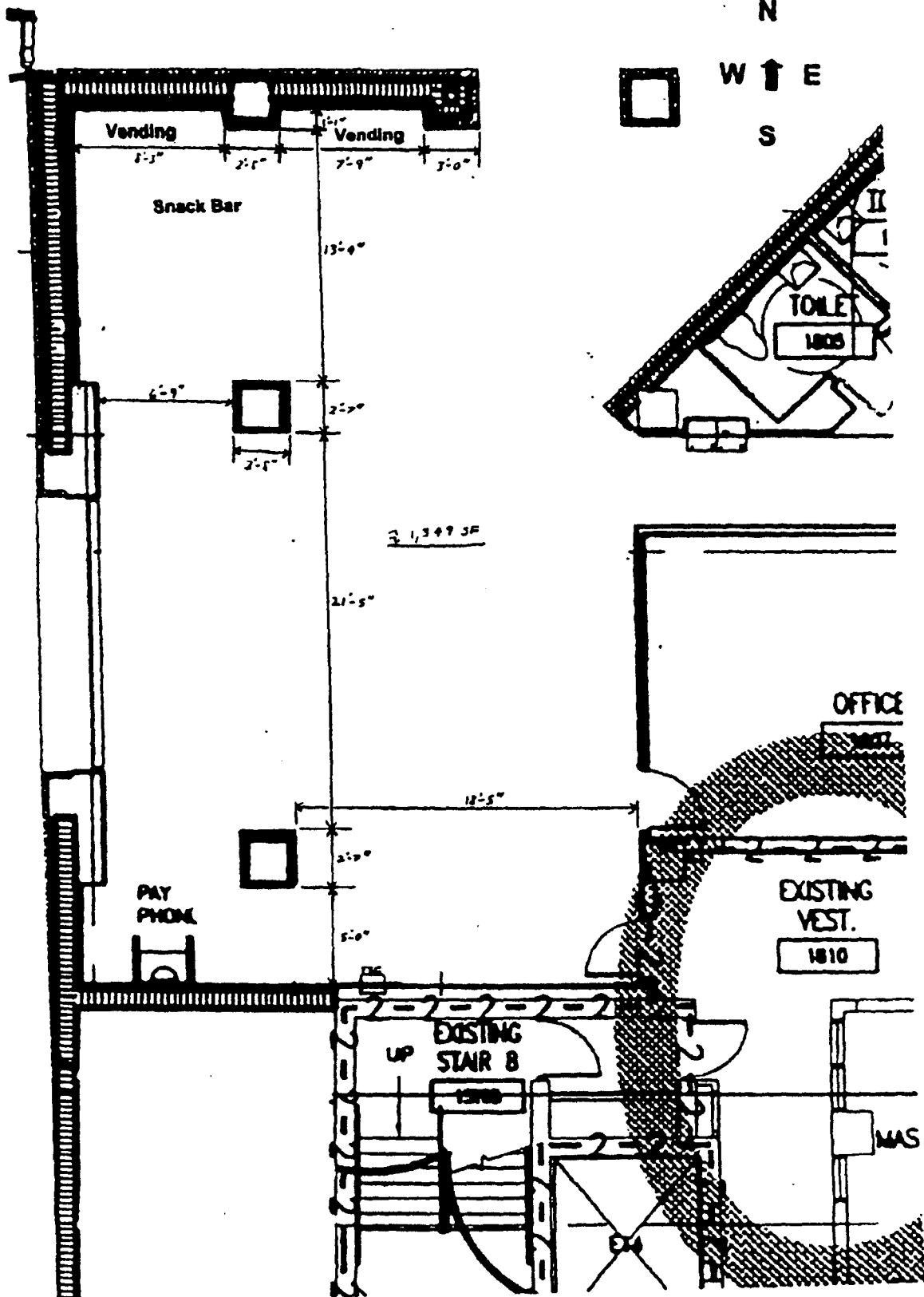
Authority to execute this contract per Manatee County Code, Chapter 2-26, and per the delegation by the County Administrator effective 1/26/2009 revised 8/10/09.

