

**INDEPENDENT SUBCONTRACTOR AGREEMENT**

This Independent Subcontractor Agreement (“Agreement”) is made and entered into this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_, (“Effective Date”) between Friends of Fakahatchee, Inc. a Florida not-for profit corporation (“FOF”) and the Permitted Commercial Operator, \_\_\_\_\_, (“Permittee”).

**RECITALS**

The parties to this Agreement acknowledge and affirm the truth and accuracy of the following recitals and incorporate them as part of this Agreement:

1. FOF is a not-for-profit corporation duly organized and existing in good standing under the laws of the State of Florida.
2. The Department of Environmental Protection (“Department”), has selected the FOF to manage the provision of all visitor services in Fakahatchee Strand Preserve State Park (“Park”) as provided for in that certain Master Concession Agreement No. CA-0518.
3. Permittee is a Commercial Operator, which is defined herein as any entity conducting commercial activity within the Park.
4. FOF is the Concessionaire under that certain Multi-Year Concession Agreement issued by the Department of Environmental Protection (“Department”) exclusively (“Concession Agreement”) to the FOF and identified as Agreement No. CA-0518, which is incorporated by references herein, in its entirety. Permittee, upon execution of this Agreement, acknowledges that it has read, understands all of its terms and conditions and agrees to be bound by and abide by its specific terms, conditions and regulations as provided in the Concession Agreement and all documents, rules, regulations and laws referenced therein. A list of each of those rules, regulations, and law referred to in the Concession Agreement, to which the Permittee is bound, are listed on Exhibit “A” to this Agreement, and are made part of this Agreement. The list of required

documents and forms is attached hereto as Exhibit "B".

5. FOF desires to engage Permittee, to provide and perform certain services that FOF has been authorized to provide under its Concession Agreement with the Department.

**TERMS AND CONDITIONS OF AGREEMENT**

NOW, THEREFORE, in consideration of the mutual promises and covenants in this Agreement, FOF and the Permittee agree as follows:

1. Term of Agreement. The term of Permittee's engagement under this Agreement shall commence on the Effective Date and continue until the (*one year after Effective date*) or as extended or sooner terminated as provided herein.
2. Services Provided. Permittee's duties and responsibilities hereunder (the "Services") are detailed in Exhibit "C" attached hereto ("Permittee's Authorization").
3. Duty to Perform Services/Control/Requirements.

3.1 The Permittee shall provide and perform the services described in Exhibit "C" on behalf of FOF. The Permittee is prohibited from and shall not provide or perform any service that is not identified in Exhibit "C". Permittee agrees to observe and comply with the policies, standards, and procedures of the FOF when providing or performing these services. While providing or performing those services, Permittee is acting as an independent Permittee shall have no authority to incur any debt or obligation on behalf of the FOF, to contractually bind FOF, or to make any representation, agreement, warranty, or guaranty on behalf of FOF or the Department.

3.2 The Permittee shall comply with all applicable local, municipal, state, and federal rules and regulations when providing and performing services to the FOF under this Agreement. The Permittee shall obtain and maintain all permits and licenses necessary for it to provide and perform these services. The Permittee acknowledges that this requirement includes compliance with all applicable local, municipal, state, and federal health and safety

rules and regulations relating to the operation of its business and its employees.

3.3 Permittee must conduct and submit to FOF a Purchasing Card Industry (PCI) Self-assessment Questionnaire (SAQ), as required in paragraph 18.h of the General Conditions of FOF's Concession Agreement with the Department, on the anniversary date of this Agreement, and each year thereafter.

3.4 FOF reserves the right and privilege of entering into similar agreement with others to provide and perform those services described in Exhibit "C". This Agreement does not constitute or imply a permanent or exclusive arrangement between FOF and Permittee for the providing or performing of those services.

3.5 The Permittee acknowledges and agrees that the Department and FOF shall not be liable to the Permittee for any expenses or liabilities incurred under this Agreement. Further, the Permittee acknowledges and agrees that it will, as a condition of this Agreement, comply with the terms of the Concession Agreement as applicable to Permittee, and to submit reports and the forms required by the Concession Agreement and this Agreement. In the event the Permittee refuses to comply with the terms and conditions of this Concession Agreement, or this Agreement, such refusal shall warrant and result in immediate and automatic termination of the Permittee and its authorization to provide and perform any services within the Park. Further, upon such termination, Permittee acknowledges it has no authority or permission to conduct business within the Park and that any such action would be unlawful.

