

APPROVED
10-19-2016

BOARD REPORT

**BOARD OF RECREATION
AND PARK COMMISSIONERS**

NO. 16-224

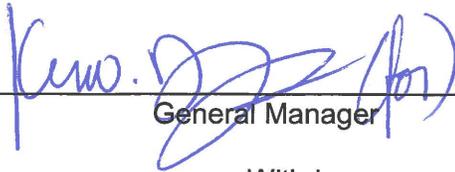
DATE: October 19, 2016

C.D. 13

BOARD OF RECREATION AND PARK COMMISSIONERS

SUBJECT: ECHO PARK BOATHOUSE CAFÉ CONCESSION – AWARD OF CONTRACT TO MTI INVESTMENTS, INC. (CON-F16-002); EXEMPTION FROM THE CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA) PURSUANT TO ARTICLE III, SECTION 1, CLASS 1(14) (ISSUANCE OF LICENSE TO USE AN EXISTING STRUCTURE)

| | | | |
|------------|-------|-------------|-------|
| A.P. Diaz | _____ | *V. Israel | _____ |
| R. Barajas | _____ | K. Regan | _____ |
| H. Fujita | _____ | N. Williams | _____ |



 General Manager

Approved _____ Disapproved _____ Withdrawn _____

RECOMMENDATIONS

1. Award the Echo Park Boathouse Café Concession to MTI Investments, Inc. (MTI), for a term of five years with one five-year renewal option exercisable at the General Manager's sole discretion;
2. Approve a proposed Agreement between the City of Los Angeles and MTI for the operation and maintenance of the Echo Park Boathouse Café Concession (Agreement), subject to the approval of the Mayor, the City Council, and the City Attorney as to form;
3. Direct the Board Secretary to transmit the Agreement to the Mayor per Executive Directive No. 3, and, to the City Attorney for approval as to form;
4. Find, in accordance with Charter Section 1022, that it is necessary, feasible, and economical to secure these services by contract as the Department of Recreation and Parks (RAP) lacks sufficient and necessary personnel to undertake these specialized professional services;
5. Find, pursuant to Charter Section 371(e)(10), and Los Angeles Administrative Code Section 10.15(a)(10), that the use of competitive bidding would be undesirable, impractical or otherwise excused by the common law and the Charter because, unlike the purchase of a specified product, there is no single criterion, such as price comparison, that will determine which proposer can best provide the services required by RAP for the operation and maintenance of the Echo Park Boathouse Café Concession;
6. Authorize the General Manager or Designee to execute the proposed Agreement and to make any necessary technical changes consistent with the Board's intent in approving the proposed Agreement; and,
7. Find that the proposed Project is categorically exempt from the California Environmental Quality Act (CEQA), and direct RAP staff to file a Notice of Exemption.

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SUMMARY

The Echo Park Boathouse Café Concession (Concession) is situated within the 1,500 square foot Echo Park Boathouse (Boathouse), located in the Echo Park community at 751 N. Echo Park Avenue, Los Angeles, CA 90026, on the east side of Echo Park Lake (Lake).

The Boathouse has undergone several aesthetic and building system retrofits throughout the years. Phase I of the most recent effort to improve the infrastructure was completed in 2007. Phase II, which was completed in 2012, included the retrofit of the existing building and incorporation of areas for two concessions: a Café and a pedal boat rental operation.

On October 2, 2013, the Board approved and awarded Square One Dining the right to operate the Café under Concession Agreement No. 273 for one year, with two one-year extension options through Report No. 13-244 (Attachment 2). Both options were exercised and Square One continues to operate the Café. In 2015, the Concession generated annual gross receipts of Five Hundred Eighty Thousand, Eight Hundred Thirty-Nine Dollars (\$580,839.00), which produced revenue-share to RAP of five percent (5%) totaling Twenty-Nine Thousand, Forty-Two Dollars (\$29,042.00).

BACKGROUND

On May 20, 2015, the Board approved and authorized the release of an RFP for a three-year Agreement for the operation and maintenance of the Concession through Report No. 15-108 (Attachment 3). The RFP was released on July 8, 2015 and advertised via Los Angeles Daily Journal, on RAP's website, on the Los Angeles Business Assistance Virtual Network (LABAVN), and by correspondence to interested parties on a list maintained by RAP.

On September 8, 2015, RAP received one proposal - from MDDJ Four Square LLC (Four Square), whose three officers form the management team of Square One, the current Café operator. Four Square's proposal was responsive and determined to be acceptable.

On January 22, 2016, RAP staff met with Four Square to negotiate the new Concession Agreement. Four Square stated that they could not commit to the annual minimum revenue-share amount that they originally included in their proposal. Instead, Four Square proposed a reduced annual minimum revenue-sharing amount during the negotiation of the Concession Agreement. RAP consulted with the City Attorney, who opined that the annual minimum revenue-sharing amount as stipulated in their proposal could not be reduced, and if Four Square is unable to execute the Agreement as proposed, the \$5,000.00 proposal deposit must be forfeited and retained by RAP.

On April 20, 2016, the Board approved the reissue of the RFP for the operation and maintenance of the Concession with a term of five years, with one five-year renewal option through Report No. 16-093 (Attachment 4). The pre-proposal conference was held on June 2, 2016.

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The new proposed Agreement does not provide exclusivity for mobile vending; however, the Agreement would allow the concessionaire to operate a mobile food service to complement the Café.

On June 21, 2016, RAP received two proposals: One from Four Square and another from MTI, Investments Inc. (MTI). Both responses passed the Level I review and were evaluated for Level II review. MTI received higher scores, averaging eighty (80) points in the business and operational plan categories. Four Square scored an average of sixty (60) points.

Four Square has operated the Concession for the past three years and has established itself as a strong business in the Echo Park/Silver Lake Community. They have successfully operated the Café with a menu that consists of fresh foods prepared daily, including sandwiches and breakfast foods.

BUSINESS PLAN

MTI proposed a creative and innovative concept, Curate Café. The proposed menu (Attachment 5) includes food items made fresh daily with locally sourced ingredients, and features organic beef in burgers, along with specialty smoothie bowls, vegetable dishes, salads and an enticing breakfast menu. In addition, MTI proposed a seasonal mobile food cart operation plan that includes a variety of cuisine including barbeque items, gourmet soups, and turkey legs. MTI demonstrated enthusiasm in partnering with local businesses and working alongside the current local mobile vendors. In order to protect this proposed addition to the offerings at this Concession, RAP will ensure that when a permitting program for the current mobile food vendors is implemented by the City, mobile food vending items will not be in direct competition with the then-existing concessionaire's.

MTI places great focus on excellent customer service through a specialized training program for employees which provides them with a step-by-step system on how to provide each customer with a personalized experience. This system has been proven by the success of the six restaurants that MTI owners manage.

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SCORING:

The following are the results of the evaluation scoring by the three panelists:

Panelist #1

| Proposer Item | Maximum Possible Points | MDDJ Four Square, LLC | MTI Investments, Inc. |
|--|-------------------------|-----------------------|-----------------------|
| | | Points Received | Points Received |
| Business Plan: Sample Business Plan and Community Plan | | | |
| Proposal Item Sub-Total | 30 | 25 | 30 |
| Operational Plan and Optional Mobile Food Plan | | | |
| Proposal Item Subtotal | 30 | 15 | 30 |
| Proposed Revenue-Sharing Payment and Optional Improvement Plan | | | |
| Proposal Item Subtotal | 40 | 20 | 20 |
| Total Score | 100 | 60 | 80 |

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Panelist #2

| Proposer Item | Maximum Possible Points | MDDJ Four Square, LLC Points Received | MTI Investments, Inc. Points Received |
|--|--------------------------------|---|---|
| Business Plan: Sample Business Plan and Community Plan | | | |
| Proposal Item Sub-Total | 30 | 20 | 30 |
| Operational Plan and Optional Mobile Food Plan | | | |
| Proposal Item Subtotal | 30 | 15 | 30 |
| Proposed Revenue-Sharing Payment and Optional Improvement Plan | | | |
| Proposal Item Subtotal | 40 | 20 | 20 |
| Total Score | 100 | 55 | 80 |

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Panelist #3

| Proposer Item | Maximum Possible Points | MDDJ Four Square, LLC Points Received | MTI Investments, Inc. Points Received |
|--|--------------------------------|---|---|
| Business Plan: Sample Business Plan and Community Plan | | | |
| Proposal Item Sub-Total | 30 | 25 | 30 |
| Operational Plan and Optional Mobile Food Plan | | | |
| Proposal Item Subtotal | 30 | 15 | 30 |
| Proposed Revenue-Sharing Payment and Optional Improvement Plan | | | |
| Proposal Item Subtotal | 40 | 20 | 25 |
| Total Score | 100 | 60 | 80 |

TRANSITION PLAN

In an effort to minimize any impacts to regular operations of the Concession, RAP staff will work with the incumbent concessionaire and MTI to ensure a smooth transition.

ENVIRONMENTAL IMPACT STATEMENT

This action is exempt from the provisions of the California Environmental Quality Act (CEQA) pursuant to Article III, Section 1, Class 1(14) (issuance of any license to use an existing structure involving no expansion of use) of the City CEQA Guidelines.

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FISCAL IMPACT STATEMENT

MTI proposed the minimum revenue-share of nine percent (9%) or Forty Thousand Dollars (\$40,000.00) minimum annual revenue, which will guarantee revenue to RAP in the amount of at least Two Hundred Thousand Dollars (\$200,000.00) during the first five-year term.

This Report was prepared by Sonia Robinson, Management Analyst II, Partnership and Revenue Branch, Concessions Unit.

LIST OF ATTACHMENTS

- 1) Proposed Agreement for the Operation and Maintenance of the Echo Park Boathouse Café Concession between the City of Los Angeles and MTI Investments, Inc.
- 2) Board Report No. 13-244: Request for Proposals for the Echo Park Boathouse Café.
- 3) Board Report No. 15-108
- 4) Board Report No. 16-093
- 5) Curate Café Menu

DRAFT AGREEMENT
FOR THE OPERATION AND MAINTENANCE OF
THE ECHO PARK BOATHOUSE CAFÉ CONCESSION

BETWEEN

THE CITY OF LOS ANGELES
DEPARTMENT OF RECREATION AND PARKS

AND

MTI INVESTMENTS, INC.

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DRAFT

**DRAFT AGREEMENT FOR OPERATION AND MAINTENANCE OF THE
ECHO PARK BOATHOUSE CAFÉ CONCESSION**

THIS Agreement (hereinafter “AGREEMENT”) is made and entered into this _____ day of _____, 201_, by and between the CITY OF LOS ANGELES, a municipal corporation acting by and through its Department of Recreation and Parks (hereinafter referred to as “CITY”), and MTI INVESTMENTS, INC. (hereinafter referred to as “CONCESSIONAIRE”).

WHEREAS, the Department of Recreation and Parks (hereinafter referred to as “RAP”) seeks to serve the public by providing café services including the sale of food and non-alcoholic beverages at the Echo Park Boathouse Café and optional mobile food & beverage carts at Echo Park Lake (hereinafter “CONCESSION”); and

WHEREAS, the CITY finds, in accordance with Charter Section 1022, that it is necessary, feasible and economical to secure these services by contract as it lacks available personnel in its employ with sufficient expertise to undertake these specialized services; and

WHEREAS, the CITY finds, pursuant to Charter Section 371(e)(10), and Los Angeles Administrative Code Section 10.15(a)(10), that the use of competitive bidding would be undesirable, impractical or otherwise excused by the common law and the Charter because, unlike the purchase of a specified product, there is no single criterion, such as price comparison, that will determine which proposer can best provide the services required by RAP for the improvement, operation and maintenance of this CONCESSION; and

WHEREAS, RAP finds it is necessary to utilize a standard request for proposals process and to evaluate proposals received based upon the criteria included in a Request for Proposals (RFP); and

WHEREAS, RAP advertised for proposals for the operation and maintenance of the CONCESSION, to include providing café services and related services to the public; and

WHEREAS, RAP received and evaluated two proposals which were received on June 21, 2016, and

WHEREAS, MTI Investment, Inc. was scored as the highest-ranked proposer, and selected to provide café and related services at the CONCESSION in accordance with the terms and conditions of this AGREEMENT; and

WHEREAS, the CONCESSIONAIRE desires to enter into such AGREEMENT to provide services of the type and character required therein by CITY to meet the needs of the public at Echo Park Boathouse Café.

NOW THEREFORE, in consideration of the terms, covenants and conditions hereinafter to be kept and performed by the respective parties, it is agreed as follows:

SECTION 1. DEFINITIONS

For the purpose of this AGREEMENT, the following words and phrases are defined and shall be construed as hereinafter set for:

AGREEMENT: This Concession Agreement consisting of thirty- five (35) pages and thirteen (13) exhibits (A-M) attached hereto

BOARD: Board of Recreation and Park Commissioners

CITY: The City of Los Angeles, Acting by and through its Department of Recreation and Parks

CONCESSION: Echo Park Boathouse Café Concession

CONCESSIONAIRE: MTI INVESTMENTS, INC.

RAP: The Department of Recreation and Parks

FACILITY: The Echo Park Boathouse Café located at 751 N. Echo Park Avenue, Los Angeles, CA 90026.

LAAC: The Los Angeles Administrative Code

LAMC: The Los Angeles Municipal Code

PREMISES: The geographical area, as defined in Section 3 of this AGREEMENT, in which the Concession may be operated.

STANDARD PROVISIONS: Standard Provisions for City Contracts (Rev. 3/09), attached hereto as "Exhibit B" and incorporated herein.

SECTION 2. PERMISSION GRANTED

For and in consideration of the payment of the fees and charges as hereinafter provided, and subject to all of the terms, covenants, and conditions of this AGREEMENT, RAP hereby grants to CONCESSIONAIRE, the exclusive right and obligation within the CONCESSION to sell food and non-alcoholic beverages. Patrons will be able to order food from inside the Echo Park Boathouse (Boathouse), and seating is to be arranged both inside and outside of the facility. Value-priced, pre-prepared and packaged items and non-alcoholic beverages for quick service will also be available. Additionally, with the expressed written consent of GENERAL MANAGER and at his discretion, the CONCESSIONAIRE may provide mobile food carts to sell food and non-alcoholic beverage items at Echo Park Lake (Lake). The Boathouse, located on the PREMISES, has designated space authorized for use and activities by the CONCESSIONAIRE as identified in Exhibit A; and, not for any other purpose without the prior written consent of GENERAL MANAGER. Any mobile food carts operated by CONCESSIONAIRE should identify CONCESSIONAIRE and include the address and phone number of CONCESSIONAIRE along with the notation that all complaints regarding change, quality, etc., should be referred directly to the CONCESSIONAIRE.

The CONCESSION rights herein granted shall be carried on at the FACILITY solely within the limits and confines of said areas designated as PREMISES (Section 3) in this AGREEMENT. CONCESSIONAIRE, by accepting the AGREEMENT, agrees for itself, and its successors and assigns, that it will not make use of the PREMISES in any manner which might interfere with the recreational uses of the FACILITY.

While CONCESSIONAIRE is granted the exclusive right to sell food and non-alcoholic beverages to the general public at the CONCESSION PREMISES, this exclusive right does not prohibit private parties from preparing or bringing their own food to the park. If the GENERAL MANAGER, by express written consent, gives CONCESSIONAIRE the right to sell food and non-alcoholic beverages to the general public from mobile food and beverage carts in approved areas, that right is non-exclusive. RAP does not warrant or guarantee the enforcement of LAMC provisions prohibiting unpermitted vending.

In the event of a conflict between CONCESSIONAIRE and any other concessionaire or any lessee at the FACILITY regarding the services to be offered or products to be sold by respective concessionaires or lessees, RAP shall meet and confer with all necessary parties to determine the services to be offered or products to be sold by each, and CONCESSIONAIRE hereunder agrees thereafter to be bound by said determination.

RAP reserves the right to further develop or improve the PREMISES as it sees fit, without interference or hindrance, however RAP shall consider the desire and views of CONCESSIONAIRE.

SECTION 3. PREMISES

The PREMISES (Exhibit A) subject to this AGREEMENT are located at: Echo Park Lake, 751 N. Echo Park Avenue, Los Angeles, CA 90026. The PREMISES shall include the Boathouse and all, if any, portions of the park that the GENERAL MANAGER, by express written consent, approves for vending food and beverages from mobile food carts. Location of PREMISES as set forth in Exhibit A, attached hereto and incorporated herein. Any discrepancy in the definition or boundaries of PREMISES shall be resolved solely by RAP.

The CONCESSION is situated within a fifteen hundred (1,500) square foot Boathouse on the east side of the Lake. The Boathouse was originally constructed in 1932. The design of the Boathouse is in the Spanish Colonial Revival Style. The Boathouse is a historically significant contributing element to the surrounding of the Lake. The thirteen (13) acre Lake is surrounded by the Park, with eleven (11) acres of open recreational space. In 2006, the City of Los Angeles (City) designated the Park as Historic-Cultural Monument (HCM) No. LA-836.

CONCESSIONAIRE shall not use or allow the PREMISES to be used, in whole or in part, during the term of the AGREEMENT, for any use in violation of any present or future laws, ordinances, rules, and regulations at any time applicable thereto of any public or governmental authority or agencies, departments or officers thereof, including CITY, relating to sanitation or the public health, safety or welfare or operations at and use of the PREMISES.

SECTION 4. TERM OF AGREEMENT

The term of the AGREEMENT shall be five (5) years with a one (1) five-year extension option exercisable at the sole discretion of RAP's General Manager, effective on the date of execution. Neither CITY, nor any BOARD member, officer, or employee thereof shall be liable in any manner to CONCESSIONAIRE because of any action taken to revoke the AGREEMENT.

SECTION 5. OPERATING RESPONSIBILITIES

CONCESSIONAIRE shall, at all times during the term of the AGREEMENT, comply with the following conditions:

A. **Cleanliness**

CONCESSIONAIRE shall, at its own expense, keep the PREMISES and the surrounding area [at least twenty-five (25) feet] clean and sanitary at all times. No offensive or refuse matter, nor any substance constituting an unnecessary, unreasonable, or unlawful fire hazard, nor any material detrimental to the public health, shall be permitted to remain thereon, and CONCESSIONAIRE shall prevent any such matter or material from being or accumulating upon said PREMISES.

CONCESSIONAIRE, at its own expense, shall see that all garbage or refuse is collected as often as necessary and in no case less than once a day and disposed of in the main dumpster. CONCESSIONAIRE shall furnish all equipment and materials necessary therefore, including trash receptacles of a size, type, and number approved by RAP. If no trash storage area is made available, CONCESSIONAIRE shall provide at its own expense and with RAP's prior written approval, an enclosed area concealing the trash storage from public view. RAP will incur the cost of all garbage pick-up from the main dumpster during the term of this AGREEMENT.

B. **Conduct**

CONCESSIONAIRE and its representatives, agents, servants, and employees shall at all times conduct its business in a quiet and orderly manner to the satisfaction of RAP.