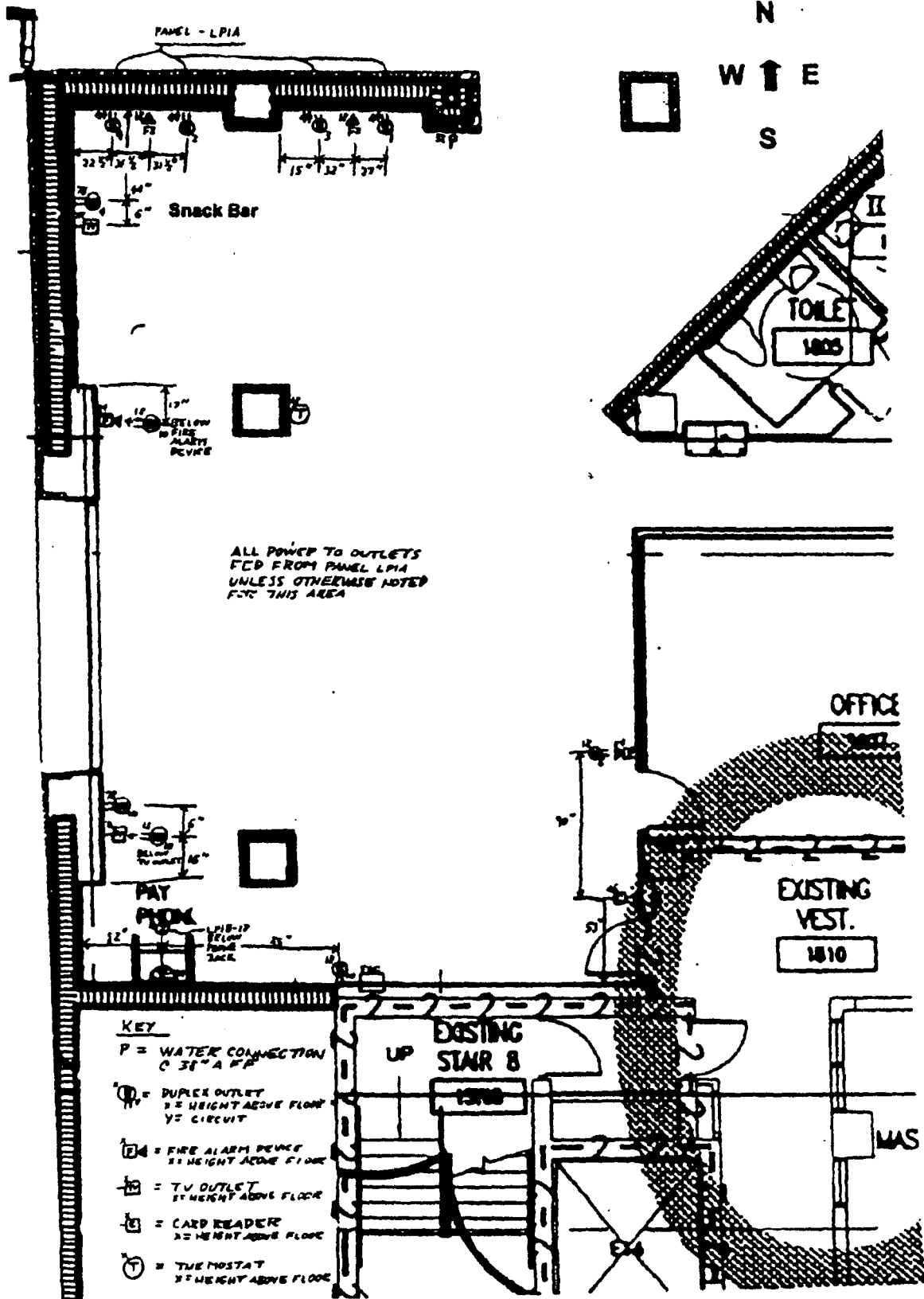
By: *R C Cuthbert*  
R. C. "Rob" Cuthbert, C.P.M.; CPPO;  
Purchasing Manager

EXHIBIT A

SITE PLAN

Manatee County Judicial Center, 1051 Manatee Avenue West, Bradenton, FL







**EXHIBIT C**

**CAPITAL INVESTMENT AND IMPROVEMENT PLAN**

Prior to Opening (8-10 weeks)

Plumbing (lift station, hand washing sink and 3 compartment sink)	\$4,500
Electrical	\$3,000
Cabinetry	\$2,500
Roll Down Door over service counter	\$3,700
Walls, Window, Doors, Installation	<u>\$17,500</u>
<b>Total</b>	<b>\$31,200</b>

Licensee acknowledges that all such additions, improvements and fixtures except movable equipment and inventory shall become the property of the County upon completion and remain in and or upon the facility and be surrendered upon termination of the Agreement.