4. Commission. Permittee has a Class \_\_\_ Permit, and shall compensate FOF according to the Commission Schedule attached hereto as Exhibit "D". In the event the FOF shall incur any late fee assessed by the Department under its Concession Agreement as the result of any late reporting or submittals by the Permittee, Permittee shall reimburse FOF within (30) days of written notice of such assessment. If any late monthly fee is not paid within eight

(8) days after the deadline, then FOF may suspend the Permittee's operations under this Agreement until full payment has been received by the FOF or it may terminate this Agreement for cause. FOF may waive any late fee, suspension or termination action based on documented circumstances that are beyond the Permittee's reasonable control and when such the explanation and evidence of exceptional circumstances satisfy FOF and the Department.

5. Accounting. Accounting requirements shall be as follows:

5.1 The Permittee shall comply with and document compliance with the Minimum Accounting Requirements as provided in FOF's Concession Agreement with the Department. The Permittee shall establish and maintain books, records, and documents directly pertinent to providing and performance of the services provided for in this Agreement in accordance with the Minimum Accounting Requirements as established by Chapter 119, Florida Statutes, and with the generally accepted accounting principles, which shall be consistently applied. FOF, the Department, and other appropriate government agencies, or their authorized representatives, as provided by law, shall have access to all such records for audit purposes during the term of this Agreement and for five (5) years following this Agreement's expiration or termination. Audits will be conducted at the locations and at a frequency determined by FOF, the Department or other state agency and communicated to the Permittee. The Permittee shall provide materials for the audit at the designated place within fifteen (15) days after the FOF, the Department's or other government agency's notice is received. In the event there is a discrepancy between the Monthly Total Gross Sales Report and the Permittee's Sales Tax Returns, the Park's attendance records, commissions, received and/or any other supporting documents, FOF may require the Permittee to procure an annual financial audit of the Permittee's operations conducted by a Certified Public Accountant, at Permittee's sole cost and expense. If requested, the

Permittee agrees that such audit shall be conducted in accordance with generally accepted auditing and accounting principles and shall be completed within a reasonable time frame, which shall not be set at less than sixty (60) days by the FOF or the Department.

6. Relationship Between Parties.

6.1 **The parties acknowledge that the Permittee is an independent contractor and not a joint venture, partner, employee, or agent of the FOF.**

6.2 The FOF has no control over the manner or method by which Permittee meets its obligations under this Agreement, other than those requirements and obligations set for specifically herein and that the Services shall be provided and performed in a competent and efficient manner in accordance with current professional standards and in compliance with Park rules, the policies of FOF and the terms of this Agreement.

6.3 The FOF will not withhold for Permittee any sums for income tax, Social Security, unemployment insurance, or any other employee withholding nor will the FOF offer Permittee any employee benefits including, without limitation, health or dental insurance, pension benefits, worker's compensation coverage, and death and disability insurance. As between the FOF and Permittee, the Permittee shall be solely responsible for all employment related withholdings and benefits for the Permittee and the employees of the Permittee.

6.4 Permittee acknowledges that it is not an employee of the State of Florida, and that neither the Permittee nor its employees are entitled to accrue any benefits from the State of Florida or the FOF, including employment, retirement benefits or any other rights and privileges connected with State employment.

7. General Liability and Workers' Compensation Insurance.

7.1 The Permittee shall secure and maintain during the term of this Agreement,

Worker's Compensation Insurance for all of its employees connected with the work to be performed under this Agreement that complies fully with Florida Workers' Compensation Law. In case any of the Permittee's employees engage in hazardous work under this Agreement and such work is not protected under the Workers' Compensation Statutes, the Permittee shall provide adequate insurance satisfactory to FOF for the protection of its employees not otherwise protected. Insurance policy certificates shall be submitted to FOF naming as certificate holders, Friends of Fakahatchee, Inc., the Florida Department of Environmental Protection and the Board of Trustees of the Internal Improvement Trust Fund of the State of Florida. All insurance policies shall be with insurers licensed or eligible to do business in the State of Florida. The Permittee shall maintain in effect and be responsible to for the amount of any premiums for general liability insurance covering Permittee, which insurance shall, upon request of the FOF, also protect the FOF within limits selected by FOF.

7.2 The Permittee shall secure and maintain Commercial General Liability insurance, including bodily injury, property damage, personal and advertising injury, contents of the Park facilities and space used by Permittee, products, and completed operations. This insurance shall provide coverage for all claims that may arise from providing and performing its services and for the operation of its business provided under this Agreement, whether such services and/or operations are by the Permittee or anyone directly or indirectly employed by the Permittee. The minimum limits of liability shall be \$1,000,000.00 for each occurrence and \$2,000,000.00 in the aggregate.

7.3 The Permittee shall secure and maintain Commercial Automobile Liability insurance for company-owned vehicles and for hired and non-owned vehicles, which are used to transport equipment, merchandise, food products, customers, employees or otherwise provide operational support or deliver services to the day to day or incidental operations or otherwise used to conduct business as permitted under this Agreement, at a

minimum combined single limit of \$1,000,000.00. Commercial automobile liability insurance coverage may be provided as either vehicle specific coverage or as coverage for the business use as a rider on the Permittee's general liability insurance policy.