C. **Disorderly Persons**

CONCESSIONAIRE shall use its best efforts to permit no intoxicated person or persons, profane or indecent language, or boisterous or loud conduct in or about the PREMISES and will call upon peace officers to assist in maintaining peaceful conditions. CONCESSIONAIRE shall not knowingly allow the use or possession of illegal drugs, narcotics, or controlled substances on the PREMISES.

D. **Non-Discrimination**

1. CONCESSIONAIRE, in its CONCESSION operations at the FACILITY, for itself, its personal representatives, successors in interest and assigns, as part of the consideration hereof, does hereby covenant and agree that: (1) no person on the grounds of race, color, national origin, religion, ancestry, sex, age, physical disability, or sexual orientation shall be excluded from participation, denied the benefits of or be otherwise subjected to unjust discrimination in access to or in the use of the facilities covered by the AGREEMENT; (2) that in the construction of any improvements on, over or under the PREMISES authorized to be utilized herein and the furnishing of services thereon, no person on the grounds of race, color, national origin, religion, ancestry, sex, age, physical disability, or sexual orientation shall be excluded from participation in, denied the benefits of or otherwise be subjected to unjust discrimination.
2. CONCESSIONAIRE agrees that in the event of breach of any of the above nondiscrimination covenants, with proper notification as per Section 14, CITY shall have the right to terminate the AGREEMENT and to reenter and repossess said land and the facilities thereon and hold the same as if said AGREEMENT had never been executed.
3. In addition, CONCESSIONAIRE, during the term of the AGREEMENT, agrees not to unjustly discriminate in its employment practices against any employee or applicant

for employment because of the employee's or applicant's race, color, religion, national origin, ancestry, sex, age, physical disability, or sexual orientation. All subcontracts entered into by CONCESSIONAIRE shall be approved in advance by CITY and shall contain a like provision.

E. Personnel

1. Freedom from Tuberculosis

For employees preparing food, and others as required by statute (reference Section 5163 of the California Public Resources Code) or directive of RAP, CONCESSIONAIRE shall provide RAP with certificates on applicable employees indicating freedom from communicable tuberculosis.

2. Qualified Personnel

CONCESSIONAIRE will, in the operation of the CONCESSION, employ or permit the employment of only such personnel as will assure a high standard of service to the public and cooperation with RAP. All such personnel, while on or about the PREMISES, shall be neat in appearance and courteous at all times and shall be appropriately attired, with badges or other suitable means of identification. No person employed by CONCESSIONAIRE, while on or about the PREMISES, shall be under the influence of illegal drugs, narcotics, other controlled substances or alcohol, or use inappropriate language, or engage in otherwise inappropriate conduct for a work environment. In the event an employee is not satisfactory, RAP may direct CONCESSIONAIRE to remove that person from the PREMISES.

3. Concession Manager

CONCESSIONAIRE shall appoint, subject to written approval by RAP, a Concession Manager of CONCESSIONAIRE'S operations at the FACILITY.

Such person must be a qualified and experienced manager or supervisor of operations, vested with full power and authority to accept service of all notices provided for herein and regarding operation of the CONCESSION, including the quality and prices of CONCESSION goods and services, and the appearance, conduct, and demeanor of CONCESSIONAIRE'S agents, servants, and employees. The Concession Manager shall be available during regular business hours and, at all times during that person's absence, a responsible subordinate shall be in charge and available.

The Concession Manager shall devote the greater part of his or her working time and attention to the operation of the CONCESSION and shall promote, increase and develop the CONCESSION. During the days and hours established for the operation of the subject CONCESSION, the Concession Manager's personal attention shall not be directed toward the operation of any other business activity.

If, for reasons of ill health, incapacitation, or death, the Concession Manager becomes incapable of performing each and all terms and provisions of the AGREEMENT, RAP may, in its sole discretion, suspend the AGREEMENT and all terms and conditions contained therein.

4. **Approval of Employees, Volunteers and Subcontractors**

RAP shall have the right to approve or disapprove all employees, volunteers and subcontractors (including all employees and volunteers for any subcontractor) of CONCESSIONAIRE. Failure of CONCESSIONAIRE to obtain RAP's written approval of all persons operating under the authority of this AGREEMENT on PREMISES shall be a material breach of this AGREEMENT. CONCESSIONAIRE shall submit a list of all persons employed by, or volunteering or subcontracting for, CONCESSIONAIRE at PREMISES to RAP prior to commencing operations pursuant to this AGREEMENT. All changes to the approved list of employees, volunteers and subcontractors shall be submitted to RAP for written approval prior to any employee, volunteer or subcontractor commencing work at the PREMISES. CONCESSIONAIRE shall not hire as an employee or volunteer, or subcontract with, any person whom RAP would be prohibited from hiring as an employee or volunteer pursuant to California Public Resources Code Section 5164 to perform work at PREMISES. CONCESSIONAIRE must fingerprint each employee, volunteer or subcontractor (including all employees or volunteers of any subcontractor) and each shall be required to fill out a form requesting the information required by Section 5164. RAP reserves the right to conduct a Department of Justice criminal background check on any such person prior to approving their employment, volunteer service or subcontract. Failure to comply with this hiring standard shall be a material breach of this AGREEMENT and CONCESSIONAIRE shall immediately remove any employee, volunteer or subcontractor from the PREMISES at RAP's instruction.

F. **Menu and Pricing**

1. RAP agrees that CONCESSIONAIRE'S menu items, including its price for same, shall be within CONCESSIONAIRE'S discretion; subject, however, to disapproval by RAP if the selection of items offered is inadequate, of inferior quality, or if any of said prices are excessively high or low in the sole opinion of RAP. Such determination shall not be unreasonable and shall take into account the business considerations presented by CONCESSIONAIRE. All prices shall be comparable to prices charged in similar establishments in the City of Los Angeles. CONCESSIONAIRE shall, upon execution of AGREEMENT, provide RAP with a list of prices for all menu items. This list shall be updated whenever prices are changed.
2. All menu items and service, offered for sale and/or sold by CONCESSIONAIRE in said PREMISES, shall be of high quality and must be related to the ordinary business of the CONCESSION. No adulterated, misbranded, or impure articles shall be sold or kept for sale by CONCESSIONAIRE. All merchandise kept for sale by the CONCESSIONAIRE shall be kept subject to the approval or rejection of RAP and CONCESSIONAIRE shall remove from the PREMISES any article which may be rejected and shall not again offer it for sale without the written approval of GENERAL MANAGER. RAP may order the improvement of the quality of any menu item.
3. CONCESSIONAIRE shall offer for sale to the public a full range of food items, pre-prepared and packaged items and non-alcoholic beverages as approved in CONCESSIONAIRE's Proposal (proposed plan will become Exhibit C to this Agreement).
4. CONCESSIONAIRE may sell food items and non-alcoholic beverages from mobile food carts in the Park with the written approval of GENERAL MANAGER.

5. CONCESSIONAIRE shall offer for sale to the public a variety of healthy choice options for food and non-alcoholic beverages. This includes the availability of fresh fruits and fresh vegetables, bottled water, 100% juice, beverages that contain at least 50% fruit juice with no added sweeteners, and providing healthy snacks as defined by the Education Code (Part 27, Chapter 9, Article 2.5, Section 49431(b), Subsections 2 and 3). CONCESSIONAIRE expressly agrees to comply with all CITY and RAP food programs.
6. CONCESSIONAIRE shall not use artificial trans-fat (e.g., industrially created partial hydrogenation plant oils) in the preparation of food products. All prepared food items are to be free of artificial trans-fat. CONCESSIONAIRE shall attempt to use only artificial trans-fat free prepackaged food items.
7. The sale of liquor, beer, and wine is prohibited.
8. The sale of energy drinks are prohibited.
9. CONCESSIONAIRE shall offer for sale to the public an appropriate selection of food and refreshment items. CONCESSIONAIRE will implement the proposed plan in the proposal based on the Good Food Purchasing Policy from the Los Angeles Food Policy Council outlined in CONCESSIONAIRE's Proposal as approved by RAP (proposed plan will become Exhibit C to this Agreement). All food/beverage subcontractors selected by the CONCESSIONAIRE shall be subject to the approval of GENERAL MANAGER.
10. All menu items sold or kept for sale by CONCESSIONAIRE shall be of first class, high-quality and acceptable to all industry standards and conform to all federal, state, and municipal laws, ordinances, and regulations in every respect. No imitation, adulterated, misbranded, or impure articles shall be sold or kept for sale by CONCESSIONAIRE and all edible merchandise kept on hand shall be stored and with due regard for sanitation. CONCESSIONAIRE shall comply with the Good Food Purchasing Policy.

In addition, no substitutes, fillers, dilutants, nor reduction in size of standard manufactured or processed food products will be permitted. All menu items kept for sale by CONCESSIONAIRE shall be subject to the approval or rejection of GENERAL MANAGER, and CONCESSIONAIRE shall remove from the PREMISES any article, which may be rejected and shall not offer it for sale without the consent of GENERAL MANAGER. GENERAL MANAGER may order the improvement of the quality of any merchandise kept or offered for sale.
11. CONCESSIONAIRE shall minimize the paper items (straw covers, serving cartons, etc.) distributed with take-out CONCESSIONION products. CONCESSIONAIRE shall be prohibited from selling merchandise in non-recyclable bottles, and shall not dispense take-out food or beverage items in glass or Expanded Polystyrene (EPS) / Styrofoam containers. CONCESSIONAIRE shall not sell or give away or otherwise dispose of any commodity which in the opinion of GENERAL MANAGER will cause undue litter. CONCESSIONAIRE expressly agrees to comply with all RAP and CITY recycling programs.
12. CONCESSIONAIRE shall not sell lottery tickets or similar type merchandise.

G. Diversion of Business

CONCESSIONAIRE shall not divert, cause, allow, or permit to be diverted any business from the PREMISES and shall take all reasonable measures, in every proper manner, to develop, maintain, and increase the business conducted by it under this AGREEMENT.

H. Equipment, Furnishings, and Expendables

All equipment, furnishings, and expendables required for said CONCESSION shall be purchased and installed by CONCESSIONAIRE at its sole expense and shall remain its personal property.

Upon termination of the AGREEMENT, CONCESSIONAIRE shall have the right to remove its own equipment, furnishings, and expendables, but not improvements, from the PREMISES and shall be allowed a period of three (3) calendar days to complete such removal. If not removed within that period, said equipment, furnishings and expendables shall become the property of RAP.

I. Maintenance of Equipment

CONCESSIONAIRE shall, at all times and at its expense, keep and maintain all equipment, whether owned and/or installed by CONCESSIONAIRE or RAP, such as, but not limited to, heat exchangers, fans, controls and electric panels, installed by RAP, together with all of the fixtures, plate and mirror glass, equipment, countertops and kitchen cabinetry, indoor and outdoor furniture and personal property therein, in good repair and in a clean, sanitary, and orderly condition and appearance. RAP will be responsible for utility lines and repairs, including telephone, exterior to the PREMISES.

All maintenance, repairs and replacement of all equipment shall be performed at the sole expense of the CONCESSIONAIRE. CONCESSIONAIRE may elect to not use RAP-owned equipment, with prior written consent of RAP.

No equipment provided by RAP (Exhibits D and E) shall be removed or replaced by CONCESSIONAIRE without the prior written consent of RAP, and if consent is secured, such removal and/or replacement shall be at the expense of CONCESSIONAIRE.

J. Claims for Labor and Materials

The CONCESSIONAIRE shall promptly pay when due all amounts payable for labor and materials furnished in the performance of the AGREEMENT so as to prevent any lien or other claim under any provision of law from arising against RAP property (including reports, documents, and other tangible matter produced by the CONCESSIONAIRE hereunder), against the CONCESSIONAIRE's rights hereunder, or against RAP, and shall pay all amounts due under the Unemployment Insurance Act with respect to such labor.

K. Signs and Advertisements

CONCESSIONAIRE shall not erect, construct, or place any signs, banners, ads, or displays of any kind whatsoever upon any portion of RAP property without the prior written approval from RAP, who may require the removal or refurbishment of any sign previously approved. Certain signs and advertisements may also require the prior written approval of the Cultural Affairs Department or other appropriate agencies.

The CONCESSIONAIRE shall place a public notice that the CONCESSIONAIRE operates the Echo Park Boathouse Café. The address and phone number of CONCESSIONAIRE will

be shown along with the notation that all complaints should be referred directly to the CONCESSIONAIRE.

At FACILITY, CONCESSIONAIRE shall provide the following credit or as proportions of signage allow similar credit as approved by RAP in writing:

“In Collaboration with the City of Los Angeles Department of Recreation and Parks.”

Upon expiration or termination of this AGREEMENT, CONCESSIONAIRE shall, at its own expense, remove or paint out, as RAP may direct, any and all of its signs and displays on the PREMISES and in connection therewith, and shall restore said PREMISES and improvements thereto to the same condition as prior to the placement of any such signs or displays.

RAP may, at its discretion, install RAP-issued umbrella or canopy shade structure bearing the City's or RAP logo at RAP's request. Said umbrella or canopy shade structure shall be provided by RAP at no cost to PERMITTEE. RAP-issued umbrellas and/or canopy shade structures shall remain City property and shall be returned to RAP upon the expiration or earlier termination of this PERMIT.

L. **Utilities**

CONCESSIONAIRE shall be responsible for utility charges associated with the CONCESSION. Charges may include, but are not limited to, deposits, installation costs, meter deposits, and all service charges for gas, electricity, heat, air-conditioning, and other utility services to PREMISES, and shall be paid by CONCESSIONAIRE regardless of whether such utility services are furnished by CITY or by other utility service providers. CONCESSIONAIRE will pay directly for telephone services, which will be in the name of CONCESSIONAIRE.

CONCESSIONAIRE hereby expressly waives all claims for compensation, or for any diminution or abatement of the rental payment provided for herein, for any and all loss or damage sustained by reason of any defect, deficiency, or impairment of the water, heating, or air conditioning systems, electrical apparatus, or wires furnished to the PREMISES which may occur from time to time and from any cause or from any loss resulting from water, earthquake, wind, civil commotion, or riot; and CONCESSIONAIRE hereby expressly releases and discharges CITY and its officers, employees, and agents from any and all demands, claims, actions, and causes of action arising from any of the aforesaid causes.

In all instances where damage to any utility service line is caused by CONCESSIONAIRE, its employees, contractors, sub-contractors, suppliers, agents, or invitees, CONCESSIONAIRE shall be responsible for the cost of repairs and any and all damages occasioned thereby.

Water and electricity shall be utilized by CONCESSIONAIRE in the most efficient manner possible, and CONCESSIONAIRE expressly agrees to comply with all CITY water conservation programs.

In the event that individual utility meters are not available, CONCESSIONAIRE shall remit, on a monthly basis in conjunction with revenue-sharing payments to RAP, the amount of Four Hundred Fifty Dollars (\$450.00) as payment for utilities. Payment of utilities will be subject to increase annually to cover increasing utility costs.

The CONCESSIONAIRE shall reimburse RAP if any utility charges are paid by RAP.

- M. **Vending Machines**
CONCESSIONAIRE shall not install, or allow to be installed, any vending machines, electronic games, or other coin-operated machines without prior written approval of RAP. RAP shall have the right to order the immediate removal of any unauthorized machines.
- N. **Safety**
CONCESSIONAIRE shall correct safety deficiencies, and violations of safety practices, immediately after the condition becomes known or RAP notifies CONCESSIONAIRE of said condition. CONCESSIONAIRE shall cooperate fully with RAP in the investigation of accidents occurring on the PREMISES. In the event of injury to a patron or customer, CONCESSIONAIRE shall reasonably ensure that the injured person receives prompt and qualified medical attention, and as soon as possible thereafter, CONCESSIONAIRE shall submit a CITY Form General No. 87 "Non-Employee Accident or Illness Report" (see SECTION 18, "NOTICES," for mailing address) (Exhibit F). If CONCESSIONAIRE fails to correct hazardous conditions specified by RAP in a written notice, which have led, or in the opinion of RAP could lead, to injury, RAP may, in addition to all other remedies which may be available to RAP, repair, replace, rebuild, redecorate, or paint any such PREMISES to correct the specified hazardous conditions, with the cost thereof, plus fifteen percent (15%) for administrative overhead, to be paid by CONCESSIONAIRE to RAP on demand.
- O. **Environmental Sensitivity**
The CONCESSIONAIRE must operate the CONCESSION in an environmentally sensitive manner and all operations must comply with RAP policies regarding protection of the environment. CONCESSIONAIRE shall not use or allow the use on the PREMISES of environmentally unsafe products.
- P. **Fund Raising Activities**
CONCESSIONAIRE is expected to cooperate with RAP personnel on all matters relative to fund-raising and/or special events at the discretion of RAP.
- Q. **Community Outreach**
CONCESSIONAIRE shall coordinate and cooperate with RAP to develop strategies to outreach to all members of the community, particularly those living in low-to-moderate income areas, fixed-income households, youth, the disabled, etc., to provide its services to these members of the community who may not otherwise have the opportunity to partake in the services provided by CONCESSIONAIRE.
- R. **Amplified Sound**
No amplified sound is permitted by CONCESSIONAIRE.
- S. **Security**
CONCESSIONAIRE shall be responsible for security of the interior PREMISES. CONCESSIONAIRE may install equipment, approved by RAP, which will assist in protecting the PREMISES from theft, burglary, or vandalism. Any such equipment must be purchased, installed, and maintained by CONCESSIONAIRE.
- T. **Quiet Enjoyment**
RAP agrees that CONCESSIONAIRE, upon payment of the fees and charges specified herein, and all other charges and payments to be paid by CONCESSIONAIRE under the terms of this AGREEMENT, and upon observing and keeping the required terms, conditions and covenants of this AGREEMENT, shall lawfully and quietly hold, use and enjoy the

CONCESSION PREMISES during the term of this AGREEMENT. In the case of disputes, during the life of the AGREEMENT, over any conditions which may impede upon the CONCESSIONAIRE's quiet enjoyment of the concession PREMISES, RAP shall have final determination of any solution to such dispute; RAP's final determination shall be binding upon all parties in such dispute.

U. Receipts

1. CONCESSIONAIRE shall offer receipts to customers for every transaction.
2. CONCESSIONAIRE shall at all times place a sign within twelve (12) inches of any cash register, in clear view to the public, and in minimum one-inch lettering, which states: "If a receipt is not provided for this transaction, please contact the Department of Recreation and Parks - Concessions Unit (213) 202-3280."

SECTION 6. IMPROVEMENTS

The Boathouse is a historically significant contributing element to the Park. The Park is designated as HCM No. LA-836 in accordance with Chapter 9, Article 1 of the Los Angeles Administrative Code. HCM LA-836 is also listed in the California Register of Historic Resources as eligible for the National Register of Historic Places. The Boathouse is considered historically significant for California Environmental Quality Act (CEQA) purposes.

