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**CONTRACT
BETWEEN
COUNTY OF GLOUCESTER
AND
BOGEY'S CAFÉ & CLUB, LLC**

THIS CONTRACT is made effective this 1st day of **July, 2018**, by and between the **COUNTY OF GLOUCESTER**, a body politic and corporate, with offices in Woodbury, New Jersey, hereinafter referred to as "**County**", and **BOGEY'S CAFÉ & CLUB, LLC**, with offices at 501 Pitman Road, Sewell, New Jersey 08080, hereinafter referred to as "**Vendor**".

RECITALS

WHEREAS, the County of Gloucester is the owner of the Pitman Golf Course located in Mantua Township, Gloucester County, New Jersey; and

WHEREAS, as described in greater detail in the additional contract parts, the golf course clubhouse includes a restaurant/bar with a commercial kitchen, a climate controlled tent capable of providing a venue for mid to large banquets, celebrations and other catered events, and a walk-up food and beverage service window to sell refreshments on the golf course; and

WHEREAS, the County is engaging the Vendor to continue providing a full range of food and beverage services at the golf course facility and Vendor represents that it is qualified to perform said services and desires to so perform pursuant to the terms and provisions of this Contract.

NOW, THEREFORE, in consideration of the mutual promises, agreements and other considerations made by and between the parties, the County and the Vendor do hereby agree as follows:

TERMS OF AGREEMENT

1. **TERM.** This Contract shall be effective from July 1, 2018 to June 30, 2023.
2. **CONSIDERATION.** Vendor shall pay the County \$30,000.00 annually for rental of the facility. All utility costs associated with the tent will be the responsibility of the Vendor, plus 50% of the utilities in and about the restaurant/clubhouse and common areas.
3. **CONDITIONS PRECEDENT.** The Contract shall not be considered valid and in force unless and until Vendor has complied with the conditions precedent described in the incorporated specifications. These conditions precedent specifically include, but are not limited to: the Vendor providing to the County a Letter of Credit or other acceptable security as required by the incorporated specifications; the securing and providing to the County of all required insurances; the Vendor obtaining approval from the New Jersey Division of Alcohol Beverage Control of all required licenses and approvals; and all other conditions precedent described in the specifications.

A further condition precedent to the validity of this Contract is the execution by Vendor of County's standard contract exhibits including, but not necessarily limited to the Non-Collusion Affidavit; Public Disclosure Statement; Affirmative Action Statement and the like.

4. DETAILS OF PARTIES' AGREEMENT. In addition to the provisions herein the County's specifications issued in RFP# 18-013 by the Gloucester County Purchasing Department and the "Proposal for Food and Beverage Service for the Pitman Golf Course" submitted by Vendor are incorporated into and made a part of this Contract by reference.

The parties acknowledge that the Vendor will include in its application for a special concessionaire license permission to serve alcoholic beverages from a beverage cart on the golf course. The parties further agree that Vendor is primarily responsible for securing and controlling the distribution of alcoholic beverages in the clubhouse, in the tent, from any such beverage cart and at any other location on the premises, and exercising reasonable discretion in determining to serve or not serve a particular patron. Failure to properly control the security and distribution of such alcoholic beverages may be considered by the County to be a breach of this Contract.

If in the reasonable opinion of the County, the service of alcoholic beverages on the golf course is causing inappropriate or disruptive or excessive behavior by patrons, County shall have the right to direct the Vendor to modify the manner in which such alcoholic beverages are served from the beverage cart or to direct the discontinuance of such service from the beverage cart.

5. FURTHER OBLIGATIONS OF THE PARTIES. During the performance of this Contract, the Vendor agrees as follows:

The Vendor or subcontractor, where applicable, will not discriminate against any employee or applicant for employment because of age, race, creed, color, national origin, ancestry, marital status, affectional or sexual orientation, gender identity or expression, disability, nationality or sex. Except with respect to affectional or sexual orientation and gender identity or expression, the vendor will ensure that equal employment opportunity is afforded to such applicants in recruitment and employment, and that employees are treated during employment, without regard to their age, race, creed, color, national origin, ancestry, marital status, affectional or sexual orientation, gender identity or expression, disability, nationality or sex. Such equal employment opportunity shall include, but not be limited to the following: employment, upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship.

The Vendor agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided by the Public Agency Compliance Officer setting forth provisions of this nondiscrimination clause.

The Vendor or subcontractor, where applicable will, in all solicitations or advertisements for employees placed by or on behalf of the vendor, state that all qualified applicants will receive consideration for employment without regard to age, race, creed, color, national origin, ancestry, marital status, affectional or sexual orientation, gender identity or expression, disability, nationality or sex.