7.4 Permittee shall provide such other insurance required under the Concession Agreement for the unique or particular type of operations, recreation, or facilities provided, such as liability for the operation of vessels, water sports, operation of other motorized vehicles, and diving and snorkeling. The Permittee shall provide its own insurance for such things as kayaks, canoes, paddle board, boat hulls, building contents, theft, vehicle comprehensive, and any other applicable insurance. The Permittee understands that neither the State of Florida nor FOF's insurance covers the Permittee's personal property, liability, or business losses.

7.5 All insurance shall include a Hold Harmless Agreement in favor of FOF, the Department, and the Board of Trustees of the Internal Improvement Trust Fund of the State of Florida ("Board of Trustees"). All insurance policies shall name the Friends of Fakahatchee, the Florida Department of Environmental Protection, and the Board of Trustees of the Internal Improvement Trust Fund of the State of Florida, as "Additional Named Insureds" for the entire term of this Agreement, including all extensions, if any. All insurance policies shall reference and include FOF's Concessionaire Agreement, Department Agreement No. CA-0518, on the certificate. The Permittee's insurance shall contain a provision that the insurance will not be canceled for any reason except after thirty (30) days written notice to FOF. The Permittee shall provide insurance policy Certificates and evidence of its current insurance coverage prior to commencement of operations. Evidence of all policy renewals shall be provided to FOF at the time of every renewal of such policy and prior to any extension of this Agreement. FOF reserves the right to request copies of insurance policies for examination and copying at any time during the term of this Agreement. The

required per occurrence and aggregate loss limits for insurance coverage of Permittee's services under this Agreement shall not be subject to dilution or reduction by any other insurable loss or interest of Permittee under such policy and, if requested, Permittee will provide proof thereof from its insurance provider.

8. Risk in operation. The Permittee assumes all risk in the operation of its business under this Agreement and shall be solely responsible and answerable in damages for accidents or injuries to persons or property, whether direct or indirect, arising out of its providing and performing the services required by this Agreement, its operations or arising by virtue of the carelessness, negligence, or improper conduct of the Permittee, their respective employees, vendors, representatives, agents, customers or guests. The Permittee shall save and hold harmless and indemnify the FOF, the Department, and the Board of Trustees, and their respective officers, employees, and agents, against any and all liability, claims, judgments, attorney's fees, or costs of whatsoever kind and nature for injury to, or death of, any person or persons and for the loss of or damage to any property resulting from the use, service, operation, or performance of work under the terms of this Agreement, resulting from any act, or failure to act, by the Permittee or its permittees, vendors, and their respective employees, agents, or representatives to the extent allowed by law. The Permittee shall notify the FOF within three (3) days of all legal actions filed against the Permittee which in any way related to or arose from this Agreement. Permittee shall have each guest, their parent or guardian, sign a liability waiver prior to participating in the adventure activity provided by the Permittee, which releases FOF, the Department, and the Trustees of the Internal Improvement Trust Fund for the State of Florida, from any liability whatsoever, for any injuries or damages occurring or resulting from that adventure activity.

9. Force majeure event. The Permittee hereby waives all claims for compensation for loss or damage sustained by reason of any force majeure event that takes place in or affects



the Park (as defined in the Concession Agreement). If a force majeure event occurs which causes delay or the reasonable likelihood of delay in Permittee's performance under this Agreement, the Permittee shall promptly notify FOF, including the anticipated length and cause of the delay, the measures taken or to be taken to minimize the delay and the Permittee's intended timetable for implementation of such measures. If the parties agree that the delay or anticipated delay has been or will be caused by a force majeure, time for performance of the Agreement may be extended for a period of time equal to the delay resulting from the force majeure. Such extension shall be the Permittee's sole remedy under this Agreement for delay caused by a force majeure event. A force majeure event shall be an act of God or nature, strike, lockout or other industrial disturbance, act of the public enemy, war, blockade, public riot, lightning, fire, flood, explosion, failure to receive timely necessary governmental or third party approvals, governmental restraint, terrorism, threat to homeland security, tornado, hurricane or other severe storms, civil commotion, criminal activity, or any other cause, whether of the kind specifically enumerated herein or otherwise, which is not reasonably within the control of the Permittee.

No payment from the Permittee shall be due for the time period during which its operations are totally suspended due to the force majeure event. The Permittee hereby waives all rights, claims and demands and forever releases and discharges FOF, Department and the Board of Trustees and their respective employees, officers and agents from all demands, attorney's fees, claims, actions, and causes of action arising from a force majeure event.