Physical improvements, repairs or physical alterations to the Boathouse are restricted due to the historical significance of the facility. The award of the AGREEMENT shall not constitute approval to make any improvements. RAP reserves the right to request a capital improvement plan upon exercising the five (5) year renewal option.

In the event improvements, repairs or physical alterations are required for any reason during the term of the Agreement, no improvements, repairs or physical alterations to the Boathouse may be initiated by CONCESSIONAIRE without prior written approval from the GENERAL MANAGER. In addition to written approval from the GENERAL MANAGER, the CONCESSIONAIRE must also obtain the prior written approval of the Cultural Heritage Commission for any proposed substantial alterations to the affected area in accordance with Section 22.171.14 of the Los Angeles Administrative Code.

Any infractions, large or small, to the prohibition on improvements, repairs or physical alterations will be treated as a material breach of the AGREEMENT and will be subject to all of the applicable laws, fines and penalties imposed by the City's Department of Building and Safety, as well as the Office of Historic Resources.

RAP shall hold CONCESSIONAIRE responsible for guaranteeing the completion of all improvements, according to approved plans, regardless of cost. CONCESSIONAIRE shall bear all costs for all necessary permits, insurance, and taxes required for compliance of such improvements. Any breach of this condition for CONCESSION improvements shall be a material breach of this AGREEMENT. RAP reserves the right to recover damages from CONCESSIONAIRE if the improvements are not completed, completed as stipulated, or completed to the satisfaction of RAP. Such damages may include, but are not limited to, recovering up to the entire cost of the improvements from the CONCESSIONAIRE's performance deposit. The performance deposit must be recompensed as stipulated in Section 12, "Performance Deposit," herein. Failure to complete the required improvements within the time frame specified in the written approval, or as prescribed by RAP, are subject to a penalty of One Hundred Dollars (\$100.00) per day for each calendar day over the appropriate time limit. At the conclusion of each improvement, the CONCESSIONAIRE shall

submit proof of project completion to RAP. At that point, RAP will inspect the submitted improvement to confirm completion. All improvements shall become the property of RAP. Additionally, if the value of all completed required and optional improvements is less than the AGREEMENT value, the CONCESSIONAIRE will be responsible for RAP the difference within thirty (30) days of written notification.

RAP reserves the right to further develop or improve the FACILITY and the PREMISES as it sees fit, and without interference or hindrance by CONCESSIONAIRE. Such development or improvement may require the suspension or termination of the AGREEMENT. RAP shall not be liable for loss of business which results from the construction of any development or improvements to the FACILITY or the PREMISES.

A. Reserve Fund

RAP will establish a reserve fund for the CONCESSION. CONCESSIONAIRE shall submit with the monthly revenue-sharing payment, a monthly reserve fund (Fund) payment in the amount of Two Hundred Dollars (\$200.00) per month for the purpose of repair, refurbishment, or replacement of equipment and capital improvements. RAP reserves the right to request a capital improvement plan upon exercising the five (5) year renewal option. This Fund is not to be used for routine repair and maintenance or lost equipment replacement. The Fund shall be cumulative and carry-over from year-to-year during the term of the AGREEMENT. In the event of termination for any reason, or at the conclusion of the AGREEMENT term, any amount in this Fund account will remain with RAP. Annually in January, the CONCESSIONAIRE may submit a request for use of the Fund for expenditures in the coming year for review and approval of the GENERAL MANAGER. In the event of emergency, CONCESSIONAIRE shall request in writing the use of the Fund for other purposes, or the GENERAL MANAGER may request use of the Fund on a specific repair, refurbishment, or replacement.

B. Compliance with Applicable Rules and Regulations

All structural or other improvements, equipment and interior design and decor constructed or installed by CONCESSIONAIRE, including the plans and specifications therefore, shall in all respects conform to and comply with the applicable statutes (including the California Environmental Quality Act), ordinances, building codes, rules and regulations of CITY and such other authorities that may have jurisdiction over the facility areas or CONCESSIONAIRE'S operations therein. The written approval by RAP of any improvements as provided above shall not constitute a representation or warranty as to such conformity or compliance, but responsibility therefore shall at all times remain with CONCESSIONAIRE.

C. Procurement of Permits and Approvals

CONCESSIONAIRE shall, at its sole expense, and prior to construction of any improvements, procure all building, fire, safety, aesthetic, environmental, and other permits and approvals necessary for the construction of the structural and other improvements, installation of equipment, and interior design and decor. Copies of all said permits and approvals shall thereafter be submitted to RAP. No permission to begin said Improvements shall be granted by RAP prior to CONCESSIONAIRE's obtaining of said permits and approvals.

D. Subcontractors

CONCESSIONAIRE shall require by any contract that it awards in connection with structural or other improvements, the installation of any and all equipment, and the interior designing

and decor, that the contractor doing, performing or furnishing the same shall comply with all applicable statutes, ordinances, codes, rules and regulations, and submit to RAP evidence of required insurance coverage.

SECTION 7. HOURS / DAYS OF OPERATION

The CONCESSION must operate a minimum of six (6) hours daily (except for proposed holidays and inclement weather). CONCESSIONAIRE shall coordinate hours of operation with RAP to coincide with Echo Park Boathouse Pedal Boats Operator. The hours of operation are as follows:

XXX a.m. to XXX p.m., XXXday to XXXday.

The CONCESSION will be closed on XXXday(s)

CONCESSIONAIRE must post the hours of operation in a location visible to the public, and must be open for business during the hours posted. Hours of operation may not be changed without prior written approval of RAP. Any deviation from such days and hours shall be subject to the prior written approval of RAP.

SECTION 8. REVENUE-SHARING FEE PAYMENT

- A. As part of the consideration for RAP's granting the CONCESSION rights herein above set forth, CONCESSIONAIRE shall pay to RAP a monthly revenue-sharing fee of:

The greater of:

- The Annual Minimum Revenue-Sharing Guarantee of Forty Thousand Dollars (\$40,000.00)

or

- Nine percent (9%) of gross receipts of all sales

whichever is higher.

Refer to SECTION 8.C for the definition of "Gross Receipts."

If the minimum annual revenue-sharing payment is not met by December 31st of each calendar year, the difference between the actual revenue-sharing payment received by the City of Los Angeles and the minimum annual revenue-sharing payment will be due to the City of Los Angeles by January 15th of the subsequent year, pro-rated as necessary for the first year of operation or fractional part thereof, and pro-rated as necessary for the final year of operation or fractional part thereof.

- B. **Revenue-Sharing Payment Due**

Said payment shall be due and payable (postmarked) by the fifteenth (15th) day of each calendar month based on the gross receipts received in each previous month. The payment and Monthly Remittance Advice Form (Exhibit G) shall be addressed to:

CITY OF LOS ANGELES
DEPARTMENT OF RECREATION AND PARKS
ATTENTION: Partnership and Revenue Branch/Concessions Unit
P. O. Box 86328
Los Angeles, CA 90086-0610

C. Gross Receipts Defined

The term "gross receipts" is defined as the total amount charged for the sale of any goods or services (whether or not such services are performed as a part of or in connection with the sale of goods) provided in connection with this CONCESSION, but not including any of the following:

1. Cash discounts allowed or taken on sales;
2. Any sales taxes, use taxes, or excise taxes required by law to be included in or added to the purchase price and collected from the consumer or purchaser and paid by CONCESSIONAIRE;
3. California Redemption Value (CRV);
4. Receipts from the sale of waste or scrap materials resulting from the CONCESSION operation;
5. Receipts from the sale of or the trade-in value of any furniture, fixtures, or equipment used in connection with the CONCESSION, and owned by CONCESSIONAIRE;
6. The value of any merchandise, supplies, or equipment exchanged or transferred from or to other business locations of CONCESSIONAIRE where such exchanges or transfers are not made for the purpose of avoiding a sale by CONCESSIONAIRE which would otherwise be made from or at the PREMISES;
7. Refunds from, or the value of, merchandise, supplies, or equipment returned to shippers, suppliers, or manufacturers;
8. Receipts from the sale at cost of uniforms, clothing, or supplies to CONCESSIONAIRE'S employees where such uniforms, clothing, or supplies are required to be worn or used by said employees;
9. Receipts from any sale where the subject of such sale, or some part thereof, is thereafter returned by the purchaser to and accepted by CONCESSIONAIRE, to the extent of any refund actually granted or adjustment actually made, either in the form of cash or credit;
10. Fair market trade-in allowance, in the event merchandise is taken in trade;
11. The amount of any cash or quantity discounts received from sellers, suppliers, or manufacturers;
12. Discounts or surcharges applied to receipts for services or merchandise, with the concurrence of both CONCESSIONAIRE and RAP, including discounts to employees, if concurred by RAP.

CONCESSIONAIRE shall not reduce or increase the amount of gross receipts, as herein defined, as a result of any of the following:

13. Any error in cash handling by CONCESSIONAIRE or CONCESSIONAIRE's employees or agents;
14. Any losses resulting from bad checks received from consumers or purchasers; or from dishonored credit, charge, or debit card payments; or any other dishonored payment to CONCESSIONAIRE by customer or purchaser;
15. Any arrangement for a rebate, kickback, or hidden credit given or allowed to customer.

D. Monthly Revenue-Sharing Reports

CONCESSIONAIRE shall transmit with each revenue-sharing payment a Monthly Gross Receipts and Revenue-Sharing Report, also referred to as a Monthly Remittance Advice Form (Exhibit G), for the month for which a payment is submitted.

E. Late Payment Fee

Failure of CONCESSIONAIRE to timely pay any revenue-sharing payment or any other fees, changes, or payments required herein is a breach of the AGREEMENT for which RAP may terminate same or take such other legal action as it deems necessary.

Without waiving any rights available at law, in equity or under the AGREEMENT, in the event of late or delinquent payments by CONCESSIONAIRE, the latter recognizes that RAP will incur certain expenses as a result thereof, the amount of which is difficult to ascertain. Therefore, in addition to monies owing, CONCESSIONAIRE agrees to pay RAP a late fee set forth below to compensate RAP for all expenses and/or damages and loss resulting from said late or delinquent payments.

The charges for late or delinquent payments shall be One Hundred Fifty Dollars (\$150.00) for each month late plus interest calculated at the rate of eighteen percent (18%) per annum, assessed monthly, on the balance of the unpaid amount. Payments shall be considered past due if postmarked after the fifteenth (15th) day of the month in which payment is due.

The acceptance of late revenue-sharing payments by RAP shall not be deemed as a waiver of any other breach by CONCESSIONAIRE of any term or condition of this AGREEMENT other than the failure of CONCESSIONAIRE to timely make the particular revenue-sharing payment so accepted.

SECTION 9. ADDITIONAL FEES AND CHARGES

- A. If RAP pays any sum or incurs any obligations or expense, for which CONCESSIONAIRE has agreed to pay or reimburse RAP, or if RAP is required or elects to pay any sum or to incur any obligations or expense by reason of the failure, neglect, or refusal of CONCESSIONAIRE to perform or fulfill any one or more of the conditions, covenants, or agreements contained in the AGREEMENT, or as a result of an act or omission of CONCESSIONAIRE contrary to said conditions, covenants, and agreements, CONCESSIONAIRE agrees to pay RAP the sum so paid or the expense so incurred, including all interest, costs, (including RAP'S fifteen percent (15%) administrative overhead cost), damages, and penalties. This amount shall be added to the rental payment thereafter

due hereunder, and each and every part of the same shall be and become additional rental payment, recoverable by RAP in the same manner and with like remedies as if it were originally a part of the basic rental payment set forth in Section 8 hereof.

- B. For all purposes under this Section, and in any suit, action, or proceeding of any kind between the parties hereto, any receipt showing the payment of any sum by RAP for any work done or material furnished shall be prima facie evidence against CONCESSIONAIRE that the amount of such payment was necessary and reasonable. Should RAP elect to use its own personnel in making any repairs, replacements, and/or alterations, and to charge CONCESSIONAIRE with the cost of same, receipts and timesheets will be used to establish the charges, which shall be presumed to be reasonable in absence of contrary proof submitted by CONCESSIONAIRE.
- C. Use of the PREMISES for purposes not expressly permitted herein, whether approved in writing by RAP or not, may result in additional charges; however, any such use without the prior written approval of RAP shall also constitute a material breach of AGREEMENT and is prohibited.

SECTION 10. MAINTENANCE OF PREMISES

During all periods that the PREMISES are used or are under the control of the CONCESSIONAIRE for the uses, purposes, and occupancy aforesaid, CONCESSIONAIRE shall be responsible for all necessary janitorial duties and damage/maintenance repairs, to the satisfaction of RAP. The cause of said maintenance, cleaning and repairs may result from normal wear and tear, as well as vandalism.

A. Interior of Premises

1. Areas to be Maintained by CONCESSIONAIRE:

CONCESSIONAIRE shall, at its own expense, keep and maintain all the interior walls and surfaces of PREMISES and all improvements, fixtures, and utility systems which may now or hereafter exist thereon, whether installed by RAP or CONCESSIONAIRE. Improvements shall include all buildings and appurtenances recessed into or attached by any method to the ground or to another object which is recessed or attached to the ground or to other CITY-owned facilities (such as buildings, fences, posts, signs, electrical hook-ups, plumbing, tracks, tanks, etc.).

CONCESSIONAIRE shall provide all maintenance, repair, and service required on all interior areas, surfaces, and equipment used in the PREMISES and keep such equipment in good repair and in a clean and orderly condition and appearance. CONCESSIONAIRE shall also be responsible for electrical, mechanical, and plumbing maintenance in the interior of the PREMISES, such as lighting fixtures, sinks, and faucets; however, CITY shall be responsible for maintenance of utility lines and drains within the walls and floors of the concession PREMISES. Insofar as sanitation and appearance of the PREMISES is concerned, RAP may direct CONCESSIONAIRE to perform necessary repairs and maintenance to the interior of the structure or to the equipment, whether the equipment is CONCESSIONAIRE or RAP property.

2. Duties:

CONCESSIONAIRE'S maintenance duties shall include all sweeping, washing, servicing, repairing, replacing, cleaning, and interior painting that may be required to properly maintain the premises in a safe, clean, operable, and attractive condition. CONCESSIONAIRE shall provide for such repairs, replacements, rebuilding, and

restoration as may be required by or given prior written approval by RAP to comply with the requirements hereof. Those duties shall also include electrical, mechanical, and plumbing maintenance in the interior of the premises, such as light fixtures, toilets, and faucets.

B. Exterior of Premises and Common Passageways

RAP shall maintain the exterior of all buildings and will endeavor to perform all exterior repairs occasioned by normal wear and tear, and the elements, unless otherwise provided for in the AGREEMENT. Common passageways leading to other CONCESSION facilities or offices maintained by RAP which also lead to the PREMISES shall not be considered under the control of CONCESSIONAIRE for purposes of this Section. In addition, RAP shall be responsible for maintenance of the lawn area within the perimeter of the PREMISES, including mowing and watering, and shall maintain all existing landscaping, trees, and bushes on the PREMISES. CITY shall also maintain the existing water, drain and sewer systems, provided, however, that CONCESSIONAIRE shall make every effort not to clog such systems with manure or other debris from all operations.

C. Correction of Conditions Leading to Damage

If CONCESSIONAIRE fails, after written notice, to correct such conditions which have led or, in the opinion of RAP, could lead to significant damage to CITY property, RAP may at its option, and in addition to all other remedies which may be available to it, repair, replace, rebuild, redecorate or paint any such PREMISES included in said notice, with the cost thereof, plus fifteen percent (15%) for administrative overhead, to be paid by CONCESSIONAIRE to RAP on demand. If, for any reasons, payment of such fees becomes delinquent, RAP may, in its sole discretion, suspend the AGREEMENT and all terms and conditions contained therein.

D. Property Damage and Theft Reporting

CONCESSIONAIRE shall complete and submit to RAP a "Special Occurrence and Loss Report," (Exhibit H) in the event that the PREMISES and/or CITY-owned property is damaged or destroyed, in whole or in part, from any cause whatsoever, and in the event of theft, burglary, or other crime committed on the PREMISES. Blank forms for this purpose shall be provided by RAP.

E. Damage or Destruction to Premises

1. Partial Damage

If all or a portion of the PREMISES are partially damaged by fire, explosion, flooding inundation, floods, the elements, public enemy, or other casualty, but not rendered uninhabitable, the same will be repaired with due diligence by RAP at its own cost and expense, subject to the limitations as hereinafter provided; if said damage is caused by the negligent acts or omissions of CONCESSIONAIRE, its agents, officers, or employees, CONCESSIONAIRE shall be responsible for reimbursing RAP for the cost and expense incurred in making such repairs.

2. Extensive Damage

If the damages as described above in "Partial Damage" are so extensive as to render the PREMISES or a portion thereof uninhabitable, but are capable of being repaired within a reasonable time not to exceed sixty (60) days, the same shall be repaired with due diligence by RAP at its own cost and expense and a negotiated portion of the fees and charges payable hereunder shall abate from the time of such damage until such time as the PREMISES are fully restored and certified by RAP as

again ready for use; provided, however, that if such damage is caused by the negligent acts or omissions of CONCESSIONAIRE, its agents, officers, or employees, said fees and charges will not abate and CONCESSIONAIRE shall be responsible for the cost and expenses incurred in making such repairs.

3. **Complete Destruction**

In the event all or a substantial portion of the PREMISES are completely destroyed by fire, explosion, the elements, public enemy, or other casualty, or are so damaged that they are uninhabitable and cannot be replaced except after more than sixty (60) days, RAP shall be under no obligation to repair, replace or reconstruct said PREMISES, and an appropriate portion of the fees and charges payable hereunder shall abate as of the time of such damage or destruction and shall henceforth cease until such time as the said PREMISES are fully restored. If within four (4) months after the time of such damage or destruction said PREMISES have not been repaired or reconstructed, CONCESSIONAIRE may terminate this AGREEMENT in its entirety as of the date of such damage or destruction. Notwithstanding the foregoing, if said PREMISES, or a substantial portion thereof, are completely destroyed as a result of the negligent acts or omissions of CONCESSIONAIRE, its agents, officers, or employees, said fees and charges shall not abate and RAP may, in its discretion, require CONCESSIONAIRE to repair and reconstruct the same within twelve (12) months of such destruction and CONCESSIONAIRE shall be responsible for reimbursing RAP for the cost and expenses incurred in making such repairs. CONCESSIONAIRE shall continue paying RAP rent as determined above during the rebuilding of the facility.

4. **Limits of RAP'S Obligation Defined**

In the application of the foregoing provisions, RAP may, but shall not be obligated to, repair or reconstruct the PREMISES. If RAP chooses to do so, CITY'S obligation shall also be limited to repair or reconstruction of the PREMISES to the same extent and of equal quality as obtained by CONCESSIONAIRE at the commencement of its operations hereunder. Redecoration and replacement of furniture, equipment and supplies shall be the responsibility of CONCESSIONAIRE and any such redecoration and refurbishing/reequipping shall be equivalent in quality to that originally installed.