## EXHIBIT D

### LICENSEE'S PRODUCTS

#### Breakfast

- Bacon, Egg and Cheese Croissant - \$4.25
- Fresh Baked Muffin - Blueberry, Banana Nut, Chocolate - \$ 1.49
- Bagel s - Variety - \$.99 Add cream Cheese \$1.49
- Turner Donut - assorted types - \$1.00
- Bottle of Milk - \$1.79
- Bottle of Chocolate Milk - \$1.79
- Bottle of Orange Juice - \$ 1.59
- Bottle of Cranberry Juice - \$ 1.59
- Coffee - Short \$1.49 Tall \$1.79
- Latte - 12 oz - \$2.39
- Cappuccino - 12 oz - \$ 2.39
- Bottled Water - \$1.09
- Vitamin Water - \$1.59
- Fresh Fruit - Individual Bananas, Apples, Oranges etc. market price
- Fresh Fruit Cup - Seasonal Fruits - \$3.29

#### Lunch

- Homemade Chicken Salad on Croissant - \$5.95
- Turkey Breast sandwich on either 9 grain bread or croissant - \$5.75
- Roast Beef sandwich on either 9 grain bread or croissant - \$5.95
- Traditional Pressed Cuban sandwich - \$5.95
- Club Sandwich with Turkey & Ham on white or wheat - \$6.95
- Laredo sandwich - Grilled Chicken breast, bacon, tomato, cheese and pressed - \$5.95
- BLT on white or wheat - \$5.25
- Grilled Cheese sandwich on white or wheat - \$4.95
- Grilled Cheese Add Bacon and Tomato \$5.75
- Palma Sola Salad - romaine, grape tomatoes, ham, Swiss cheese, green olives and our homemade balsamic vinaigrette - \$6.25
- Chicken Caesar Salad - \$ 6.50
- Monkey Salad - Mixed greens, candied walnuts, dried cranberries, mandarin oranges and gorgonzola Served with our balsamic vinaigrette \$5.50
- Monkey Salad with grilled Chicken added - \$7.00
- Chef Salad - Romaine with ham, turkey, tomato, cheese, and hardboiled egg with choice of dressing. - \$6.95
- Choice of Soup - Chicken Noodle and a daily soup will be offered. Cup \$2.75 Bowl \$3.75

**All Sandwiches are served with a choice of chips or homemade potato salad**

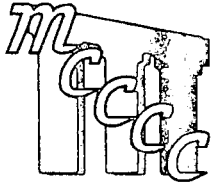
## **Drinks**

- 16oz Ice Tea - Sweet and Unsweet - Free Refills - \$1.79
- 16oz Soda - Free Refills - \$1.79
- Bottle of Milk - \$1.79
- Bottle of Chocolate Milk - \$1.79
- Bottle of Orange Juice - \$ 1.59
- Bottle of Cranberry Juice - \$ 1.59
- Coffee - Short \$1.49 Tall \$1.79
- Latte - 12 oz - \$2.39
- Cappuccino - 12 oz - \$ 2.39
- Bottled Water - \$1.09
- Vitamin Water - \$1.59

## **Side Items**

- Chips \$.50
- Cookies \$.75 - \$1.00
- Side of Fruit Salad - \$1.49
- Side of Potato Salad - \$1.00





**Manatee County**

**Clerk of the Circuit Court and Comptroller**

**R.B. "Chips" Shore**

P.O. Box 25400 ◊ Bradenton, Florida 34206 ◊ (941) 749-1800 ◊ FAX (941) 741-4082 ◊ [www.manateeclerk.com](http://www.manateeclerk.com)

November 9, 2011

**TO:** The Wild Monkey Gourment, Inc.  
**dba: You've Been Servd Café**  
2037 84th Street Circle Northwest  
Bradenton, Florida 34209

**FROM** Clerk of Circuit Court  
Board Records Department  
Vicki P. Jarratt  
P.O. Box 25400  
Bradenton, Florida 34206

**RE:** **Franchise License Agreement for Fresh Food Concession Services at the Manatee County Judicial Center.**


**ACCEPTED:** In open session by the Manatee County Board of County Commissioners on **November 8, 2011.**

RBS:vpj  
Enclosure

cc: Board Records  
Via Email

- Frank Lambertson, Purchasing
- David Thompson, Property Management
- Jon Berry, Property Management