10. Facilities and Use Areas. The Permittee shall be permitted to use the following facilities, see Exhibit "C". The Permittee accepts all physical facilities, space and equipment "as is" and with no warranties of suitability for Permittee's intended use. The FOF shall not be obligated to provide Permittee with any personnel, supplies, materials, facilities or equipment for the performance of Permittee's Services under this Agreement except as

referenced above.

11. Termination. This Agreement shall terminate upon the happening of any of the following events:

11.1 Feeding, molesting, harassing or in any way disturbing the wildlife (alligators, birds, manatees, etc.), or destruction of native wildlife and/or artifacts, vegetation or natural fauna;

11.2 Upon the dissolution of FOF or Permittee;

11.3 By either FOF or Permittee, without cause, after giving no less than ninety (90) days written notice;

11.4 For "cause", which shall include, without limitation, the following matters:

11.4.1 A material breach of this Agreement;

11.4.2 The inability of Permittee for any reason, to provide or perform the Services agreed to in this Agreement which includes, but is not limited to, suspension, revocation or cancellation of the Permittee's right to provide such services under applicable laws, regulations, rules or ordinances of local, municipal, state or Federal government agencies;

11.4.3 The occurrence of any of the following with respect to Permittee: (i) filing a petition, whether voluntarily or involuntarily, under any section or chapter of the United States Bankruptcy Code, (ii) making a general assignment for the benefit of creditors; (iii) consenting to the appointment of a receiver for all or a substantial part of Permittee's property; (iv) the entry of a court order appointing a receiver or trustee for all or a substantial part of Permittee's property without his or her consent; or (v) the assumption or custody or sequestration by a court of competent jurisdiction of all or substantially all of Permittee's property;

11.4.4 Permittee's conviction of any crime of moral turpitude;

11.4.5 Permittee's substantial dependence on any addictive substance, as determined by FOF;

11.4.6 Upon such termination the Permittee acknowledges and agrees that it is prohibited from conducting any commercial activity within the Park and consents to the entry of an injunction against it enjoining the Permittee from conducting such activity in the Park by a court of competent jurisdiction.

12. Indemnification. Permittee agrees to indemnify and hold harmless FOF, its members, managers, officers, agents and employees from any and all claims, damages, liabilities and expenses, including court costs and reasonable attorneys' fees, whether suit is filed or not, resulting from Permittee's failure to perform the Services, duties, or obligations of Permittee created under this Agreement, or resulting from the negligent performance of the Services, duties, or obligation of Permittee created by this Agreement.

13. Miscellaneous. Permittee Staff Standards.

The Permittee will provide regular training and evaluation of all staff assigned to the Permittee's Service operations in the Park to ensure an appropriate level of proficiency in their knowledge of all Park's ecosystem, principles of ethical ecotourism, safety procedures, first aid and CPR. All Permittee's staff will be required to wear a company shirt or other device identifying the Commercial Operator's organization whenever in the Park and all Permittee vehicles shall also have marking that clearly identify the Permittee, including displaying a FOF-issued permit bade in the front window.

13.1 Governing Law. This Agreement, the rights and obligations of the parties hereto, and any claims or disputes relating thereto, shall be exclusively governed by and construed in accordance with the laws of the state of Florida (without regard to any Florida law which would require the application of the law of any other state or jurisdiction). Venue for any dispute under this Agreement shall exclusively be in the

state courts of competent jurisdiction sitting in Collier County, Florida.

13.2 Safety Plan. Within thirty (30) days of beginning the services provided for in Exhibit "C", the Permittee shall provide a draft Safety Plan to be evaluated by FOF and the Department and the Department's Safety Officer and Park Manager. The Permittee will implement a final Safety Plan incorporating the District's and Park Manager's comments within thirty (30) days of Department approval. The Safety Plan shall be revised once a year before the anniversary date.

13.3 Environmental Plan: Within thirty (30) days of starting services provided for in Exhibit "C", the Permittee shall provide a draft Environmental Protection Plan to be evaluated by a Department biologist. The Permittee will implement a final Environmental Protection Plan incorporating the Department biologist's, the District's, and the Park Manager's comments within thirty (30) days of Department approval. The Environmental Protection Plan will cover all operations in the park, including, but not limited to:

13.3.1 Use of recyclable or biodegradable materials where possible, with preference given to use of non-disposable materials;

13.3.2 Natural resource impact minimization;

13.3.3 Solid waste reduction and recycling, including the provision of recycle bins for plastics, paper, aluminum, and glass for use by park visitors;

13.3.4 Waste management, including the provision of garbage bins for use by park visitors and preventing wildlife from accessing waste;

13.3.5 Use of cleaning and maintenance supplies/compounds, insecticides, rodenticides, and herbicides; and

13.3.6 Any other information that would allow a reviewed to evaluate and understand the total Environmental Protection Plan.