F. **Pest Control**

Unless otherwise specified in the AGREEMENT, CONCESSIONAIRE shall be responsible for pest control in and around the PREMISES, including but not limited to, abatement of insects (including roaches, bees, etc.), spiders, rodents, vermin, and other nuisance pests, if the pests are found in or on structures or areas used and maintained by CONCESSIONAIRE, such as any of the following portions of the PREMISES:

Any portion of a building or enclosed structure with walls, roof, and doors, such as the café, storage facilities, restaurants, offices and storage containers owned and/or used by CONCESSIONAIRE.

RAP shall be responsible for pest control if pests are found in or on structures or areas maintained by RAP, such as:

1. Open, unfenced areas such as those locations permitted for mobile food if applicable.

2. Pedal boats, rental halls, and other facilities occupied in part by CONCESSIONAIRE but maintained by RAP.
3. Other areas, structures, or facilities adjacent to the PREMISES, but not used by or under the control of CONCESSIONAIRE; or areas, structures, or facilities shared by CONCESSIONAIRE and RAP.

Pest control for pests which may cause permanent structural damage to RAP property (for example, termite infestation) shall be the responsibility of RAP. CONCESSIONAIRE shall take all reasonable measures to reduce the proliferation of pests, including maintaining the PREMISES clean and orderly in accordance with this Section, and keeping wood components painted. RAP may direct CONCESSIONAIRE to take additional measures to abate pests which are an immediate threat to public health or safety.

SECTION 11. PROHIBITED ACTS

CONCESSIONAIRE shall not:

1. Use the PREMISES to conduct any other business operations of CONCESSIONAIRE not related to the CONCESSION.
2. Do or allow to be done anything which may interfere with the effectiveness or accessibility of utility, heating, ventilating, or air conditioning systems or portions thereof on the PREMISES or elsewhere on the FACILITY, nor do or permit to be done anything which may interfere with free access and passage in the PREMISES or the public areas adjacent thereto, or in the streets or sidewalks adjoining the PREMISES, or hinder police, fire fighting or other emergency personnel in the discharge of their duties;
3. Interfere with the public's enjoyment and use of the FACILITY or use of the PREMISES for any purpose which is not essential to the CONCESSION operations;
4. Rent, sell, lease or offer any space for storing of any articles whatsoever within or on the PREMISES other than specified herein, without the prior written approval of RAP;
5. Overload any floor in the PREMISES;
6. Place any additional lock of any kind upon any window or interior or exterior door in the PREMISES, or make any change in any existing door or window lock or the mechanism thereof, unless a key therefore is maintained on the PREMISES, nor refuse, upon the expiration or sooner termination of the AGREEMENT, to surrender to RAP any and all keys to the interior or exterior doors on the PREMISES, whether said keys were furnished to or otherwise procured by CONCESSIONAIRE, and in the event of the loss of any keys furnished by RAP, CONCESSIONAIRE shall pay RAP, on demand, the cost for replacement thereof;
7. Do or permit to be done any act or thing upon the PREMISES which will invalidate, suspend or increase the rate of any insurance policy required under the AGREEMENT, or carried by RAP, covering the PREMISES, or the buildings in which the same are located or which, in the opinion of RAP, may constitute a hazardous condition that will increase the risks normally attendant upon the operations contemplated under the AGREEMENT, provided, however, that nothing contained herein shall preclude CONCESSIONAIRE from bringing, keeping or using on or

about the PREMISES such materials, supplies, equipment and machinery as are appropriate or customary in carrying on its business, or from carrying on said business in all respects as is customary;

8. Use, create, store or allow any hazardous materials as defined in Title 26, Division 19.1, Section 19-2510 of the California Code of Regulations, or those which meet the criteria of the above Code, as well as any other substance which poses a hazard to health and environment, provided, however, that nothing contained herein shall preclude CONCESSIONAIRE from bringing, keeping or using on or about the PREMISES such materials, supplies, equipment and machinery as are appropriate or customary in carrying on its business, or from carrying on said business in all respects as is customary except that all hazardous materials must be stored and used in compliance with all City, State and Federal rules, regulations, ordinances and laws;
9. Allow any sale by auction upon the PREMISES;
10. Permit undue loitering on or about the PREMISES;
11. Climb the ladder that accesses the Tower area inside the Boathouse (Exhibit A, Space 5);
12. Use the PREMISES in any manner that will constitute waste;
13. Use or allow the PREMISES to be used for, in the opinion of RAP, any improper, immoral, or unlawful purposes.

SECTION 12. PERFORMANCE DEPOSIT

CONCESSIONAIRE shall provide RAP a sum equal to Five Thousand Dollars (\$5,000.00) to guarantee payment of fees and as a damage deposit to be used in accordance with the default provisions of this AGREEMENT.

Form of Deposit

CONCESSIONAIRE'S Deposit shall be in the following form:

A cashier's check drawn on any bank that is a member of the Los Angeles Clearing House Association, which cashier's check is payable to the order of the City of Los Angeles.

- A. **Agreement of Deposit and Indemnity**
CONCESSIONAIRE unconditionally agrees that in the event of any default, RAP shall have full power and authority to use the deposit in whole or in part to indemnify RAP. All deposits of checks must be immediately so deposited by RAP.
- B. **Maintenance of Deposit**
Said deposit shall be held by RAP during the entire term of the AGREEMENT.
- C. **Return of Deposit to CONCESSIONAIRE**
Said Deposit shall be returned to CONCESSIONAIRE and any rights assigned to the Deposit shall be surrendered by RAP in writing, after the expiration or earlier termination of the AGREEMENT and any exit audits performed in conjunction with the AGREEMENT.

RAP reserves the right to deduct from the Performance Deposit, any amounts up to and including the full amount of the Deposit as stated herein, owed to RAP by CONCESSIONAIRE as shown by any exit audits performed by RAP, or as compensation to RAP for failure to adhere to or execute the terms and conditions of the AGREEMENT.

SECTION 13. TAXES, PERMITS, AND LICENSES

- A. CONCESSIONAIRE shall obtain and maintain at its sole expense any and all approvals, permits, or licenses that may be required in connection with the operation of the CONCESSION including, but not limited to, tax permits, business licenses, health permits, animal regulation, building permits, police and fire permits, etc.
- B. CONCESSIONAIRE shall pay all taxes of whatever character that may be levied or charged upon the rights of CONCESSIONAIRE to use the PREMISES, or upon CONCESSIONAIRE'S improvements, fixtures, equipment, or other property thereon or upon CONCESSIONAIRE'S operations hereunder. In addition, by executing the AGREEMENT and accepting the benefits thereof, a property interest may be created known as "Possessory Interest" and such property interest will be subject to property taxation. CONCESSIONAIRE, as the party to whom the Possessory Interest is vested, may be subject to the payment of the property taxes levied by the State and County upon such interest.
- C. During the entire term of the AGREEMENT, the CONCESSIONAIRE must hold a current Los Angeles Business Tax Registration Certificate (BTRC) as required by the CITY'S Business Tax Ordinance (LAMC Article 1, Chapter 2, Sections 21.00 et. seq.).
- D. Pursuant to Section 21.3.3 of Article 1.3 of the LAMC Commercial Tenants Occupancy Tax, CONCESSIONAIRE must pay to the City of Los Angeles for the privilege of occupancy, a tax at the rate of One Dollar and Forty-Eight Cents (\$1.48) per calendar quarter or fractional part thereof for the first One Thousand Dollars (\$1,000.00) or less of charges (rent) attributable to said calendar quarter, plus One Dollar and Forty-Eight Cents (\$1.48) per calendar quarter for each additional One Thousand Dollars (\$1,000.00) of charges or fractional part thereof in excess of One Thousand Dollars (\$1,000.00). Said tax shall be paid quarterly to RAP, on or before the fifteenth (15th) of April, July, October, January of each calendar year, for the preceding three (3) months. Should the rate of the Occupancy Tax rise at any time during the term of the AGREEMENT, CONCESSIONAIRE shall be responsible to pay the updated, higher rate.

SECTION 14. ASSIGNMENT, SUBLEASE, BANKRUPTCY

CONCESSIONAIRE shall not under-let or sub-let the subject PREMISES or any part thereof or allow the same to be used or occupied by any other person or for other use than that herein specified, nor assign the AGREEMENT nor transfer, assign or in any manner convey any of the rights or privileges herein granted without the prior written consent of RAP. Neither the AGREEMENT nor the rights herein granted shall be assignable or transferable by any process or proceedings in any court, or by attachment, execution, proceeding in insolvency or bankruptcy either voluntary or involuntary, or receivership proceedings. Any attempted assignment, mortgaging, hypothecation, or encumbering of the CONCESSION rights or other violation of the provisions of this Section shall be void and shall confer no right, title or interest in or to the AGREEMENT or right of use of the whole or any portion of

the PREMISES upon any such purported assignee, mortgagee, encumbrancer, pledgee or other lien holder, successor or purchaser.

SECTION 15. BUSINESS RECORDS

CONCESSIONAIRE shall maintain during the term of the AGREEMENT and for three (3) years thereafter, all of its books, ledgers, journals, and accounts wherein are kept all entries reflecting the gross receipts received or billed by it from the business transacted pursuant to the AGREEMENT. Such books, ledgers, journals, accounts, and records shall be available for inspection and examination by RAP, or a duly authorized representative, during ordinary business hours at any time during the term of this agreement and for at least three (3) years thereafter.

A. Employee Fidelity Bonds

At RAP's discretion, adequate employee fidelity bonds may be required to be maintained by CONCESSIONAIRE covering all its employees who handle money.

B. Cash and Record Handling Requirements

If requested by RAP, CONCESSIONAIRE shall prepare a description of its cash handling and sales recording systems and equipment to be used for operation of the CONCESSION which shall be submitted to RAP for approval.

CONCESSIONAIRE shall be required to maintain a method of accounting of the CONCESSION which shall correctly and accurately reflect the gross receipts and disbursements received or made by CONCESSIONAIRE from the operation of the CONCESSION. The method of accounting, including bank accounts, established for the CONCESSION shall be separate from the accounting systems used for any other businesses operated by CONCESSIONAIRE or for recording CONCESSIONAIRE'S personal financial affairs. Such method shall include the keeping of the following documents:

1. Regular books of accounting such as general ledgers.
2. Journals including supporting and underlying documents such as vouchers, checks, tickets, bank statements, etc.
3. State and Federal income tax returns and sales tax returns and checks and other documents proving payment of sums shown.
4. Cash register tapes shall be retained so that day to day sales can be identified. A cash register must be used in public view which prints a dated double tape, indicating each sale and the daily total.
5. Any other accounting records that RAP, in its sole discretion, deems necessary for proper reporting of receipts.

C. Method of Recording Gross Receipts

Unless otherwise specified in the AGREEMENT, CONCESSIONAIRE shall obtain and install a cash register(s) on which it shall record all gross sales. The cash register shall be non-resettable and sufficient to supply an accurate recording of all sales on tape. CONCESSIONAIRE shall not purchase or install the cash register before obtaining RAP's

written approval of the specific register to be purchased. All cash registers shall have a price display which is and shall remain at all times visible to the public.

In lieu of a cash register as described directly above, the CONCESSIONAIRE may install a computerized Point-of-Sale system, including hardware and software, to record transactions and receipts. Such computerized Point-of-Sale system must be capable of providing paper receipts to patrons, have a price display which is and shall remain at all times visible to the public, and have controls in place to make it equivalent to a non-resettable cash register. CONCESSIONAIRE shall not purchase or install the computerized Point-of-Sale system, including hardware and software, before obtaining RAP's written approval of the specific hardware and software to be purchased.

D. Annual Statement of Gross Receipts and Expenses

CONCESSIONAIRE shall transmit a Statement of Gross Receipts and Expenses (Profit and Loss Statement) for the CONCESSION operations as specified in the AGREEMENT, in a form acceptable to RAP, on or before April 30th, of each calendar year during the term of the AGREEMENT. Such Statement must be prepared by a Certified Public Accountant (CPA) and shall not include statements of omission or non-disclosure. An extension may be granted in writing, prior to the April 30th due date, by RAP, provided sufficient verification of the need for the extension is provided, as accepted by RAP's General Manager or his designee. The charge for late or delinquent Statements shall be One Hundred Dollars (\$100.00) per month or part thereof late.

In addition, RAP may from time to time conduct an audit and re-audit of the books and businesses conducted by CONCESSIONAIRE and observe the operation of the business so that accuracy of the above records can be confirmed. If the report of gross sales made by CONCESSIONAIRE to RAP shall be found to be less than the amount of gross sales disclosed by such audit and observation, CONCESSIONAIRE shall pay RAP within thirty (30) days after billing any additional rentals disclosed by such audit. If discrepancy exceeds two percent (2%) and no reasonable explanation is given for such discrepancy, CONCESSIONAIRE shall also pay the cost of the audit.

SECTION 16. REGULATIONS, INSPECTION, AND DIRECTIVES

A. Constitutional and Other Limits on CONCESSIONAIRE'S Rights to Exclusivity

Notwithstanding exclusivity granted to Concessionaire by the terms of this Agreement, the City in its discretion may require Concessionaire, without any reduction in rent or other valuable consideration to Concessionaire, to accommodate the rights of persons to access and engage in expressive activities, as guaranteed by the First Amendment to the United States Constitution, the California Constitution, and other laws, as these laws are interpreted by the City. Expressive activities include, but are not limited to, protesting, picketing, proselytizing, soliciting, begging, and vending of certain expressive, message-bearing items.

B. Conformance with Laws

CONCESSIONAIRE shall conform to:

1. Any and all applicable rules, regulations, orders, and restrictions which are now in force or which may be hereafter adopted by RAP with respect to the operation of the CONCESSION;

2. Any and all orders, directions or conditions issued, given, or imposed by RAP with respect to the use of the roadways, driveways, curbs, sidewalks, parking areas, or public areas adjacent to the PREMISES;
3. Any and all applicable laws, ordinances, statutes, rules, regulations or orders, including the LAMC, LAAC, the Charter of the City of Los Angeles, and of any governmental authority, federal, state or municipal, lawfully exercising authority over the CONCESSIONAIRE'S operations; and,
4. Any and all applicable local, state and federal laws and regulations relative to the design and installation of facilities to accommodate disabled persons.

C. Permissions

Any permission required by the AGREEMENT shall be secured in writing by CONCESSIONAIRE from CITY or RAP and any errors or omissions therefrom shall not relieve CONCESSIONAIRE of its obligations to faithfully perform the conditions therein. CONCESSIONAIRE shall immediately comply with any written request or order submitted to it by CITY or RAP.

D. Right of Inspection

CITY, RAP, their authorized representatives, agents and employees shall have the right to enter the PREMISES at any and all reasonable times for the purpose of inspection, evaluation, and observation of CONCESSIONAIRE'S operation. Park Rangers are specifically designated as CITY agents and are empowered by CITY to conduct inspections of the PREMISES, evaluate CONCESSIONAIRE and inform RAP fully as to CONCESSIONAIRE's conduct. During these inspections, they all shall have the right to photograph, film, or otherwise record conditions and events taking place upon the PREMISES. The inspections may be made by persons identified to CONCESSIONAIRE as CITY Employees, or may be made by independent contractors engaged by CITY. Inspections may be made for the purposes set forth below, and for any other lawful purpose for which the CITY or another governmental entity with jurisdiction is authorized to perform inspections of the PREMISES:

1. To determine if the terms and conditions of the AGREEMENT are being complied with.
2. To observe transactions between the CONCESSIONAIRE and patrons in order to evaluate the quality of services provided or quality and quantities of items sold or dispensed.
3. To ensure quality control and verify the validity of mandatory operating permits

E. Control of Premises

RAP shall have absolute and full access to the PREMISES and all its appurtenances during the term of the AGREEMENT and may make such changes and alterations therein, and in the grounds surrounding same, as may be determined by said RAP. Such determination shall not be unreasonable and shall take into account the business considerations presented by CONCESSIONAIRE.

F. Business Inclusion Program

CONCESSIONAIRE agrees and obligates itself to utilize the services of Minority, Women,

Small, Emerging, Disabled Veteran and Other Business Enterprise firms on a level so designated in its proposal, Schedule A (Exhibit J). CONCESSIONAIRE certifies that it has complied with Executive Directive No. 14 regarding the Outreach Program. CONCESSIONAIRE shall not change any of these designated sub consultants and subcontractors, nor shall CONCESSIONAIRE reduce their level of effort, without prior written approval of the CITY, provided that such approval shall not be unreasonably withheld.

During the term of the AGREEMENT, CONCESSIONAIRE must submit the MBE/WBE/SBE/EBE/DVBE/OBE Utilization Profile, Schedule B (Exhibit K) when submitting the Monthly Remittance Advice. Upon completion of the project, a summary of these records shall be prepared on the "Final Subcontracting Report" form, Schedule C (Exhibit L) and certified correct by CONCESSIONAIRE or its authorized representative. The completed Schedule C shall be furnished to RAP within fifteen (15) working days after completion of the AGREEMENT.

G. First Source Hiring Ordinance

Unless otherwise exempt in accordance with the provisions of this Ordinance, this AGREEMENT is subject to the applicable provisions of the First Source Hiring Ordinance (FSHO), Section 10.44 et seq. of the LAAC, as amended from time to time.

1. CONCESSIONAIRE shall, prior to the execution of the contract, provide to the Designated Administrative Agency (DAA) a list of anticipated employment opportunities that CONCESSIONAIRE estimates it will need to fill in order to perform the services under the AGREEMENT. The Department of Public Works, Bureau of Contract Administration is the DAA.
2. CONCESSIONAIRE further pledges that it will, during the term of the AGREEMENT:
 - a. At least seven (7) business days prior to making an announcement of a specific employment opportunity, provide notifications of that employment opportunity to the Economic and Workforce Development Department (EWDD), which will refer individuals for interview;
 - b. Interview qualified individuals referred by EWDD; and;
 - c. Prior to filling any employment opportunity, the CONCESSIONAIRE shall inform the DAA of the names of the Referral Resources used, the names of the individuals they referred, the names of the referred individuals who the CONCESSIONAIRE interviewed and the reasons why referred individuals were not hired.
3. Any subcontract entered into by the CONCESSIONAIRE relating to this AGREEMENT, to the extent allowed hereunder, shall be subject to the provisions of FSHO, and shall incorporate the FSHO.
4. CONCESSIONAIRE shall comply with all rules, regulations and policies promulgated by the designated administrative agency, which may be amended from time to time.

Where under the provisions of Section 10.44.13 of the LAAC the DAA has determined that the CONCESSIONAIRE intentionally violated or used hiring practices for the purpose of avoiding the article, the determination must be documented in the Awarding Authority's

Contractor Evaluation, required under LAAC Section 10.39 et seq., and must be documented in each of the CONCESSIONAIRE's subsequent Contractor Responsibility Questionnaires submitted under LAAC Section 10.40 et seq. This measure does not limit the City's authority to act under this article.