**MANATEE COUNTY GOVERNMENT  
AGENDA MEMORANDUM**

<b>SUBJECT</b>	Fresh Food Concession Services at the Manatee County Judicial Center	<b>TYPE AGENDA ITEM</b>	Consent
<b>DATE REQUESTED</b>	November 8, 2011	<b>DATE SUBMITTED/REVISED</b>	November 1, 2011
<b>BRIEFINGS? Who?</b>	No	<b>CONSEQUENCES IF DEFERRED</b>	N/A
<b>DEPARTMENT/DIVISION</b>	Financial Management / Purchasing	<b>AUTHORIZED BY TITLE</b>	Jim Seuffert, Director
<b>CONTACT PERSON TELEPHONE/EXTENSION</b>	Frank Lambertson, 3042 / David Thompson, 3016	<b>PRESENTER/TITLE TELEPHONE/EXTENSION</b>	Charlie Bishop, Director, Property Management Dept., 3004
<b>ADMINISTRATIVE APPROVAL</b>			

**ACTION DESIRED**

INDICATE WHETHER 1) REPORT; 2) DISCUSSION; 3) FORM OF MOTION; OR 4) OTHER ACTION REQUIRED

Authorize the County Administrator or his designee to execute the Franchise License Agreement for Fresh Food Concession Services at the Manatee County Judicial Center with the Wild Monkey Gourmet, Inc., d/b/a You've Been Served Café, Bradenton, FL.

**ENABLING/REGULATING AUTHORITY**

Federal/State law(s), administrative ruling(s), Manatee County Comp Plan/Land Development Code, ordinances, resolutions, policy

Manatee County Code of Laws, Chapter 2-26 Manatee County Purchasing Ordinance, Section 2-26-40 and the Standards and Procedures approved by the County Administrator.

**BACKGROUND/DISCUSSION**

- Manatee County requires a food service operator to develop, manage, and operate a fresh concession operation at the Manatee County Judicial Center located at 1051 Manatee Avenue West, Bradenton, Florida. Vending machine services will be provided via a different agreement and vendor.
- Funding Source: Revenue Generating. See Page 2.

**COUNTY ATTORNEY REVIEW**

**APPROVED IN OPEN SESSION**

Check appropriate box

NOV 08 2011



**REVIEWED**

Written Comments:  Attached

Available from **BOARD OF COUNTY COMMISSIONERS** **MANATEE COUNTY FLORIDA** **Attorney's Initials:**



**NOT REVIEWED (No apparent legal issues.)**



**NOT REVIEWED (Utilizes exact form or procedure previously approved by CAO.)**



**OTHER**

**ATTACHMENTS:** (List in order as attached)

1. RLS11-370 Written Comments
2. Agreement (two originals)

**INSTRUCTIONS TO BOARD RECORDS:**

Originals to Board Records, and The Wild Monkey Gourmet, Inc., d/b/a You've Been Served Café, 2037 84<sup>th</sup> Street Circle NW, Bradenton, FL 34209. PDF to F. Lambertson, Purchasing, David Thompson and Jon Berry Property Management. *VEN Mail 11-9-11 vq ✓*