13.4 FOF shall have the right, at its sole discretion, upon one (1) week written notice, to audit the Permitted Commercial Operators' tours to monitor for quality of visitor experience including safety and accuracy of information about the park and its ecosystem. This monitoring may include a representative of FOF participating in the activities or services being provided by the Permittee.

13.5 Costs of Enforcement. In connection with any litigation arising out of this Agreement, the prevailing party shall be entitled to recover all costs incurred, including reasonable attorneys' fees, for all trial and appellate levels.

13.6 Entire Agreement. This instrument contains the entire agreement of the parties. It may not be changed orally, but only by an agreement in writing signed by the party against whom enforcement of any waiver, change, modification, extension, or discharge is sought. This instrument by its terms does hereby revoke any and all prior understandings of the parties whether oral or written.

13.7 E-Verify, Employment Eligibility Verification. The Immigration Reform and Control Act of 1986 prohibits employers from knowingly hiring illegal workers. The Permittee will only employ individuals who may legally work in the United States (either U.S. citizens or foreign citizens who are authorized to work in the U.S.). The Permittee will use the U.S. Department of Homeland Security's E-Verify Employment Eligibility Verification System to verify the employment eligibility of all employees.

13.8 Unauthorized Aliens. §274A of the Immigration and Nationality Act prohibits the Permittee from employing unauthorized aliens. If the Permittee knowingly employs unauthorized aliens, FOF may unilaterally terminate this Agreement.

13.9 Sexual Predator and Offender Act. The Permittee will keep a copy of its investigation records in the Permittee's personnel files and have that file available to FOF during Permittee's regular business office hours. The Permittee will not employ any person within the Park who is listed on either the sexual predator or sexual

offender list maintained by the Florida Department of Law Enforcement (“FDLE”) or maintained by the U.S. Department of Justice National Sex Offender Public Policy Registry (“NSOPR”). FOF reserves the right to conduct criminal background checks on any additional sexual predator or sexual offender checks on the Permittee’s managers, officers, employees and subcontractors during the term of this Agreement. If it is determined that the Permittee has knowingly employed a sexual predator or sexual offender or failed to perform the required search of the FDLE or the NSOPR, this violation will be cause for immediate termination of this Agreement.

13.10 Public Entity Crime; Convicted Vendor. “Public Entity” means the State of Florida, any of its departments or agencies, or any political subdivision. “Public Entity Crime” means a violation of any state or federal law by a person directly related to the transaction of business with any Public Entity or with an agency or political subdivision of any other state or with the United States, including any bid, proposal, reply, or contract for goods or services, any lease for real property, or any contract for the construction or repair of a public building or public work, involving antitrust, fraud, theft, bribery , collusion, racketeering, conspiracy, or material misrepresentation.

The Permittee confirms that, as of the execution date of this Agreement, neither the Permittee nor any of its officers, directors, executives, partners, shareholders, employees, members, or agents (as applicable) who are active in managing the Permittee, have been placed on the convicted vendor list maintained by the State of Florida Following a conviction for a Public Entity rime or on any similar list maintained by any other state or the federal government. The Permittee will reaffirm this statement annually no later than July 1 of each year. A person or affiliate who has been placed on the convicted vendor list following a conviction for a a Public Entity Crime, among other things, may neither be awarded work nor perform work as a contractor, supplier, subcontractor, or consultant under a contract with any Public Entity; and may not

transact business with any Public Entity in excess of a specified threshold amount for a period of 36 months following the date of being placed on the convicted vendor list.

The Permittee must notify FOF within thirty (30) days after any conviction of a Public Entity Crime applicable to the Permittee, its officers, directors, executives, partners, shareholders, employees, members, or agents who are active in management of the Permittee, or any affiliates of the Permittee. If the Permittee is convicted of a Public Entity Crime, this Agreement is voidable.

13.11 References. References to this Agreement shall include any amendment or renewal hereof. Words such as "herein," "hereinafter," "hereof," "hereto" and "hereunder" refer to this Agreement as a whole, unless the context otherwise requires. Whenever any reference is made in this Agreement to a party, such reference shall (when applicable) be deemed to be and include references to such party's estate, personal representative, heirs, successors, and assigns. Capitalized terms herein shall have the meaning assigned to them unless the context otherwise requires. References to the masculine gender in this Agreement shall be deemed to include the feminine and neuter, and references to the singular shall include the plural, and vice versa, where appropriate.

13.12 Assignment. This Agreement is personal to Permittee. Permittee may not assign, pledge, or transfer Subcontractor's interest in this Agreement, or Permittee's duties, obligations and responsibilities under and pursuant to this Agreement, without FOF's prior written consent.