Under the provisions of Section 10.44.8 of the LAAC, the Awarding Authority shall, under appropriate circumstances, terminate this AGREEMENT and otherwise pursue legal remedies that may be available if the DAA determines that the subject CONCESSIONAIRE has violated provisions of the FSHO.

H. CEC Form 50

Certain contractors agree to comply with the disclosure requirements and prohibitions established in the Los Angeles Municipal Lobbying Ordinance if those contractors qualify as a lobbying entity under Los Angeles Municipal Code 48.02. CEC Form 50 attached as Exhibit M. Responses submitted without a completed CEC Form 50, by proposers that qualify as a lobbying entity under Los Angeles Municipal Code 48.02 shall be deemed nonresponsive.

Bidder Contributions – City Charter Sections 470(c) (12)

Persons who submit a response to this solicitation (bidders) are subject to Charter section 470(c) (12) and related ordinances. As a result, bidders may not make campaign contributions to and or engage in fundraising for certain elected City officials or candidates for elected City office from the time they submit the response until either the contract is approved or, for successful bidders, 12 months after the contract is signed. The bidder's principals and subcontractors performing One Hundred Thousand Dollars (\$100,000.00) or more in work on the contract, as well as the principals of those subcontractors, are also subject to the same limitations on campaign contributions and fundraising.

I. CEC Form 55

CEC Form 55 requires bidders to identify their principals, their subcontractors performing One Hundred Thousand Dollars (\$100,000.00) or more in work on the contract, and the principals of those subcontractors. Bidders must also notify their principals and subcontractors in writing of the restrictions and include the notice in contracts with subcontractors. Responses submitted without a completed CEC Form 55 shall be deemed nonresponsive. Bidders who fail to comply with City law may be subject to penalties, termination of contract, and debarment. Additional information regarding restrictions and requirements may be obtained from the City Ethics Commission at (213) 978-1960 or ethics.lacity.org.

SECTION 17. EQUAL EMPLOYMENT PRACTICES

Pursuant to the L.A.A.C, Section 10.8.3., CONCESSIONAIRE shall comply with the following practices. For the purposes of this section, CONCESSIONAIRE shall be referred to as "Contractor", AGREEMENT shall be referred to as "Contract", and RAP shall be referred to as "Awarding Authority". Further definitions for this section can be found in the L.A.A.C., Section 10.8.1.

- A. During the performance of this Contract, the Contractor agrees and represents that it will provide Equal Employment Practices and the Contractor and each subcontractor hereunder will ensure that in his or her Employment Practices persons are employed and employees are treated equally and without regard to, or because of, race, color, religion, national origin, ancestry, sex, sexual orientation, age, disability, marital status, or medical condition.

1. This provision applies to work or service performed or materials manufactured or assembled in the United States.
 2. Nothing in this section shall require or prohibit the establishment of new classifications of employees in any given craft, work, or service category.
 3. The Contractor agrees to post a copy of Paragraph A, hereof, in conspicuous places at its place of business available to employees and applicants for employment.
- B. The Contractor will, in all solicitations or advertisements for employees placed by, or on behalf of, the Contractor, state that all qualified applicants will receive consideration for employment without regard to their race, color, religion, national origin, ancestry, sex, sexual orientation, age, disability, marital status, or medical condition.
- C. At the request of the Awarding Authority or the DAA, the Contractor shall certify in the specified format that he or she has not discriminated in the performance of City Contracts against any employee or applicant for employment on the basis or because of race, color, religion, national origin, ancestry, sex, sexual orientation, age, disability, marital status, or medical condition.
- D. The Contractor shall permit access to, and may be required to provide certified copies of, all of his or her records pertaining to employment and to employment practices by the awarding authority or the DAA for the purpose of investigation to ascertain compliance with the Equal Employment Practices provisions of City Contracts. Upon request, the Contractor shall provide evidence that he or she has or will comply therewith.
- E. The failure of any Contractor to comply with the Equal Employment Practices provisions of this contract may be deemed to be a material breach of City Contracts. The failure shall only be established upon a finding to that effect by the Awarding Authority, on the basis of its own investigation or that of the DAA. No such finding shall be made or penalties assessed except upon a full and fair hearing after notice and an opportunity to be heard has been given to the Contractor.
- F. Upon a finding duly made that the Contractor has failed to comply with the Equal Employment Practices provisions of a City Contract, the Contract may be forthwith cancelled, terminated, or suspended, in whole or in part, by the Awarding Authority, and all monies due or to become due hereunder may be forwarded to, and retained by, the City of Los Angeles. In addition thereto, the failure to comply may be the basis for a determination by the Awarding Authority or the DAA that the said Contractor is a non-responsible bidder or proposer pursuant to the provisions of Section 10.40 of this Code. In the event of such a determination, the Contractor shall be disqualified from being awarded a Contract with the City of Los Angeles for a period of two years, or until the Contractor shall establish and carry out a program in conformance with the provisions hereof.
- G. Notwithstanding any other provision of this contract, the City of Los Angeles shall have any and all other remedies at law or in equity for any breach hereof.
- H. The Board of Public Works shall promulgate rules and regulations through the DAA, and provide necessary forms and required language to the Awarding Authorities to be included in City Request for Bids or Request for Proposal packages or in supplier registration requirements for the implementation of the Equal Employment Practices provisions of this Contract, and such rules and regulations and forms shall, so far as practicable, be similar to

those adopted in applicable Federal Executive orders. No other rules, regulations, or forms may be used by an Awarding Authority of the City to accomplish the contract compliance program.

- I. Nothing contained in this Contract shall be construed in any manner so as to require or permit any act which is prohibited by law.
- J. By affixing its signature on a Contract that is subject to this article, the Contractor shall agree to adhere to the Equal Employment Practices specified herein during the performance or conduct of City Contracts.
- K. Equal Employment Practices shall, without limitation as to the subject or nature of employment activity, be concerned with employment practices, including, but not limited to:
 - 1. Hiring practices;
 - 2. Apprenticeships where approved programs are functioning and other on-the-job training for non-apprenticeable occupations;
 - 3. Training and promotional opportunities; and
 - 4. Reasonable accommodations for persons with disabilities.
- L. All Contractors subject to the provisions of this section shall include a similar provision in all subcontracts awarded for work to be performed under the Contract with the City, and shall impose the same obligations including, but not limited to, filing and reporting obligations, on the subcontractors as are applicable to the Contractor. Subcontracts shall follow the same thresholds specified in Section 10.8.1.1. Failure of the Contractor to comply with this requirement or to obtain the compliance of its subcontractors with all such obligations shall subject the Contractor to the imposition of any and all sanctions allowed by law, including, but not limited to, termination of the Contractor's Contract with the City.

SECTION 18. AFFIRMATIVE ACTION PROGRAM

Pursuant to the LAAC, Section 10.8.4., CONCESSIONAIRE shall comply with the following practices. For the purposes of this section, CONCESSIONAIRE shall be referred to as "Contractor", AGREEMENT shall be referred to as "Contract", and RAP shall be referred to as "Awarding Authority". Further definitions for this section can be found in the LAAC, Section 10.8.1.

- A. During the performance of a City Contract, the Contractor certifies and represents that the Contractor and each Subcontractor hereunder will adhere to an Affirmative Action Program to ensure that in its employment practices, persons are employed and employees are treated equally and without regard to or because of race, color, religion, national origin, ancestry, sex, sexual orientation, age, disability, marital status, domestic partner status, or medical condition.
 - 1. This section applies to work or services performed or materials manufactured or assembled in the United States.
 - 2. Nothing in this section shall require or prohibit the establishment of new classifications of employees in any given craft, work, or service category.
 - 3. The Contractor shall post a copy of Paragraph A, hereof, in conspicuous places at its place of business available to employees and applicants for employment.

- B. The Contractor shall, in all solicitations or advertisements for employees placed, by or on behalf of, the Contractor, state that all qualified applicants will receive consideration for employment without regard to their race, color, religion, national origin, ancestry, sex, sexual orientation, age, disability, marital status, domestic partner status, or medical condition.
- C. At the request of the Awarding Authority or the DAA, the Contractor shall certify on an electronic or hard copy form to be supplied, that the Contractor has not discriminated in the performance of City Contracts against any employee or applicant for employment on the basis or because of race, color, religion, national origin, ancestry, sex, sexual orientation, age, disability, marital status, domestic partner status, or medical condition.
- D. The Contractor shall permit access to, and may be required to provide certified copies of, all of its records pertaining to employment and to its employment practices by the Awarding Authority of the DAA for the purpose of investigation to ascertain compliance with the Affirmative Action Program provisions of City Contracts and, upon request, to provide evidence that it has or will comply therewith.
- E. The failure of any Contractor to comply with the Affirmative Action Program provisions of City Contracts may be deemed to be a material breach of a City Contract. The failure shall only be established upon a finding to that effect by the Awarding Authority, on the basis of its own investigation or that of the DAA. No finding shall be made except upon a full and fair hearing after notice and an opportunity to be heard has been given to the Contractor.
- F. Upon a finding duly made that the Contractor has breached the Affirmative Action Program provisions of a City Contract, the Contract may be forthwith cancelled, terminated, or suspended, in whole or in part, by the Awarding Authority, and all monies due or to become due hereunder may be forwarded to and retained by the City of Los Angeles. In addition thereto, the breach may be the basis for a determination by the Awarding Authority or the Board of Public Works that the Contractor is a non-responsible bidder or proposer pursuant to the provisions of Section 10.40 of this Code. In the event of such determination, the Contractor shall be disqualified from being awarded a contract with the City of Los Angeles for a period of two years, or until he or she shall establish and carry out a program in conformance with the provisions hereof.
- G. In the event of a finding by the Fair Employment and Housing Commission of the State of California, or the Board of Public Works of the City of Los Angeles, or any court of competent jurisdiction, that the Contractor has been guilty of a willful violation of the California Fair Employment and Housing Act, or the Affirmative Action Program provisions of a City Contract, there may be deducted from the amount payable to the Contractor by the City of Los Angeles under the contract, a penalty of ten dollars (\$10.00) for each person for each calendar day on which the person was discriminated against in violation of the provisions of a City Contract.
- H. Notwithstanding any other provisions of a City Contract, the City of Los Angeles shall have any and all other remedies at law or in equity for any breach hereof.
- I. The Public Works Board of Commissioners shall promulgate rules and regulations through the DAA and provide to the Awarding Authorities electronic and hard copy forms for the implementation of the Affirmative Action Program provisions of City contracts, and rules and regulations and forms shall, so far as practicable, be similar to those adopted in applicable Federal Executive Orders. No other rules, regulations, or forms may be used by an Awarding Authority of the City to accomplish this contract compliance program.

- J. Nothing contained in City Contracts shall be construed in any manner so as to require or permit any act which is prohibited by law.
- K. By affixing its signature to a Contract that is subject to this article, the Contractor shall agree to adhere to the provisions in this article for the duration of the Contract. The Awarding Authority may also require Contractors and suppliers to take part in a pre-registration, pre-bid, pre-proposal, or pre-award conference in order to develop, improve, or implement a qualifying Affirmative Action Program.
1. The Contractor certifies and agrees to immediately implement good faith effort measures to recruit and employ minority, women, and other potential employees in a non-discriminatory manner including, but not limited to, the following actions as appropriate and available to the Contractor's field of work. The Contractor shall:
 - a. Recruit and make efforts to obtain employees through:
 - i. Advertising employment opportunities in minority and other community news media or other publications.
 - ii. Notifying minority, women, and other community organizations of employment opportunities.
 - iii. Maintaining contact with schools with diverse populations of students to notify them of employment opportunities.
 - iv. Encouraging existing employees, including minorities and women, to refer their friends and relatives.
 - v. Promoting after school and vacation employment opportunities for minority, women, and other youth.
 - vi. Validating all job specifications, selection requirements, tests, etc.
 - vii. Maintaining a file of the names and addresses of each worker referred to the Contractor and what action was taken concerning the worker.
 - viii. Notifying the appropriate Awarding Authority and the DAA in writing when a union, with whom the Contractor has a collective bargaining agreement, has failed to refer a minority, woman, or other worker.
 - b. Continually evaluate personnel practices to assure that hiring, upgrading, promotions, transfers, demotions, and layoffs are made in a non-discriminatory manner so as to achieve and maintain a diverse work force.
 - c. Utilize training programs that assist minority, women, and other employees in locating, qualifying for and engaging in the training programs to enhance their skills and advancement.
 - d. Secure cooperation or compliance from the labor referral agency to the Contractor's contractual Affirmative Action Program obligations.
 - e. Establish a person at the management level of the Contractor to be the Equal Employment Practices officer. Such individual shall have the authority to disseminate and enforce the Contractor's Equal Employment and Affirmative Action Program policies.
 - f. Maintain records as are necessary to determine compliance with Equal Employment Practices and Affirmative Action Program obligations and make the records available to City, State, and Federal authorities upon request.

- N. This ordinance shall not confer upon the City of Los Angeles or any Agency, Board, or Commission thereof any power not otherwise provided by law to determine the legality of any existing collective bargaining agreement and shall have application only to discriminatory employment practices by Contractors engaged in the performance of City Contracts.
- O. All Contractors subject to the provisions of this article shall include a similar provision in all subcontracts awarded for work to be performed under the Contract with the City and shall impose the same obligations including, but not limited to, filing and reporting obligations, on the subcontractors as are applicable to the Contractor. Failure of the Contractor to comply with this requirement or to obtain the compliance of its subcontractors with all such obligations shall subject the Contractor to the imposition of any and all sanctions allowed by law, including, but not limited to, termination of the Contractor's Contract with the City.

SECTION 19. SURRENDER OF POSSESSION

CONCESSIONAIRE agrees to yield and deliver possession of the PREMISES to RAP on the date of the expiration or earlier termination of the AGREEMENT promptly, peaceably, quietly, and in as good order and condition as the same now are or may be hereafter improved by CONCESSIONAIRE or RAP, normal use and wear and tear thereof excepted.

No agreement of surrender or to accept a surrender shall be valid unless and until the same is in writing and signed by the duly authorized representatives of RAP and CONCESSIONAIRE. Neither the doing nor omission of any act or thing by any of the officers, agents or employees of RAP shall be deemed an acceptance of a surrender of the PREMISES utilized by CONCESSIONAIRE under the AGREEMENT.

Upon termination of this AGREEMENT other than by forfeiture, CONCESSIONAIRE shall quit and surrender possession of the PREMISES to RAP and shall, without cost to RAP, remove any and all works, structures, or other improvements owned by CONCESSIONAIRE and restore the premises to the same or as good condition, ordinary wear and tear excepted, as the same were in it at the time of the first occupancy, thereof by CONCESSIONAIRE under this or any prior agreement or lease. CONCESSIONAIRE will have thirty (30) days to effect removal and restoration. CONCESSIONAIRE may at his option accept all or a portion of the works, structures, or other improvements on behalf of RAP in lieu of all or a portion of the removal or restoration required herein.

SECTION 20. NOTICES

- A. To RAP:
Unless otherwise stated in the AGREEMENT, written notices to RAP hereunder shall be addressed to:

Department of Recreation and Parks
Attention: Partnerships and Revenue Branch/Concession Unit
P.O. Box 86328
Los Angeles, CA 90086-0610

All such notices may either be delivered personally or may be deposited in the United States mail, properly addressed as aforesaid with postage fully prepaid for delivery by registered or certified mail. Service in such manner by registered or certified mail shall be effective upon receipt. Written notices may also be emailed to RAP Concessions Analyst.

RAP shall provide CONCESSIONAIRE with written notice of any address change within thirty (30) days of the occurrence of said change.

B. To CONCESSIONAIRE:

The execution of any notice to CONCESSIONAIRE by RAP shall be as effective for CONCESSIONAIRE as if it were executed by BOARD, or by Resolution or Order of said BOARD.

All such notices may either be delivered personally to the CONCESSIONAIRE or to any officer or responsible employee of CONCESSIONAIRE or may be deposited in the United States mail, properly addressed as aforesaid with postage fully prepaid for delivery by registered or certified mail, or transmitted via email by RAP Concessions Analyst. Service in such manner by registered or certified mail shall be effective upon receipt.

Written notices to CONCESSIONAIRE shall be addressed to CONCESSIONAIRE as follows:

MTI INVESTMENTS, INC.
Attn: Jason Espiritu
10330 Pioneer Blvd., Suite 215
Santa Fe Springs, CA 90670

CONCESSIONAIRE shall provide CITY with written notice of any address change within thirty (30) days of the occurrence of said address change.

SECTION 21. INCORPORATION OF DOCUMENTS

This AGREEMENT and incorporated documents represent the entire integrated agreement of the parties and supersedes all prior written or oral representations, discussions, and agreements. The following Exhibits are to be attached to and made part of this AGREEMENT by reference:

- A. Echo Park Boathouse and Café Concessions Premises Map
- B. Standard Provisions for City Contracts (Rev.3/09)
- C. Proposal in Response to RFP No. CON-F16-002
- D. Echo Park Boathouse Floor Plan
- E. Echo Park Boathouse City-Owned Equipment List
- F. Form General No. 87 "Non-Employee Accident or Illness Report"
- G. Remittance Advice Form
- H. Special Occurrence and Loss Report
- I. Required Insurance and Minimum Limits; Instructions and Information on Complying with City Insurance Requirements
- J. Schedule A, MBE/WBE/SBE/EBE/DVBE/OBE Subcontractors Information Form
- K. Schedule B, MBE/WBE/SBE/EBE/DVBE/OBE Utilization Profile
- L. Schedule C, Final Subcontracting Report
- M. CEC Form 50, Bidder Certification

In the event of any inconsistency between any of the provisions of this AGREEMENT and/or exhibits attached hereto, the inconsistency shall be resolved by giving precedence in the following order: 1) This AGREEMENT exclusive of attachments, 2) Exhibit A, 3) Exhibit B, 4) Exhibit C, 5) Exhibit D, 6)

Exhibit E, 7) Exhibit F, 8) Exhibit G, 9) Exhibit H, 10) Exhibit I, 11) Exhibit J, 12) Exhibit K, 13) Exhibit L, 14) Exhibit M.

(Signature Page to Follow)

DRAFT

IN WITNESS WHEREOF, THE CITY OF LOS ANGELES has caused this **AGREEMENT** to be executed on its behalf by its duly authorized General Manager of the Department of Recreation and Parks, and CONCESSIONAIRE has executed the same as of the day and year herein below written.

THE CITY OF LOS ANGELES, a municipal corporation, acting by and through the Department of Recreation and Parks

BY: _____ DATE: _____
MICHAEL A. SHULL
General Manager

MTI INVESTMENTS, INC.