**COST:** Revenue Generating Estimate: \$30,000 annually

**SOURCE (ACCT # & NAME):** N/A

**COMMENTS:** N/A

**AMT./FREQ. OF RECURRING COSTS: (ATTACH FISCAL IMPACT STATEMENT)** N/A

\*3



- 4/25/11-8/15/11 the appropriate proposal procedures were followed. The Request For Proposal (RFP) was broadcast to two hundred forty-five (245) firms; seventeen (17) firms downloaded the RFP and two (2) firms submitted Proposals.
- Manatee County firms that were directly contacted and made aware of this Request for Proposal were:
  - Havana Cabana, Holmes Beach, FL
  - Jennifer's Café, Bradenton, FL
  - Panera Bread, Bradenton, FL
  - Theresa's Café, Bradenton, FL
  - Central Café, Bradenton, FL
  - Wild Monkey Gourmet, Bradenton, FL
  - Beck's, Bradenton, FL
  - B Town Coffee, Bradenton, FL
  - Robins Downtown Café, Bradenton, FL
  - Fav's, Bradenton, FL
  - Snackworks, Bradenton, FL
- Manatee County Chamber of Commerce Members in the category of Restaurants and Cafes:
  - Manatee County – 102
  - Sarasota County – 10
- Proposals were received from the following firms:
  - Manatee County firms:**
    - Snackworks, Bradenton, FL
    - Wild Monkey Gourmet, Inc., Bradenton, FL
  - Local firms:** None
  - Other firms:** None
- The Selection Committee convened on 8/15/2011 and selected the Wild Monkey Gourmet, Inc., d/b/a You've Been Served Café as they offered other than food purchases through vending machines and demonstrated the necessary qualifications to perform the required services. Of particular importance was their understanding of getting a project started and all regulations (building, fire and health) that would have to be addressed as they initiated food services in the Judicial Center and previous food service experience.
- 8/17/2011 the County Administrator authorized the Selection Committee to enter into negotiations after being provided a presentation after the scheduled Directors meeting on this date.
- Agreement summary for Fresh Food Services at the Judicial Center:
  - Initial capital investment by You've Been Served Cafe of \$31,200 (all additions, improvements and fixtures shall become the property of the County).
  - Revenue paid to the County will be 10% of gross sales less sales tax (est. \$30K)
  - Five (5) years term with a five (5) year option to renew.
  - Hours of operation 7:30am to 4:30pm Monday thru Friday (additional services as requested).
- This Agreement will be managed by the Property Management Department.



Office of  
**MANATEE COUNTY  
ATTORNEY**

Tedd N. Williams, Jr., County Attorney

James A. Mizix, Chief Deputy County Attorney  
Maureen S. Sikora, Deputy County Attorney\*  
Robert M. Eschenfelder, Deputy County Attorney  
Rodney C. Wade, Deputy County Attorney\*  
William E. Clague, Deputy County Attorney  
James R. Cooney, Deputy County Attorney  
Sarah A. Schenk, Deputy County Attorney\*

**MEMORANDUM**

**TO:** Melissa Assha—Interim Purchasing Official

**FROM:** Robert Michael Eschenfelder—Deputy County Attorney *RM*

**THROUGH:** Tedd N. Williams—County Attorney *Tedd Williams 10/26/11*

**DATE:** 25 October 2011

**RE:** Concession Agreement for Judicial Center (RLS 11-370) (CAO File No.: 1026-285)

In RLS 11-370, you indicate that the County issued an RFP for a food vendor to conduct business within the judicial center. You indicate that this process resulted in the selection of a successful proposer, and that a draft concession agreement has been negotiated. You indicate that the agreement is in the substantially same form as other similar recent concession agreements the County has adopted, after CAO review.

Inasmuch as I have worked with your staff on earlier drafts of this agreement, I advise most of the edits or issues I have raised in earlier drafts have now been addressed. I advise only one additional item be addressed. That is that at the end of the paragraph on Article 10, beginning on pg. 11, beginning with "The insurance coverage required...", the following should be added to the end of that paragraph: "LICENSEE shall name the COUNTY as additional insured on the general liability policy required herein."

The only other caution I offer is that prior to setting this item for Commission approval, your staff should ensure the Clerk's Audit Director has approved of your audit provisions, as that office has recently expressed a desire to review such provisions for all future concessions. Once that office has expressed approval, and the edit noted above is made, I advise that the item will be ready to place on a Commission agenda for approval.

I trust this suitably responds to your request for service. If you have further questions, please feel free to contact me.

c: Ed Hunzeker—County Administrator  
Deputy County Administrators

\* Board Certified City, County & Local Government Law

From: **Vicki Jarratt**

Sent: **Wednesday, November 09, 2011 11:33 AM**

To: 'frank.lambertson@mymanatee.org'; 'david.thompson@mymanatee.org'; 'jon.berry@mymanatee.org'

Subject: **License Agreement - Wild Monkey Gourmet, Inc.**

Attachments: **BC20111108DOC022.PDF**

Attached is a copy of the License Agreement - Wild Monkey Gourmet, Inc. approved by the BCC on 11/8/11.

Best regards,

Vicki Jarratt

Board Records

For R.B. "Chips" Shore

Manatee County Clerk of Circuit Court & Comptroller

[www.ManateeClerk.com](http://www.ManateeClerk.com)

[vicki.jarratt@manateeclerk.com](mailto:vicki.jarratt@manateeclerk.com)

749-1800 Ext. 4185

"Pride in Service with a Vision to the Future"