13.13 Counterparts. This Agreement may be executed in any number of counterparts, each of which shall be deemed an original instrument, and said counterparts shall constitute but one and the same instrument which may be sufficiently evidenced by one counterpart. Facsimile copies of executed documents or executed documents sent as a PDF attachment to an e-mail transmission shall be

deemed originals for all purposes.

13.14 Severability. In case any one or more of the provisions contained in this Agreement shall, for any reason, be held to be invalid, illegal or unenforceable in any respect, such invalidity, illegality or unenforceability shall not affect any other provisions of this Agreement, and this Agreement shall be construed as if such invalid, illegal or unenforceable provision had never been contained in this Agreement.

13.15 Waiver. No waiver of any breach of any agreement or provision in this Agreement shall be deemed a waiver of any preceding or succeeding breach of this Agreement. No extension of time for performance of any obligation or act shall be deemed an extension of time for performance or any other obligation or act.

13.16 Notice. Whenever any notice is required or permitted to be given under any provision of this Agreement, such notice will be in writing, signed by or on behalf of the party giving the notice and shall be deemed to have been given when delivered by personal delivery or mailed by certified or registered mail, postage prepaid, return receipt requested, addressed to the party or parties to whom such notice is to be given at the addresses noted above.

13.17 Headings; Capitalized Terms. The headings of the various sections herein contained are intended for ease of reference only and are not to be construed as evidence of the intent as to the contents thereof. Capitalized terms, where not defined in this Agreement, shall have the meaning ascribed in the Concession Agreement.

13.18 Construction. In the event of any dispute as to the precise meaning of any term contained herein, the principles of construction and interpretation that written documents be construed against the party preparing same shall not be applicable. Each representation, warranty, and covenant contained herein shall have independent significance.



14. Documents Incorporated Into This Agreement

Concession Agreement between the State of Florida, Department of Environmental Protection and Friends of Fakahatchee, Inc., DEP Agreement No. CA-0518

Exhibit A Rules, Regulations, Statutes Incorporated Into Independent Subcontractor Agreement

Exhibit B Required Documents and Forms

Exhibit C Permittee's Authorization

Exhibit D Commission Schedule

15. Additional Risks and Regulations. During the term of the Agreement, it may be necessary for FOF to issue additional rules or restrictions promulgated or approved by the Department or Park Manager regarding the Permittees operations in the Park to improve the visitor experience, visitor safety or to protect the environment, to which Permittee will be bound.

The parties hereto have executed this Agreement as of the date last signed below with the intent to be legally bound.

**Friends of Fakahatchee, Inc.**

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

Title: \_\_\_\_\_

Signature \_\_\_\_\_

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

**Permittee**

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

Title: \_\_\_\_\_

Signature \_\_\_\_\_

Dated Signed: \_\_\_\_\_

**Exhibit "A"**

**RULES, REGULATIONS, STATUTES,  
INCORPORATED INTO SUBCONTRACT**

As an independent Subcontractor with the Friends of Fakahatchee, requires knowledge of and compliance with the following:

- All local, municipal, state and county rules and regulations that are applicable to the services being provided,
- All local state and federal regulations and statutes governing the protection of natural and cultural resources,
- Sexual predator and offender employee check list maintained by Florida Department of Law Enforcement ("FDLE") and the U.S. Department of Justice National Sex Offender Public Registry ("NSOPR"),
- Category 5 of the Division's Operational Manual ("Division Operational Manual"),
- The Concession Agreement Call for Business Plan Packet No. SUP-BP # 08-17 ("Business Plan Packet"),
- Chapter 258, Part 1, Florida Statutes Rule 62 D 2 Florida Administrative Code,
- Section 20.055(5), Florida Statutes,
- Section 119, Florida Statutes Audit and Minimum Accounting requirements,
- Section 119.011(12), Florida Public Records law,
- Section 119.0701, Florida Statutes,
- Section 119.0701(1)(a), Florida Statutes,
- Section 744.301, Florida Statutes,
- Section 760, Part 1, Florida Statutes - Florida Civil Rights Act
- Florida Workers' Compensation Law and the Merchant Marine Act of 1920 (P.L. 66-261), commonly referred to as the Jones Act,
- Americans with Disabilities Act ("ADA")
- Title VI of the 1964 Civil Rights Act,
- Section 274A(e) of the Immigration and Nationality Act,
- The Immigration Reform and Control Act of 1986.- The Immigration Reform and Control Act of 1986.