BY: _____ DATE: _____

Title: _____

APPROVED AS TO FORM:
MICHAEL N. FEUER, City Attorney

BY: _____ DATE: _____
Deputy City Attorney

Business Tax Registration Certificate Number: _____

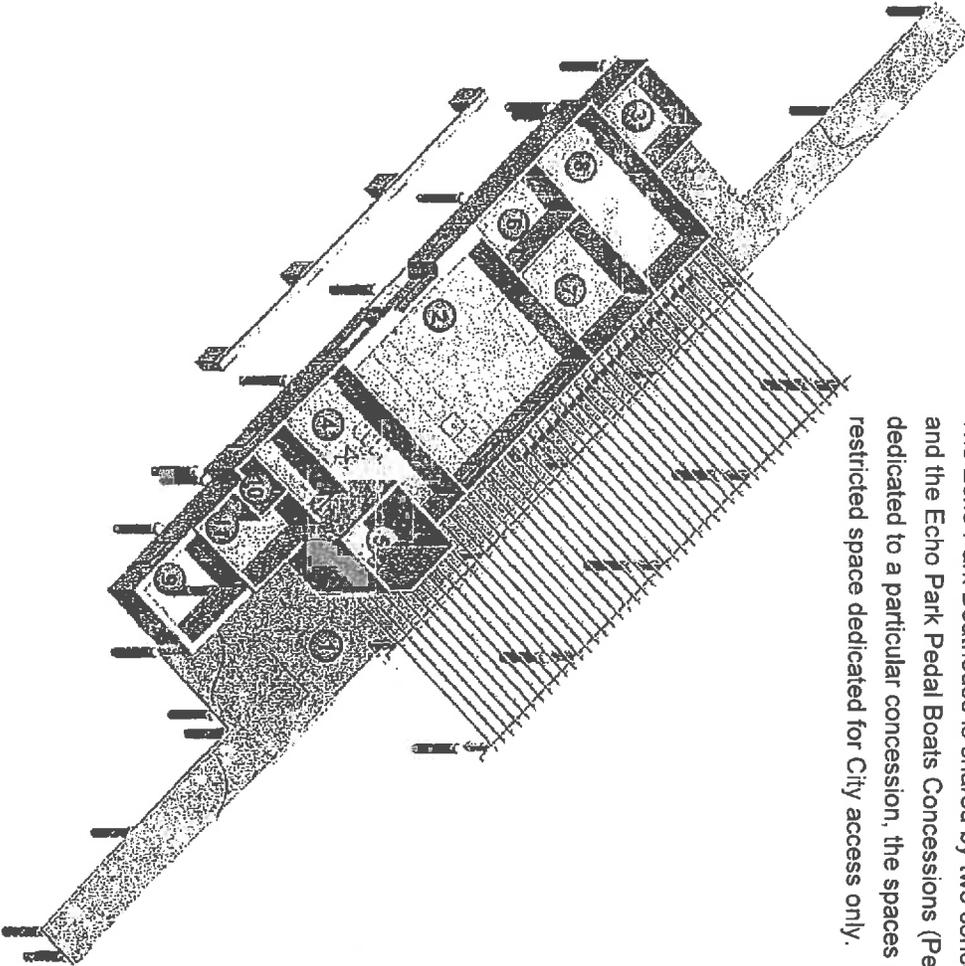
Internal Revenue Service Taxpayer Identification Number: _____

AGREEMENT Number: _____

Echo Park Boathouse - Echo Park Boathouse Café Concession Premises

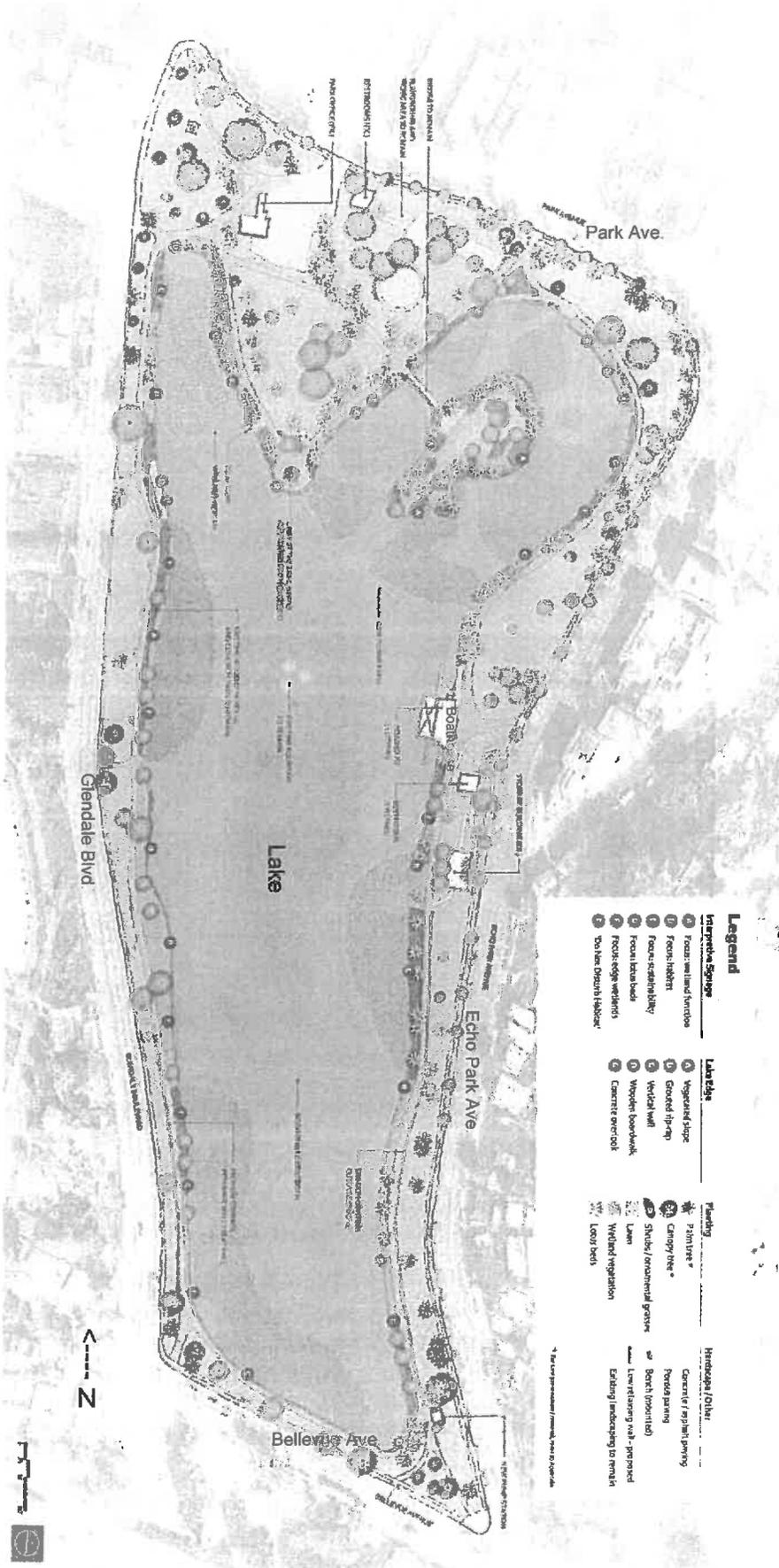
Agreement
EXHIBIT A
Page 1 of 2

The Echo Park Boathouse is shared by two concession operations, the Echo Park Boathouse Café (Café) and the Echo Park Pedal Boats Concessions (Pedal Boats). Exhibit A, Page 1 of 2, identifies the spaces dedicated to a particular concession, the spaces shared by both concessions (shared space), and restricted space dedicated for City access only.



1. BOATHOUSE DOCK (Pedal Boats)
2. CONCESSION ROOM (Shared Space)
3. SUPPLY/ STORAGE ROOM (Pedal Boats)
4. COMMERCIAL KITCHEN (Café)
5. TOWER (Restricted Area - City Access Only)
6. OFFICE (Café)
7. CASHIERS OFFICE (Café)
8. BOAT REPAIR ROOM (Pedal Boats)
9. EXTERIOR STORAGE/ TRASH (Café)
10. RESTROOM (Café)
11. LOCKER/ STORAGE ROOM (Café)

The Park Area of Echo Park Lake (Lake) - bounded by Park Avenue (north), Bellevue Avenue (south), Echo Park Avenue (east), and Glendale Boulevard (west).



March 2010

STANDARD PROVISIONS FOR CITY CONTRACTS

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STANDARD PROVISIONS FOR CITY CONTRACTS

PSC-1. CONSTRUCTION OF PROVISIONS AND TITLES HEREIN

All titles, subtitles, or headings in this Contract have been inserted for convenience, and shall not be deemed to affect the meaning or construction of any of the terms or provisions hereof. The language of this Contract shall be construed according to its fair meaning and not strictly for or against the **CITY** or **CONTRACTOR**. The word "**CONTRACTOR**" herein in this Contract includes the party or parties identified in the Contract. The singular shall include the plural; if there is more than one **CONTRACTOR** herein, unless expressly stated otherwise, their obligations and liabilities hereunder shall be joint and several. Use of the feminine, masculine, or neuter genders shall be deemed to include the genders not used.

PSC-2. NUMBER OF ORIGINALS

The number of original texts of this Contract shall be equal to the number of the parties hereto, one text being retained by each party. At the **CITY'S** option, one or more additional original texts of this Contract may also be retained by the City.

PSC-3. APPLICABLE LAW, INTERPRETATION AND ENFORCEMENT

Each party's performance hereunder shall comply with all applicable laws of the United States of America, the State of California, and the **CITY**, including but not limited to, laws regarding health and safety, labor and employment, wage and hours and licensing laws which affect employees. This Contract shall be enforced and interpreted under the laws of the State of California without regard to conflict of law principles. **CONTRACTOR** shall comply with new, amended, or revised laws, regulations, and/or procedures that apply to the performance of this Contract.

In any action arising out of this Contract, **CONTRACTOR** consents to personal jurisdiction, and agrees to bring all such actions, exclusively in state or federal courts located in Los Angeles County, California.

If any part, term or provision of this Contract is held void, illegal, unenforceable, or in conflict with any law of a federal, state or local government having jurisdiction over this Contract, the validity of the remaining parts, terms or provisions of the Contract shall not be affected thereby.

PSC-4. TIME OF EFFECTIVENESS

Unless otherwise provided, this Contract shall take effect when all of the following events have occurred:

- A. This Contract has been signed on behalf of **CONTRACTOR** by the person or persons authorized to bind **CONTRACTOR** hereto;
- B. This Contract has been approved by the City Council or by the board, officer or employee authorized to give such approval;
- C. The Office of the City Attorney has indicated in writing its approval of this Contract as to form; and
- D. This Contract has been signed on behalf of the **CITY** by the person designated by the City Council, or by the board, officer or employee authorized to enter into this Contract.

PSC-5. INTEGRATED CONTRACT

This Contract sets forth all of the rights and duties of the parties with respect to the subject matter hereof, and replaces any and all previous Contracts or understandings, whether written or oral, relating thereto. This Contract may be amended only as provided for in paragraph PSC-6 hereof.

PSC-6. AMENDMENT

All amendments to this Contract shall be in writing and signed and approved pursuant to the provisions of PSC-4.

PSC-7. EXCUSABLE DELAYS

In the event that performance on the part of any party hereto is delayed or suspended as a result of circumstances beyond the reasonable control and without the fault and negligence of said party, none of the parties shall incur any liability to the other parties as a result of such delay or suspension. Circumstances deemed to be beyond the control of the parties hereunder include, but are not limited to, acts of God or of the public enemy; insurrection; acts of the Federal Government or any unit of State or Local Government in either sovereign or contractual capacity; fires; floods; earthquakes; epidemics; quarantine restrictions; strikes; freight embargoes or delays in transportation, to the extent that they are not caused by the party's willful or negligent acts or omissions, and to the extent that they are beyond the party's reasonable control.

PSC-8. BREACH

Except for excusable delays as described in PSC-7, if any party fails to perform, in whole or in part, any promise, covenant, or agreement set forth herein, or should any representation made by it be untrue, any aggrieved party may avail itself of all rights

and remedies, at law or equity, in the courts of law. Said rights and remedies are cumulative of those provided for herein except that in no event shall any party recover more than once, suffer a penalty or forfeiture, or be unjustly compensated.

PSC-9. WAIVER

A waiver of a default of any part, term or provision of this Contract shall not be construed as a waiver of any succeeding default or as a waiver of the part, term or provision itself. A party's performance after the other party's default shall not be construed as a waiver of that default.

PSC-10. TERMINATION

A. TERMINATION FOR CONVENIENCE

The **CITY** may terminate this Contract for the **CITY'S** convenience at any time by giving **CONTRACTOR** thirty days written notice thereof. Upon receipt of said notice, **CONTRACTOR** shall immediately take action not to incur any additional obligations, cost or expenses, except as may be reasonably necessary to terminate its activities. The **CITY** shall pay **CONTRACTOR** its reasonable and allowable costs through the effective date of termination and those reasonable and necessary costs incurred by **CONTRACTOR** to affect such termination. Thereafter, **CONTRACTOR** shall have no further claims against the **CITY** under this Contract. All finished and unfinished documents and materials procured for or produced under this Contract, including all intellectual property rights thereto, shall become **CITY** property upon the date of such termination. **CONTRACTOR** agrees to execute any documents necessary for the **CITY** to perfect, memorialize, or record the **CITY'S** ownership of rights provided herein.

B. TERMINATION FOR BREACH OF CONTRACT

1. Except for excusable delays as provided in PSC-7, if **CONTRACTOR** fails to perform any of the provisions of this Contract or so fails to make progress as to endanger timely performance of this Contract, the **CITY** may give **CONTRACTOR** written notice of such default. If **CONTRACTOR** does not cure such default or provide a plan to cure such default which is acceptable to the **CITY** within the time permitted by the **CITY**, then the **CITY** may terminate this Contract due to **CONTRACTOR'S** breach of this Contract.
2. If a federal or state proceeding for relief of debtors is undertaken by or against **CONTRACTOR**, or if **CONTRACTOR** makes an assignment for the benefit of creditors, then the **CITY** may immediately terminate this Contract.
3. If **CONTRACTOR** engages in any dishonest conduct related to the performance or administration of this Contract or violates the

CITY'S lobbying policies, then the **CITY** may immediately terminate this Contract.

4. In the event the **CITY** terminates this Contract as provided in this section, the **CITY** may procure, upon such terms and in such manner as the **CITY** may deem appropriate, services similar in scope and level of effort to those so terminated, and **CONTRACTOR** shall be liable to the **CITY** for all of its costs and damages, including, but not limited, any excess costs for such services.
5. All finished or unfinished documents and materials produced or procured under this Contract, including all intellectual property rights thereto, shall become **CITY** property upon date of such termination. **CONTRACTOR** agrees to execute any documents necessary for the **CITY** to perfect, memorialize, or record the **CITY'S** ownership of rights provided herein.
6. If, after notice of termination of this Contract under the provisions of this section, it is determined for any reason that **CONTRACTOR** was not in default under the provisions of this section, or that the default was excusable under the terms of this Contract, the rights and obligations of the parties shall be the same as if the notice of termination had been issued pursuant to PSC-10(A) Termination for Convenience.
7. The rights and remedies of the **CITY** provided in this section shall not be exclusive and are in addition to any other rights and remedies provided by law or under this Contract.

PSC-11. INDEPENDENT CONTRACTOR

CONTRACTOR is acting hereunder as an independent contractor and not as an agent or employee of the **CITY**. **CONTRACTOR** shall not represent or otherwise hold out itself or any of its directors, officers, partners, employees, or agents to be an agent or employee of the **CITY**.

PSC-12. CONTRACTOR'S PERSONNEL

Unless otherwise provided or approved by the **CITY**, **CONTRACTOR** shall use its own employees to perform the services described in this Contract. The **CITY** shall have the right to review and approve any personnel who are assigned to work under this Contract. **CONTRACTOR** agrees to remove personnel from performing work under this Contract if requested to do so by the **CITY**.

CONTRACTOR shall not use subcontractors to assist in performance of this Contract without the prior written approval of the **CITY**. If the **CITY** permits the use of subcontractors, **CONTRACTOR** shall remain responsible for performing all aspects of

this Contract. The **CITY** has the right to approve **CONTRACTOR'S** subcontractors, and the **CITY** reserves the right to request replacement of subcontractors. The **CITY** does not have any obligation to pay **CONTRACTOR'S** subcontractors, and nothing herein creates any privity between the **CITY** and the subcontractors.

PSC-13. PROHIBITION AGAINST ASSIGNMENT OR DELEGATION

CONTRACTOR may not, unless it has first obtained the written permission of the **CITY**:

- A. Assign or otherwise alienate any of its rights under this Contract, including the right to payment; or
- B. Delegate, subcontract, or otherwise transfer any of its duties under this Contract.

PSC-14. PERMITS

CONTRACTOR and its directors, officers, partners, agents, employees, and subcontractors, to the extent allowed hereunder, shall obtain and maintain all licenses, permits, certifications and other documents necessary for **CONTRACTOR'S** performance hereunder and shall pay any fees required therefor. **CONTRACTOR** certifies to immediately notify the **CITY** of any suspension, termination, lapses, non-renewals, or restrictions of licenses, permits, certificates, or other documents.

PSC-15. CLAIMS FOR LABOR AND MATERIALS

CONTRACTOR shall promptly pay when due all amounts payable for labor and materials furnished in the performance of this Contract so as to prevent any lien or other claim under any provision of law from arising against any **CITY** property (including reports, documents, and other tangible or intangible matter produced by **CONTRACTOR** hereunder), against **CONTRACTOR'S** rights to payments hereunder, or against the **CITY**, and shall pay all amounts due under the Unemployment Insurance Act with respect to such labor.

PSC-16. CURRENT LOS ANGELES CITY BUSINESS TAX REGISTRATION CERTIFICATE REQUIRED

If applicable, **CONTRACTOR** represents that it has obtained and presently holds the Business Tax Registration Certificate(s) required by the **CITY'S** Business Tax Ordinance, Section 21.00 *et seq.* of the Los Angeles Municipal Code. For the term covered by this Contract, **CONTRACTOR** shall maintain, or obtain as necessary, all such Certificates required of it under the Business Tax Ordinance, and shall not allow any such Certificate to be revoked or suspended.

PSC-17. RETENTION OF RECORDS, AUDIT AND REPORTS

CONTRACTOR shall maintain all records, including records of financial transactions, pertaining to the performance of this Contract, in their original form, in accordance with

requirements prescribed by the **CITY**. These records shall be retained for a period of no less than three years following final payment made by the **CITY** hereunder or the expiration date of this Contract, whichever occurs last. Said records shall be subject to examination and audit by authorized **CITY** personnel or by the **CITY'S** representative at any time during the term of this Contract or within the three years following final payment made by the **CITY** hereunder or the expiration date of this Contract, whichever occurs last. **CONTRACTOR** shall provide any reports requested by the **CITY** regarding performance of this Contract. Any subcontract entered into by **CONTRACTOR**, to the extent allowed hereunder, shall include a like provision for work to be performed under this Contract.