The Vendor or subcontractor will send to each labor union, with which it has a collective bargaining agreement, a notice, to be provided by the agency contracting officer, advising the labor union of the vendor's commitments under this chapter and shall post copies of the notice in conspicuous places available to employees and applicants for employment.

The Vendor or subcontractor, where applicable, agrees to comply with any regulations promulgated by the Treasurer pursuant to N.J.S.A. 10:5-31 et seq., as amended and supplemented from time to time and the Americans with Disabilities Act.

The Vendor or subcontractor agrees to make good faith efforts to meet targeted county employment goals established in accordance with N.J.A.C. 17:27-5.2.

6. **LICENSING.** If the Vendor and/or Vendor's employees and/or agents are required to maintain a current license and/or a current registration with the State of New Jersey or with any other authorizing, licensing, or registering entity, or to obtain any permit, certification, satisfactory inspections and the like, in order to perform the services which are the subject of this contract, then prior to the effective date of this Contract, and/or during the course of this contract on the occasion of the obligation of the Vendor to obtain or renew such licenses, registrations, permits, certifications, satisfactory inspections and the like, and as a condition precedent to its taking effect or its continuation, Vendor shall provide to the County copies of the licenses, registrations, permits, certifications, and/or satisfactory inspections and the like with regard to its operation and all subject personnel who shall be performing services for the Vendor in satisfaction of the Vendor's obligation pursuant to this Contract. Said licenses, registrations, permits, certifications and/or satisfactory inspections and the like shall authorize the Vendor and its personnel to operate in the State of New Jersey and in this County and shall be in good standing and shall not be subject to any current action to revoke or suspend.

Vendor shall notify County immediately in the event of suspension, revocation, denial of renewal and/or unsatisfactory inspection or any change in status (or in the event of the initiation of any action to accomplish such suspension, revocation and/or change in status).

7. **TERMINATION.** This Contract may be terminated as follows:

A. If Vendor and/or any of Vendor's employees and/or agents are required to be licensed and/or registered and/or required to obtain any permits, certifications and/or satisfactory inspections and the like, in order to perform the services which are the subject of this contract, then this contract shall be terminated in the event that the appropriate governmental entity with jurisdiction has instituted an action to have the Vendor's or any of Vendor's employees' license, registration, permits, and/or certifications suspended or revoked, or in the event of any unsatisfactory inspection, or in the event that such entity has revoked or suspended said license, permit, certification, registration or denied the same or issued such unsatisfactory inspection. Notice of termination pursuant to this subparagraph shall be effective immediately upon the giving of said notice.

B. The County shall have the right, in its sole discretion, to declare this contract terminated in the event of any material breach of this contract by Vendor. Such

declaration of termination shall be made consistent with the provisions of the incorporated specifications titled, "Contract Termination". Vendor shall have a period of ten days from notice by the County of the breach to cure any monetary breach. Vendor shall have a period of 30 days from the date of the notice by the County of a non-monetary breach to cure any non-monetary breach.

C. The County may terminate this Contract any time without cause by 90 days' written notice in writing from the County to the Vendor.

D. Termination shall not operate to affect the validity of the indemnification provisions of this agreement, nor to prevent the County from pursuing any other relief or damages to which it may be entitled, either at law or in equity.

E. Notwithstanding the above, the Vendor or subcontractor, where applicable, shall not be relieved of liability to the County for damages sustained by the County by virtue of any breach of the Contract by the Vendor, and the County may withhold any payments to the Vendor for the purpose of set off until such time as the exact amount of damages due the County from the Vendor is determined.

F. Vendor may terminate this Contract with the consent of the County.

8. **NO ASSIGNMENT OR SUBCONTRACT.** This Contract may not be assigned nor subcontracted by the Vendor, except as otherwise agreed in writing by both parties. Any attempted assignment or subcontract without such written consent shall be void with respect to the County and no obligation on the County's part to the assignee shall arise, unless the County shall elect to accept and to consent to such assignment or subcontract.

9. **INDEMNIFICATION.** The Vendor or subcontractor, where applicable, shall be responsible for, shall keep, save and hold the County of Gloucester harmless from, and shall indemnify and shall defend the County of Gloucester against any claim, loss, liability, expense (specifically including but not limited to costs, counsel fees and/or experts' fees), or damage resulting from all mental or physical injuries or disabilities, including death, to employees or recipients of the Vendor's services or to any other persons, or from any damage to any property sustained in connection with this contract which results from any acts or omissions, including negligence or malpractice, of any of its officers, directors, employees, agents, servants or independent Vendors, or from the Vendor's failure to provide for the safety and protection of its employees, or from Vendor's performance or failure to perform pursuant to the terms and provisions of this Contract. The Vendor's liability under this agreement shall continue after the termination of this agreement with respect to any liability, loss, expense or damage resulting from acts occurring prior to termination.