EXHIBIT B (1)

**Permitted Commercial Operator CLASS A**

**Monthly Total Gross Sales Report  
Due by the 10<sup>th</sup> of each month (for the preceding month)**

**Fakahatchee Strand Preserve State Park**

Business name: \_\_\_\_\_

Sales Period from \_\_\_\_\_ to \_\_\_\_\_

**Gross Sales**

Commercial Operator Gross Sales (exclude Park admission fees) \$ \_\_\_\_\_

Subcontractors(s) (if any provide list and total gross sales for each) + \$ \_\_\_\_\_

Total Taxes Collected: (minus) \$ \_\_\_\_\_

Total Customer refunds # of refunds \_\_\_\_\_ (minus) \$ \_\_\_\_\_

**Total Gross Sales = \$ \_\_\_\_\_**

**Monthly Compensation**

Commission is \_\_\_\_\_ % of Total Gross Sales \$ \_\_\_\_\_

Park Admission Fees for # \_\_\_\_\_ customers @ \$2.00 each + \$ \_\_\_\_\_

**Total Monthly Compensation Due = \$ \_\_\_\_\_**

**Note : PROVIDE SUPORTING DOCUMENTATION**

CERTIFICATION: I certify that this monthly gross sales statement and compensation due is true and correct and is based upon actual gross receipts for the period covered and recorded in the accounting records available for review/audit by the Friends of Fakahatchee and Department of Environment Protection.

I further certify that sexual predator and offender checks have been carried out on all employees and subcontractors, including any that may have joined in the current reporting period, and that a record of these investigations is maintained in our personnel files.

\_\_\_\_\_  
Print Name of Commercial Operator      Signature of Commercial Operator      Date

\_\_\_\_\_  
Print name of preparer      Signature of Preparer      Date

Phone number \_\_\_\_\_ Email \_\_\_\_\_

**Mail compensation check payable to Friends of Fakahatchee with this form and supporting documents to:**

**FOF  
PO Box 442, Bonita Springs, FL 34133**

**EXHIBIT B (2)**

**Permitted Commercial Operator CLASS B**

**Monthly Total Gross Sales Report**

**Due by the 10<sup>th</sup> of each month (for the preceding month)**

**Fakahatchee Strand Preserve State Park**

Business name: \_\_\_\_\_

Sales Period from \_\_\_\_\_ to \_\_\_\_\_

Park Admission Fees for # \_\_\_\_\_ customers @ 2.00/each \$ \_\_\_\_\_

**Note: PROVIDE SUPPORTING DOCUMENTATION**

CERTIFICATION: I certify that this monthly gross sales statement and compensation due is true and correct and is based upon actual gross receipts for the period covered and recorded in the accounting records available for review/audit by the Friends of Fakahatchee and Department of Environment Protection.

I further certify that sexual predator and offender checks have been carried out on all employees and subcontractors, including any that may have joined in the current reporting period, and that a record of these investigations is maintained in our personnel files.

\_\_\_\_\_  
Print Name of Commercial Operator    Signature of Commercial Operator    Date

\_\_\_\_\_  
Print name of preparer    Signature of Preparer    Date

Phone number \_\_\_\_\_ Email \_\_\_\_\_

**Mail Park admission fee check payable to Friends of Fakahatchee with this form and supporting documents to:**

**FOF  
PO Box 442  
Bonita Springs  
FL 34133**

**EXHIBIT B (3)**

**Permitted Commercial Operator CLASS C**

**Monthly Total Gross Sales Report**  
**Due by the 10<sup>th</sup> of each month (for the preceding month)**

**Fakahatchee Strand Preserve State Park**

Business name: \_\_\_\_\_

Sales Period from \_\_\_\_\_ to \_\_\_\_\_

**Gross Sales**

Commercial Operator Gross sales (exclude Park admission fees) + \$ \_\_\_\_\_

Subcontractor(s) (if any provide list and total gross sales for each) + \$ \_\_\_\_\_

Total tax collected (minus) \$ \_\_\_\_\_

Total Customer refund (minus) \$ \_\_\_\_\_

**Total Gross Sales = \$ \_\_\_\_\_**

**Compensation**

Commission is \_\_\_\_\_ % of total gross sales \$ \_\_\_\_\_

Park Admission Fees for # \_\_\_\_\_ customers @ 2.00/each \$ \_\_\_\_\_

**Total Compensation due \$ \_\_\_\_\_**

**Note: PROVIDE SUPPORTING DOCUMENTATION**

CERTIFICATION: I certify that this monthly gross sales statement and compensation due is true and correct and is based upon actual gross receipts for the period covered and recorded in the accounting records available for review/audit by the Friends of Fakahatchee and Department of Environment Protection.

I further certify that sexual predator and offender checks have been carried out on all employees and subcontractors, including any that may have joined in the current reporting period, and that a record of these investigations is maintained in our personnel files.