PSC-18. FALSE CLAIMS ACT

CONTRACTOR acknowledges that it is aware of liabilities resulting from submitting a false claim for payment by the **CITY** under the False Claims Act (Cal. Gov. Code §§ 12650 *et seq.*), including treble damages, costs of legal actions to recover payments, and civil penalties of up to \$10,000 per false claim.

PSC-19. BONDS

All bonds which may be required hereunder shall conform to **CITY** requirements established by Charter, ordinance or policy, and shall be filed with the Office of the City Administrative Officer, Risk Management for its review and acceptance in accordance with Sections 11.47 through 11.56 of the Los Angeles Administrative Code.

PSC-20. INDEMNIFICATION

Except for the active negligence or willful misconduct of the **CITY**, or any of its Boards, Officers, Agents, Employees, Assigns and Successors in Interest, **CONTRACTOR** undertakes and agrees to defend, indemnify and hold harmless the **CITY** and any of its Boards, Officers, Agents, Employees, Assigns, and Successors in Interest from and against all suits and causes of action, claims, losses, demands and expenses, including, but not limited to, attorney's fees (both in house and outside counsel) and cost of litigation (including all actual litigation costs incurred by the **CITY**, including but not limited to, costs of experts and consultants), damages or liability of any nature whatsoever, for death or injury to any person, including **CONTRACTOR'S** employees and agents, or damage or destruction of any property of either party hereto or of third parties, arising in any manner by reason of the negligent acts, errors, omissions or willful misconduct incident to the performance of this Contract by **CONTRACTOR** or its subcontractors of any tier. Rights and remedies available to the **CITY** under this provision are cumulative of those provided for elsewhere in this Contract and those allowed under the laws of the United States, the State of California, and the **CITY**. The provisions of PSC-20 shall survive expiration or termination of this Contract.

PSC-21. INTELLECTUAL PROPERTY INDEMNIFICATION

CONTRACTOR, at its own expense, undertakes and agrees to defend, indemnify, and hold harmless the **CITY**, and any of its Boards, Officers, Agents, Employees, Assigns,

and Successors in Interest from and against all suits and causes of action, claims, losses, demands and expenses, including, but not limited to, attorney's fees (both in house and outside counsel) and cost of litigation (including all actual litigation costs incurred by the **CITY**, including but not limited to, costs of experts and consultants), damages or liability of any nature whatsoever arising out of the infringement, actual or alleged, direct or contributory, of any intellectual property rights, including, without limitation, patent, copyright, trademark, trade secret, right of publicity and proprietary information right (1) on or in any design, medium, matter, article, process, method, application, equipment, device, instrumentation, software, hardware, or firmware used by **CONTRACTOR**, or its subcontractors of any tier, in performing the work under this Contract; or (2) as a result of the **CITY'S** actual or intended use of any Work Product furnished by **CONTRACTOR**, or its subcontractors of any tier, under the Agreement. Rights and remedies available to the **CITY** under this provision are cumulative of those provided for elsewhere in this Contract and those allowed under the laws of the United States, the State of California, and the **CITY**. The provisions of PSC-21 shall survive expiration or termination of this Contract.

PSC-22. INTELLECTUAL PROPERTY WARRANTY

CONTRACTOR represents and warrants that its performance of all obligations under this Contract does not infringe in any way, directly or contributorily, upon any third party's intellectual property rights, including, without limitation, patents, copyrights, trademarks, trade secrets, rights of publicity and proprietary information.

PSC-23. OWNERSHIP AND LICENSE

Unless otherwise provided for herein, all Work Products originated and prepared by **CONTRACTOR** or its subcontractors of any tier under this Contract shall be and remain the exclusive property of the **CITY** for its use in any manner it deems appropriate. Work Products are all works, tangible or not, created under this Contract including, without limitation, documents, material, data, reports, manuals, specifications, artwork, drawings, sketches, computer programs and databases, schematics, photographs, video and audiovisual recordings, sound recordings, marks, logos, graphic designs, notes, websites, domain names, inventions, processes, formulas matters and combinations thereof, and all forms of intellectual property. **CONTRACTOR** hereby assigns, and agrees to assign, all goodwill, copyright, trademark, patent, trade secret and all other intellectual property rights worldwide in any Work Products originated and prepared by **CONTRACTOR** under this Contract. **CONTRACTOR** further agrees to execute any documents necessary for the **CITY** to perfect, memorialize, or record the **CITY'S** ownership of rights provided herein.

For all Work Products delivered to the **CITY** that are not originated or prepared by **CONTRACTOR** or its subcontractors of any tier under this Contract, **CONTRACTOR** hereby grants a non-exclusive perpetual license to use such Work Products for any **CITY** purposes.

CONTRACTOR shall not provide or disclose any Work Product to any third party without prior written consent of the **CITY**.

Any subcontract entered into by **CONTRACTOR** relating to this Contract, to the extent allowed hereunder, shall include a like provision for work to be performed under this Contract to contractually bind or otherwise oblige its subcontractors performing work under this Contract such that the **CITY'S** ownership and license rights of all Work Products are preserved and protected as intended herein. Failure of **CONTRACTOR** to comply with this requirement or to obtain the compliance of its subcontractors with such obligations shall subject **CONTRACTOR** to the imposition of any and all sanctions allowed by law, including but not limited to termination of **CONTRACTOR'S** contract with the **CITY**.

PSC-24. INSURANCE

During the term of this Contract and without limiting **CONTRACTOR'S** indemnification of the **CITY**, **CONTRACTOR** shall provide and maintain at its own expense a program of insurance having the coverages and limits customarily carried and actually arranged by **CONTRACTOR**, but not less than the amounts and types listed on the Required Insurance and Minimum Limits sheet (Form General 146 in Exhibit 1 hereto), covering its operations hereunder. Such insurance shall conform to **CITY** requirements established by Charter, ordinance or policy, shall comply with the Insurance Contractual Requirements (Form General 133 in Exhibit 1 hereto) and shall otherwise be in a form acceptable to the Office of the City Administrative Officer, Risk Management. **CONTRACTOR** shall comply with all Insurance Contractual Requirements shown on Exhibit 1 hereto. Exhibit 1 is hereby incorporated by reference and made a part of this Contract.

PSC-25. DISCOUNT TERMS

CONTRACTOR agrees to offer the **CITY** any discount terms that are offered to its best customers for the goods and services to be provided hereunder and apply such discount to payments made under this Contract which meet the discount terms.

PSC-26. WARRANTY AND RESPONSIBILITY OF CONTRACTOR

CONTRACTOR warrants that the work performed hereunder shall be completed in a manner consistent with professional standards practiced among those firms within **CONTRACTOR'S** profession, doing the same or similar work under the same or similar circumstances.

PSC-27. NON-DISCRIMINATION

Unless otherwise exempt, this Contract is subject to the non-discrimination provisions in Sections 10.8 through 10.8.2 of the Los Angeles Administrative Code, as amended from time to time. The **CONTRACTOR** shall comply with the applicable non-discrimination and affirmative action provisions of the laws of the United States of America, the State of California, and the **CITY**. In performing this Contract, **CONTRACTOR** shall not

discriminate in its employment practices against any employee or applicant for employment because of such person's race, religion, national origin, ancestry, sex, sexual orientation, age, disability, domestic partner status, marital status or medical condition. Any subcontract entered into by **CONTRACTOR**, to the extent allowed hereunder, shall include a like provision for work to be performed under this Contract.

Failure of **CONTRACTOR** to comply with this requirement or to obtain the compliance of its subcontractors with such obligations shall subject **CONTRACTOR** to the imposition of any and all sanctions allowed by law, including but not limited to termination of **CONTRACTOR'S** contract with the **CITY**.

PSC-28. EQUAL EMPLOYMENT PRACTICES

Unless otherwise exempt, this Contract is subject to the equal employment practices provisions in Section 10.8.3 of the Los Angeles Administrative Code, as amended from time to time.

- A. During the performance of this Contract, **CONTRACTOR** agrees and represents that it will provide equal employment practices and **CONTRACTOR** and each subcontractor hereunder will ensure that in his or her employment practices persons are employed and employees are treated equally and without regard to or because of race, religion, ancestry, national origin, sex, sexual orientation, age, disability, marital status or medical condition.
 - 1. This provision applies to work or service performed or materials manufactured or assembled in the United States.
 - 2. Nothing in this section shall require or prohibit the establishment of new classifications of employees in any given craft, work or service category.
 - 3. **CONTRACTOR** agrees to post a copy of Paragraph A hereof in conspicuous places at its place of business available to employees and applicants for employment.
- B. **CONTRACTOR** will, in all solicitations or advertisements for employees placed by or on behalf of **CONTRACTOR**, state that all qualified applicants will receive consideration for employment without regard to their race, religion, ancestry, national origin, sex, sexual orientation, age, disability, marital status or medical condition.
- C. As part of the **CITY'S** supplier registration process, and/or at the request of the awarding authority, or the Board of Public Works, Office of Contract Compliance, **CONTRACTOR** shall certify in the specified format that he or she has not discriminated in the performance of **CITY** contracts against any employee or applicant for employment on the basis or because of

race, religion, national origin, ancestry, sex, sexual orientation, age, disability, marital status or medical condition.

- D. **CONTRACTOR** shall permit access to and may be required to provide certified copies of all of his or her records pertaining to employment and to employment practices by the awarding authority or the Office of Contract Compliance for the purpose of investigation to ascertain compliance with the Equal Employment Practices provisions of **CITY** contracts. On their or either of their request **CONTRACTOR** shall provide evidence that he or she has or will comply therewith.
- E. The failure of any **CONTRACTOR** to comply with the Equal Employment Practices provisions of this Contract may be deemed to be a material breach of **CITY** contracts. Such failure shall only be established upon a finding to that effect by the awarding authority, on the basis of its own investigation or that of the Board of Public Works, Office of Contract Compliance. No such finding shall be made or penalties assessed except upon a full and fair hearing after notice and an opportunity to be heard has been given to **CONTRACTOR**.
- F. Upon a finding duly made that **CONTRACTOR** has failed to comply with the Equal Employment Practices provisions of a **CITY** contract, the contract may be forthwith canceled, terminated or suspended, in whole or in part, by the awarding authority, and all monies due or to become due hereunder may be forwarded to and retained by the **CITY**. In addition thereto, such failure to comply may be the basis for a determination by the awarding authority or the Board of Public Works that the **CONTRACTOR** is an irresponsible bidder or proposer pursuant to the provisions of Section 371 of the Charter of the City of Los Angeles. In the event of such a determination, **CONTRACTOR** shall be disqualified from being awarded a contract with the **CITY** for a period of two years, or until **CONTRACTOR** shall establish and carry out a program in conformance with the provisions hereof.
- G. Notwithstanding any other provision of this Contract, the **CITY** shall have any and all other remedies at law or in equity for any breach hereof.
- H. Intentionally blank.
- I. Nothing contained in this Contract shall be construed in any manner so as to require or permit any act which is prohibited by law.
- J. At the time a supplier registers to do business with the **CITY**, or when an individual bid or proposal is submitted, **CONTRACTOR** shall agree to adhere to the Equal Employment Practices specified herein during the performance or conduct of **CITY** Contracts.

- K. Equal Employment Practices shall, without limitation as to the subject or nature of employment activity, be concerned with such employment practices as:
1. Hiring practices;
 2. Apprenticeships where such approved programs are functioning, and other on-the-job training for non-apprenticeable occupations;
 3. Training and promotional opportunities; and
 4. Reasonable accommodations for persons with disabilities.
- L. Any subcontract entered into by **CONTRACTOR**, to the extent allowed hereunder, shall include a like provision for work to be performed under this Contract. Failure of **CONTRACTOR** to comply with this requirement or to obtain the compliance of its subcontractors with all such obligations shall subject **CONTRACTOR** to the imposition of any and all sanctions allowed by law, including but not limited to termination of the **CONTRACTOR'S** Contract with the **CITY**.

PSC-29. AFFIRMATIVE ACTION PROGRAM

Unless otherwise exempt, this Contract is subject to the affirmative action program provisions in Section 10.8.4 of the Los Angeles Administrative Code, as amended from time to time.

- A. During the performance of a **CITY** contract, **CONTRACTOR** certifies and represents that **CONTRACTOR** and each subcontractor hereunder will adhere to an affirmative action program to ensure that in its employment practices, persons are employed and employees are treated equally and without regard to or because of race, religion, ancestry, national origin, sex, sexual orientation, age, disability, marital status or medical condition.
1. This provision applies to work or services performed or materials manufactured or assembled in the United States.
 2. Nothing in this section shall require or prohibit the establishment of new classifications of employees in any given craft, work or service category.
 3. **CONTRACTOR** shall post a copy of Paragraph A hereof in conspicuous places at its place of business available to employees and applicants for employment.
- B. **CONTRACTOR** will, in all solicitations or advertisements for employees placed by or on behalf of **CONTRACTOR**, state that all qualified applicants will receive consideration for employment without regard to

their race, religion, ancestry, national origin, sex, sexual orientation, age, disability, marital status or medical condition.

- C. As part of the **CITY'S** supplier registration process, and/or at the request of the awarding authority or the Office of Contract Compliance, **CONTRACTOR** shall certify on an electronic or hard copy form to be supplied, that **CONTRACTOR** has not discriminated in the performance of **CITY** contracts against any employee or applicant for employment on the basis or because of race, religion, ancestry, national origin, sex, sexual orientation, age, disability, marital status or medical condition.
- D. **CONTRACTOR** shall permit access to and may be required to provide certified copies of all of its records pertaining to employment and to its employment practices by the awarding authority or the Office of Contract Compliance, for the purpose of investigation to ascertain compliance with the Affirmative Action Program provisions of **CITY** contracts, and on their or either of their request to provide evidence that it has or will comply therewith.
- E. The failure of any **CONTRACTOR** to comply with the Affirmative Action Program provisions of **CITY** contracts may be deemed to be a material breach of contract. Such failure shall only be established upon a finding to that effect by the awarding authority, on the basis of its own investigation or that of the Board of Public Works, Office of Contract Compliance. No such finding shall be made except upon a full and fair hearing after notice and an opportunity to be heard has been given to **CONTRACTOR**.
- F. Upon a finding duly made that **CONTRACTOR** has breached the Affirmative Action Program provisions of a **CITY** contract, the contract may be forthwith cancelled, terminated or suspended, in whole or in part, by the awarding authority, and all monies due or to become due hereunder may be forwarded to and retained by the **CITY**. In addition thereto, such breach may be the basis for a determination by the awarding authority or the Board of Public Works that the said **CONTRACTOR** is an irresponsible bidder or proposer pursuant to the provisions of Section 371 of the Los Angeles City Charter. In the event of such determination, such **CONTRACTOR** shall be disqualified from being awarded a contract with the **CITY** for a period of two years, or until he or she shall establish and carry out a program in conformance with the provisions hereof.
- G. In the event of a finding by the Fair Employment and Housing Commission of the State of California, or the Board of Public Works of the City of Los Angeles, or any court of competent jurisdiction, that **CONTRACTOR** has been guilty of a willful violation of the California Fair Employment and Housing Act, or the Affirmative Action Program provisions of a **CITY** contract, there may be deducted from the amount payable to **CONTRACTOR** by the **CITY** under the contract, a penalty of ten dollars

(\$10.00) for each person for each calendar day on which such person was discriminated against in violation of the provisions of a **CITY** contract.

- H. Notwithstanding any other provisions of a **CITY** contract, the **CITY** shall have any and all other remedies at law or in equity for any breach hereof.
- I. Intentionally blank.
- J. Nothing contained in **CITY** contracts shall be construed in any manner so as to require or permit any act which is prohibited by law.
- K. **CONTRACTOR** shall submit an Affirmative Action Plan which shall meet the requirements of this chapter at the time it submits its bid or proposal or at the time it registers to do business with the **CITY**. The plan shall be subject to approval by the Office of Contract Compliance prior to award of the contract. The awarding authority may also require contractors and suppliers to take part in a pre-registration, pre-bid, pre-proposal, or pre-award conference in order to develop, improve or implement a qualifying Affirmative Action Plan. Affirmative Action Programs developed pursuant to this section shall be effective for a period of twelve months from the date of approval by the Office of Contract Compliance. In case of prior submission of a plan, **CONTRACTOR** may submit documentation that it has an Affirmative Action Plan approved by the Office of Contract Compliance within the previous twelve months. If the approval is 30 days or less from expiration, **CONTRACTOR** must submit a new Plan to the Office of Contract Compliance and that Plan must be approved before the contract is awarded.
 - 1. Every contract of \$5,000 or more which may provide construction, demolition, renovation, conservation or major maintenance of any kind shall in addition comply with the requirements of Section 10.13 of the Los Angeles Administrative Code.
 - 2. **CONTRACTOR** may establish and adopt as its own Affirmative Action Plan, by affixing his or her signature thereto, an Affirmative Action Plan prepared and furnished by the Office of Contract Compliance, or it may prepare and submit its own Plan for approval.
- L. The Office of Contract Compliance shall annually supply the awarding authorities of the **CITY** with a list of contractors and suppliers who have developed Affirmative Action Programs. For each contractor and supplier the Office of Contract Compliance shall state the date the approval expires. The Office of Contract Compliance shall not withdraw its approval for any Affirmative Action Plan or change the Affirmative Action Plan after the date of contract award for the entire contract term without the mutual agreement of the awarding authority and **CONTRACTOR**.

- M. The Affirmative Action Plan required to be submitted hereunder and the pre-registration, pre-bid, pre-proposal or pre-award conference which may be required by the Board of Public Works, Office of Contract Compliance or the awarding authority shall, without limitation as to the subject or nature of employment activity, be concerned with such employment practices as:
1. Apprenticeship where approved programs are functioning, and other on-the-job training for non-apprenticeable occupations;
 2. Classroom preparation for the job when not apprenticeable;
 3. Pre-apprenticeship education and preparation;
 4. Upgrading training and opportunities;
 5. Encouraging the use of contractors, subcontractors and suppliers of all racial and ethnic groups, provided, however, that any contract subject to this ordinance shall require the contractor, subcontractor or supplier to provide not less than the prevailing wage, working conditions and practices generally observed in private industries in the contractor's, subcontractor's or supplier's geographical area for such work;
 6. The entry of qualified women, minority and all other journeymen into the industry; and
 7. The provision of needed supplies or job conditions to permit persons with disabilities to be employed, and minimize the impact of any disability.
- N. Any adjustments which may be made in the contractor's or supplier's workforce to achieve the requirements of the **CITY'S** Affirmative Action Contract Compliance Program in purchasing and construction shall be accomplished by either an increase in the size of the workforce or replacement of those employees who leave the workforce by reason of resignation, retirement or death and not by termination, layoff, demotion or change in grade.
- O. Affirmative Action Agreements resulting from the proposed Affirmative Action Plan or the pre-registration, pre-bid, pre-proposal or pre-award conferences shall not be confidential and may be publicized by the contractor at his or her discretion. Approved Affirmative Action Agreements become the property of the **CITY** and may be used at the discretion of the **CITY** in its Contract Compliance Affirmative Action Program.
- P. Intentionally blank.