10. **INSURANCE.** Vendor shall maintain and continue in full force and effect insurance policies of the kind and in the amount described in Section II., "Terms of the Contract:." Paragraph G., "Insurance" as set forth in the specifications.

Prior to the effective date of this Contract, and as a condition precedent to its taking effect, Vendor shall provide to the County a copy of the certificates of insurance, verifying that

said insurance is and will be in effect during the term of this Contract. The County shall review the certificate(s) for sufficiency and compliance with this paragraph, and approval of said certificate(s) and policy(s) shall be necessary prior to this agreement taking effect. Vendor also hereby agrees to continue said policy in force and effect for the period of the applicable statute of limitations following the termination of this Contract and shall provide the County with copies of certificates of insurance as the certificates may be renewed during that period of time.

11. **SET-OFF.** Should Vendor either refuse or neglect to perform the service that Vendor is required to perform in accordance with the terms of this Contract, and if expense is incurred by County by reason of Vendor's failure to perform, then and in that event, such expense shall be deducted from any payment due to Vendor. Exercise of such set-off shall not operate to prevent County from pursuing any other remedy to which it may be entitled.

12. **PREVENTION OF PERFORMANCE BY COUNTY.** In the event that the County is prevented from performing this Contract by circumstances beyond its control, then any obligations owing by the County to the Vendor shall be suspended without liability for the period during which the County is so prevented.

13. **NON-WAIVER.** The failure by the County to enforce any particular provision of this Contract, or to act upon a breach of this Contract by Vendor, shall not operate as or be construed as a waiver of any subsequent breach, nor a bar to any subsequent enforcement.

14. **PARTIAL INVALIDITY.** In the event that any provision of this Contract shall be or become invalid under any law or applicable regulation, such invalidity shall not affect the validity or enforceability of any other provision of this Contract.

15. **NOTICES.** Notices required by this Contract shall be effective upon mailing of notice by regular and certified mail to the addresses set forth above, or by personal service, or if such notice cannot be delivered or personally served, then by any procedure for notice pursuant to the Rules of Court of the State of New Jersey.

16. **GOVERNING LAW, JURISDICTION AND VENUE.** This Contract and all questions relating to its validity, interpretation, performance or enforcement shall be governed by and construed in accordance with the laws of the State of New Jersey. The parties each irrevocably agree that any dispute arising under, relating to, or in connection with, directly or indirectly, this agreement or related to any matter which is the subject of or incidental to this agreement (whether or not such claim is based upon breach of contract or tort) shall be subject to the exclusive jurisdiction and venue of the state and/or federal courts located in Gloucester County, New Jersey or the United States District Court, District of New Jersey, Camden, New Jersey. This provision is intended to be a "mandatory" forum selection clause and governed by and interpreted consistent with New Jersey law and each waives any objection based on forum non conveniens.

17. **INDEPENDENT VENDOR STATUS.** The parties acknowledge that Vendor is an independent Vendor and is not an agent of the County.

18. **CONTRACT PARTS.** This Contract consists of this Contract document, RFP #018-013

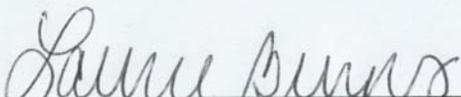
issued by the County, and the Contractor's Proposal. Should there occur a conflict between this form of Contract and RFP-018-013, this Contract shall prevail. Should there occur a conflict between this Contract or RFP-018-013, and Contractor's Proposal, then this Contract, or the RFP, as the case may be, shall prevail.

19. **BINDING EFFECT.** This Contract shall be binding on the undersigned and their successors and assigns.

THIS CONTRACT is effective as of this **1st** day of **July, 2018**.

IN WITNESS WHEREOF, the County has caused this instrument to be signed by its Director, attested by its Clerk, and its corporate seal affixed hereunto, pursuant to a Resolution of the said party of the first part passed for that purpose, and Vendor has caused this instrument to be signed by its properly authorized representative and its corporate seal affixed the day and year first above written.

ATTEST:



LAURIE J. BURNS,
CLERK OF THE BOARD

COUNTY OF GLOUCESTER



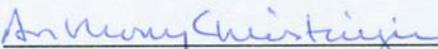
ROBERT M. DAMMINGER, DIRECTOR

ATTEST:

BOGEY'S CAFÉ & CLUB, LLC



By: AL BARTOLOMEO
Title: CO-OWNER/OPERATOR



By: ANTHONYCHRISTINZIE
Title: CO-OWNER/OPERATOR