\_\_\_\_\_  
Print Name of Commercial Operator    Signature of Commercial Operator    Date

\_\_\_\_\_  
Print name of preparer    Signature of Preparer    Date

Phone number \_\_\_\_\_ Email \_\_\_\_\_

**Mail compensation check payable to Friends of Fakahatchee with this form and supporting documents to:**

**FOF  
PO Box 442, Bonita Springs, FL 34133**

**EXHIBIT B (4)**

**Permitted Commercial Operator CLASS D**

**Monthly Total Gross Sales Report**  
**(Due by the 10<sup>th</sup> of each month (for the preceding month))**

**Fakahatchee Strand Preserve State Park**

Business name: \_\_\_\_\_

Sales Period from \_\_\_\_\_ to \_\_\_\_\_

**Gross Sales**

Commercial Operator Gross sales + \$ \_\_\_\_\_

Subcontractor(s) (if any provide list and total gross sales for each) + \$ \_\_\_\_\_

Total tax collected (minus) \$ \_\_\_\_\_

Total Customer refund (minus) \$ \_\_\_\_\_

**Total Gross Sales = \$ \_\_\_\_\_**

**Compensation**

Commission is \_\_\_\_\_ % of total gross sales \$ \_\_\_\_\_

**Total Compensation due \$ \_\_\_\_\_**

**Note: PROVIDE SUPPORTING DOCUMENTATION**

CERTIFICATION: I certify that this monthly gross sales statement and compensation due is true and correct and is based upon actual gross receipts for the period covered and recorded in the accounting records available for review/audit by the Friends of Fakahatchee and Department of Environment Protection.

I further certify that sexual predator and offender checks have been carried out on all employees and subcontractors, including any that may have joined in the current reporting period, and that a record of these investigations is maintained in our personnel files.

\_\_\_\_\_  
Print Name of Commercial Operator    Signature of Commercial Operator    Date

\_\_\_\_\_  
Print name of preparer    Signature of Preparer    Date

Phone number \_\_\_\_\_ Email \_\_\_\_\_

**Mail compensation check payable to Friends of Fakahatchee with this form and supporting documents to:**

**FOF  
PO Box 442, Bonita Springs, FL 34133**

**EXHIBIT "C"**

**PERMITEE'S AUTHORIZATION**

The Class \_\_\_\_\_ PERMITEE, \_\_\_\_\_, is hereby authorized to provide the following visitor services in the Park in accordance with the terms and conditions of their duly executed Agreement with FOF, of which this EXHIBIT forms a part:

AUTHORIZED VISITOR SERVICES OR ACTIVITIES:

AUTHORIZED 'USE AREAS' OR FACILITIES:

ANY SPECIAL RESTRICTIONS:

In accepting this authorization, the PERMITEE agrees that all equipment used by them for the provision of visitor services within the Park, including but not limited to vehicles, vessels, canoes, kayaks and bicycles will be fit for purpose and properly maintained to ensure visitor safety. The PERMITEE further agrees that they will obtain a liability waiver for each participant of "adventure activities" as defined in, and in the form elsewhere described in the Agreement, and that they will maintain a record of such waivers for a period of 3 years from the date of delivery of the visitor service. The Permittee also acknowledges that they are solely responsible for paying all taxes relating to their visitor services or activities directly to the relevant authority.

The PERMITEE may apply in writing to FOF at any time to extend or modify the authorized visitor services or activities, 'use areas' or facilities, or any special restrictions contained herein. Any requested changes are subject to the approval of the Park Manager and FOF, and if granted, shall only come into effect by a written amendment to the Agreement.

The Permittee will be provided with a Commercial Operator's Permit Badge/s which must be displayed on their vehicles windshields as evidence of their authority to conduct tours within the Park.

This Permit shall not come into effect until the PERMITEE has supplied FOF all requisite insurance policy certificates in a satisfactory format. **This Permit expires \_\_\_\_\_ unless the Agreement is previously terminated or extended in writing.**

**EXHIBIT "D"**

**COMPENSATION SCHEDULE**

**Class A Permit:** \$800 annual Permit fee and 13% commission payable monthly on all revenue generated from any activities conducted in the Park, except for tours of the Big Cypress Bend Boardwalk area for which no commission will be payable.

**Class B Permit:** \$1200 annual Permit fee with no commission payable, but the Permit is limited to the use of, and tours of the Big Cypress Bend Boardwalk area.

**Class C Permit:** \$250 Permit fee per special event and 10% commission on all revenue generated from the event, payable within 30 days of the close of the event.

**Class D Permit:** \$ 500 annual Permit fee and 10% commission payable monthly on all Food Truck or other Food Services revenue generated within the Park.

**Note:**

1. Additionally, the standard Park entrance fee of \$2.00 per person over 6 years of age is payable for all Park visitors in Permit classes A, B and C, except in the case of any Class C special events specifically exempted in writing by the Park Manager.
2. Consolidated Park entry fees will be paid to FOF monthly along with commission due, if any.
3. Commission is not payable on sales tax and park entry fees.