- Q. All contractors subject to the provisions of this section shall include a like provision in all subcontracts awarded for work to be performed under the contract with the **CITY** and shall impose the same obligations, including but not limited to filing and reporting obligations, on the subcontractors as are applicable to the contractor. Failure of the contractor to comply with this requirement or to obtain the compliance of its subcontractors with all such obligations shall subject the contractor to the imposition of any and all sanctions allowed by law, including but not limited to termination of the contractor's contract with the **CITY**.

PSC-30. CHILD SUPPORT ASSIGNMENT ORDERS

This Contract is subject to the Child Support Assignment Orders Ordinance, Section 10.10 of the Los Angeles Administrative Code, as amended from time to time. Pursuant to the Child Support Assignment Orders Ordinance, **CONTRACTOR** will fully comply with all applicable State and Federal employment reporting requirements for **CONTRACTOR'S** employees. **CONTRACTOR** shall also certify (1) that the Principal Owner(s) of **CONTRACTOR** are in compliance with any Wage and Earnings Assignment Orders and Notices of Assignment applicable to them personally; (2) that **CONTRACTOR** will fully comply with all lawfully served Wage and Earnings Assignment Orders and Notices of Assignment in accordance with Section 5230, *et seq.* of the California Family Code; and (3) that **CONTRACTOR** will maintain such compliance throughout the term of this Contract.

Pursuant to Section 10.10(b) of the Los Angeles Administrative Code, the failure of **CONTRACTOR** to comply with all applicable reporting requirements or to implement lawfully served Wage and Earnings Assignment Orders or Notices of Assignment, or the failure of any Principal Owner(s) of **CONTRACTOR** to comply with any Wage and Earnings Assignment Orders or Notices of Assignment applicable to them personally, shall constitute a default by the **CONTRACTOR** under this Contract, subjecting this Contract to termination if such default shall continue for more than ninety (90) days after notice of such default to **CONTRACTOR** by the **CITY**.

Any subcontract entered into by **CONTRACTOR**, to the extent allowed hereunder, shall include a like provision for work to be performed under this Contract. Failure of **CONTRACTOR** to obtain compliance of its subcontractors shall constitute a default by **CONTRACTOR** under this Contract, subjecting this Contract to termination where such default shall continue for more than ninety (90) days after notice of such default to **CONTRACTOR** by the **CITY**.

CONTRACTOR certifies that, to the best of its knowledge, it is fully complying with the Earnings Assignment Orders of all employees, and is providing the names of all new employees to the New Hire Registry maintained by the Employment Development Department as set forth in Section 7110(b) of the California Public Contract Code.

PSC-31. LIVING WAGE ORDINANCE AND SERVICE CONTRACTOR WORKER RETENTION ORDINANCE

- A. Unless otherwise exempt, this Contract is subject to the applicable provisions of the Living Wage Ordinance (LWO), Section 10.37 *et seq.* of the Los Angeles Administrative Code, as amended from time to time, and the Service Contractor Worker Retention Ordinance (SCWRO), Section 10.36 *et seq.*, of the Los Angeles Administrative Code, as amended from time to time. These Ordinances require the following:
1. **CONTRACTOR** assures payment of a minimum initial wage rate to employees as defined in the LWO and as may be adjusted each July 1 and provision of compensated and uncompensated days off and health benefits, as defined in the LWO.
 2. **CONTRACTOR** further pledges that it will comply with federal law proscribing retaliation for union organizing and will not retaliate for activities related to the LWO. **CONTRACTOR** shall require each of its subcontractors within the meaning of the LWO to pledge to comply with the terms of federal law proscribing retaliation for union organizing. **CONTRACTOR** shall deliver the executed pledges from each such subcontractor to the **CITY** within ninety (90) days of the execution of the subcontract. **CONTRACTOR'S** delivery of executed pledges from each such subcontractor shall fully discharge the obligation of **CONTRACTOR** with respect to such pledges and fully discharge the obligation of **CONTRACTOR** to comply with the provision in the LWO contained in Section 10.37.6(c) concerning compliance with such federal law.
 3. **CONTRACTOR**, whether an employer, as defined in the LWO, or any other person employing individuals, shall not discharge, reduce in compensation, or otherwise discriminate against any employee for complaining to the **CITY** with regard to the employer's compliance or anticipated compliance with the LWO, for opposing any practice proscribed by the LWO, for participating in proceedings related to the LWO, for seeking to enforce his or her rights under the LWO by any lawful means, or otherwise asserting rights under the LWO. **CONTRACTOR** shall post the Notice of Prohibition Against Retaliation provided by the **CITY**.
 4. Any subcontract entered into by **CONTRACTOR** relating to this Contract, to the extent allowed hereunder, shall be subject to the provisions of PSC-31 and shall incorporate the provisions of the LWO and the SCWRO.

5. **CONTRACTOR** shall comply with all rules, regulations and policies promulgated by the **CITY'S** Designated Administrative Agency which may be amended from time to time.
- B. Under the provisions of Sections 10.36.3(c) and 10.37.6(c) of the Los Angeles Administrative Code, the **CITY** shall have the authority, under appropriate circumstances, to terminate this Contract and otherwise pursue legal remedies that may be available if the **CITY** determines that the subject **CONTRACTOR** has violated provisions of either the LWO or the SCWRO, or both.
- C. Where under the LWO Section 10.37.6(d), the **CITY'S** Designated Administrative Agency has determined (a) that **CONTRACTOR** is in violation of the LWO in having failed to pay some or all of the living wage, and (b) that such violation has gone uncured, the **CITY** in such circumstances may impound monies otherwise due **CONTRACTOR** in accordance with the following procedures. Impoundment shall mean that from monies due **CONTRACTOR**, **CITY** may deduct the amount determined to be due and owing by **CONTRACTOR** to its employees. Such monies shall be placed in the holding account referred to in LWO Section 10.37.6(d)(3) and disposed of under procedures described therein through final and binding arbitration. Whether **CONTRACTOR** is to continue work following an impoundment shall remain in the sole discretion of the **CITY**. **CONTRACTOR** may not elect to discontinue work either because there has been an impoundment or because of the ultimate disposition of the impoundment by the arbitrator.
- D. **CONTRACTOR** shall inform employees making less than Twelve Dollars (\$12.00) per hour of their possible right to the federal Earned Income Credit (EIC). **CONTRACTOR** shall also make available to employees the forms informing them about the EIC and forms required to secure advance EIC payments from **CONTRACTOR**.

PSC-32. AMERICANS WITH DISABILITIES ACT

CONTRACTOR hereby certifies that it will comply with the Americans with Disabilities Act, 42 U.S.C. §§ 12101 *et seq.*, and its implementing regulations. **CONTRACTOR** will provide reasonable accommodations to allow qualified individuals with disabilities to have access to and to participate in its programs, services and activities in accordance with the provisions of the Americans with Disabilities Act. **CONTRACTOR** will not discriminate against persons with disabilities nor against persons due to their relationship to or association with a person with a disability. Any subcontract entered into by **CONTRACTOR**, relating to this Contract, to the extent allowed hereunder, shall be subject to the provisions of this paragraph.

PSC-33. CONTRACTOR RESPONSIBILITY ORDINANCE

Unless otherwise exempt, this Contract is subject to the provisions of the Contractor Responsibility Ordinance, Section 10.40 *et seq.*, of the Los Angeles Administrative Code, as amended from time to time, which requires **CONTRACTOR** to update its responses to the responsibility questionnaire within thirty calendar days after any change to the responses previously provided if such change would affect **CONTRACTOR'S** fitness and ability to continue performing this Contract.

In accordance with the provisions of the Contractor Responsibility Ordinance, by signing this Contract, **CONTRACTOR** pledges, under penalty of perjury, to comply with all applicable federal, state and local laws in the performance of this Contract, including but not limited to, laws regarding health and safety, labor and employment, wages and hours, and licensing laws which affect employees. **CONTRACTOR** further agrees to: (1) notify the **CITY** within thirty calendar days after receiving notification that any government agency has initiated an investigation which may result in a finding that **CONTRACTOR** is not in compliance with all applicable federal, state and local laws in performance of this Contract; (2) notify the **CITY** within thirty calendar days of all findings by a government agency or court of competent jurisdiction that **CONTRACTOR** has violated the provisions of Section 10.40.3(a) of the Contractor Responsibility Ordinance; (3) unless exempt, ensure that its subcontractor(s), as defined in the Contractor Responsibility Ordinance, submit a Pledge of Compliance to the **CITY**; and (4) unless exempt, ensure that its subcontractor(s), as defined in the Contractor Responsibility Ordinance, comply with the requirements of the Pledge of Compliance and the requirement to notify the **CITY** within thirty calendar days after any government agency or court of competent jurisdiction has initiated an investigation or has found that the subcontractor has violated Section 10.40.3(a) of the Contractor Responsibility Ordinance in performance of the subcontract.

PSC-34. MINORITY, WOMEN, AND OTHER BUSINESS ENTERPRISE OUTREACH PROGRAM

CONTRACTOR agrees and obligates itself to utilize the services of Minority, Women and Other Business Enterprise firms on a level so designated in its proposal, if any. **CONTRACTOR** certifies that it has complied with Mayoral Directive 2001-26 regarding the Outreach Program for Personal Services Contracts Greater than \$100,000, if applicable. **CONTRACTOR** shall not change any of these designated subcontractors, nor shall **CONTRACTOR** reduce their level of effort, without prior written approval of the **CITY**, provided that such approval shall not be unreasonably withheld.

PSC-35. EQUAL BENEFITS ORDINANCE

Unless otherwise exempt, this Contract is subject to the provisions of the Equal Benefits Ordinance (EBO), Section 10.8.2.1 of the Los Angeles Administrative Code, as amended from time to time.

- A. During the performance of the Contract, **CONTRACTOR** certifies and represents that **CONTRACTOR** will comply with the EBO.
- B. The failure of **CONTRACTOR** to comply with the EBO will be deemed to be a material breach of this Contract by the **CITY**.
- C. If **CONTRACTOR** fails to comply with the EBO the **CITY** may cancel, terminate or suspend this Contract, in whole or in part, and all monies due or to become due under this Contract may be retained by the **CITY**. The **CITY** may also pursue any and all other remedies at law or in equity for any breach.
- D. Failure to comply with the EBO may be used as evidence against **CONTRACTOR** in actions taken pursuant to the provisions of Los Angeles Administrative Code Section 10.40 *et seq.*, Contractor Responsibility Ordinance.
- E. If the **CITY'S** Designated Administrative Agency determines that a **CONTRACTOR** has set up or used its contracting entity for the purpose of evading the intent of the EBO, the **CITY** may terminate the Contract. Violation of this provision may be used as evidence against **CONTRACTOR** in actions taken pursuant to the provisions of Los Angeles Administrative Code Section 10.40 *et seq.*, Contractor Responsibility Ordinance.

CONTRACTOR shall post the following statement in conspicuous places at its place of business available to employees and applicants for employment:

“During the performance of a Contract with the City of Los Angeles, the Contractor will provide equal benefits to its employees with spouses and its employees with domestic partners. Additional information about the City of Los Angeles’ Equal Benefits Ordinance may be obtained from the Department of Public Works, Office of Contract Compliance at (213) 847-1922.”

PSC-36. SLAVERY DISCLOSURE ORDINANCE

Unless otherwise exempt, this Contract is subject to the Slavery Disclosure Ordinance, Section 10.41 of the Los Angeles Administrative Code, as amended from time to time. **CONTRACTOR** certifies that it has complied with the applicable provisions of the Slavery Disclosure Ordinance. Failure to fully and accurately complete the affidavit may result in termination of this Contract.

EXHIBIT 1

INSURANCE CONTRACTUAL REQUIREMENTS

CONTACT For additional information about compliance with City Insurance and Bond requirements, contact the Office of the City Administrative Officer, Risk Management at (213) 978-RISK (7475) or go online at www.lacity.org/cao/risk. The City approved Bond Assistance Program is available for those contractors who are unable to obtain the City-required performance bonds. A City approved insurance program may be available as a low cost alternative for contractors who are unable to obtain City-required insurance.

CONTRACTUAL REQUIREMENTS

CONTRACTOR AGREES THAT:

1. Additional Insured/Loss Payee. The CITY must be included as an Additional Insured in applicable liability policies to cover the CITY'S liability arising out of the acts or omissions of the named insured. The CITY is to be named as an Additional Named Insured and a Loss Payee As Its Interests May Appear in property insurance in which the CITY has an interest, e.g., as a lien holder.

2. Notice of Cancellation. All required insurance will be maintained in full force for the duration of its business with the CITY. By ordinance, all required insurance must provide at least thirty (30) days' prior written notice (ten (10) days for non-payment of premium) directly to the CITY if your insurance company elects to cancel or materially reduce coverage or limits prior to the policy expiration date, for any reason except impairment of an aggregate limit due to prior claims.

3. Primary Coverage. CONTRACTOR will provide coverage that is primary with respect to any insurance or self-insurance of the CITY. The CITY'S program shall be excess of this insurance and non-contributing.

4. Modification of Coverage. The CITY reserves the right at any time during the term of this Contract to change the amounts and types of insurance required hereunder by giving CONTRACTOR ninety (90) days' advance written notice of such change. If such change should result in substantial additional cost to CONTRACTOR, the CITY agrees to negotiate additional compensation proportional to the increased benefit to the CITY.

5. Failure to Procure Insurance. All required insurance must be submitted and approved by the Office of the City Administrative Officer, Risk Management prior to the inception of any operations by CONTRACTOR.

CONTRACTOR'S failure to procure or maintain required insurance or a self-insurance program during the entire term of this Contract shall constitute a material breach of this Contract under which the CITY may immediately suspend or terminate this Contract or, at its discretion, procure or renew such insurance to protect the CITY'S interests and pay any and all premiums in connection therewith and recover all monies so paid from CONTRACTOR.

6. Workers' Compensation. By signing this Contract, CONTRACTOR hereby certifies that it is aware of the provisions of Section 3700 *et seq.*, of the California Labor Code which require every employer to be insured against liability for Workers' Compensation or to undertake

self-insurance in accordance with the provisions of that Code, and that it will comply with such provisions at all time during the performance of the work pursuant to this Contract.

7. California Licensee. All insurance must be provided by an insurer admitted to do business in California or written through a California-licensed surplus lines broker or through an insurer otherwise acceptable to the CITY. Non-admitted coverage must contain a **Service of Suit** clause in which the underwriters agree to submit as necessary to the jurisdiction of a California court in the event of a coverage dispute. Service of process for this purpose must be allowed upon an agent in California designated by the insurer or upon the California Insurance Commissioner.

8. Aggregate Limits/Impairment. If any of the required insurance coverages contain annual aggregate limits, CONTRACTOR must give the CITY written notice of any pending claim or lawsuit which will materially diminish the aggregate within thirty (30) days of knowledge of same. You must take appropriate steps to restore the impaired aggregates or provide replacement insurance protection within thirty (30) days of knowledge of same. The CITY has the option to specify the minimum acceptable aggregate limit for each line of coverage required. No substantial reductions in scope of coverage which may affect the CITY'S protection are allowed without the CITY'S prior written consent.

9. Commencement of Work. For purposes of insurance coverage only, this Contract will be deemed to have been executed immediately upon any party hereto taking any steps that can be considered to be in furtherance of or towards performance of this Contract. The requirements in this Section supersede all other sections and provisions of this Contract, including, but not limited to, PSC-4, to the extent that any other section or provision conflicts with or impairs the provisions of this Section.

Exhibit 1 (Continued) Required Insurance and Minimum Limits

Name: _____ Date: _____

Agreement/Reference: _____

Evidence of coverages checked below, with the specified minimum limits, must be submitted and approved prior to occupancy/start of operations. Amounts shown are Combined Single Limits (“CSLs”). For Automobile Liability, split limits may be substituted for a CSL if the total per occurrence equals or exceeds the CSL amount.

Limits

| | | |
|---|---|------------------|
| Workers’ Compensation – Workers’ Compensation (WC) and Employer’s Liability (EL) | WC | <u>Statutory</u> |
| | EL | _____ |
| <input type="checkbox"/> Waiver of Subrogation in favor of City | <input type="checkbox"/> Longshore & Harbor Workers | |
| | <input type="checkbox"/> Jones Act | |

General Liability _____

| | |
|--|--|
| <input type="checkbox"/> Products/Completed Operations | <input type="checkbox"/> Sexual Misconduct _____ |
| <input type="checkbox"/> Fire Legal Liability _____ | |
| <input type="checkbox"/> _____ | |

____ **Automobile Liability** (for any and all vehicles used for this Contract, other than commuting to/from work) _____

____ **Professional Liability** (Errors and Omissions) _____

____ **Property Insurance** (to cover replacement cost of building – as determined by insurance company) _____

| | |
|--|---|
| <input type="checkbox"/> All Risk Coverage | <input type="checkbox"/> Boiler and Machinery |
| <input type="checkbox"/> Flood _____ | <input type="checkbox"/> Builder’s Risk |
| <input type="checkbox"/> Earthquake _____ | <input type="checkbox"/> _____ |

____ **Pollution Liability** _____

____ **Surety Bonds** – Performance and Payment (Labor and Materials) Bonds 100 % of Contract Price

____ **Crime Insurance** _____

Other: _____

Exhibit C
of
Concession Agreement

Proposal in Response to
RFP No. CON-F16-002
(on file in the Board Office)

List of Renovated Features and Equipment Owned and Installed by the City: Page 2 of 2

1. Thermoplastic/Fiberglass Door with Solid Wood Core
2. Original Door Hardware (I)
3. Awning Window
4. Original Window
5. Casement Window in Original Frame
6. Water Resistant Gypboard
7. Two Wood Single Hung Windows & Hardware
8. Linoleum Flooring
9. Original Service Counter
10. HVAC Air Conditioner and Platform
11. Heat Pump and Platform
12. Two Spanish Colonial Reproduction Light Fixtures
13. Original Wood Beams On Ceiling
14. Original Wood Paneling On Ceiling
15. Original Door and Hardware (II)
16. Air Curtain (I)
17. Stainless Steel 4 Burner Range with Griddle
18. NSF Approved SS Shelf Racks, 4 Tier
19. Self Contained Refrigerator with Deep Freezer
20. Wood Shelves
21. SS Hooks (Paddle Hangers)
22. Hand washing Sink
23. Food Preparation Sink / Floor Sink
24. Three Compartment Ware Washing Sink with Two Drain Boards
25. Ladder with Non-Skid Tread Surfacing on Rungs
26. 1x4 Sealed Halogen Unit
27. Floor Mounted 2-Pot Deep Fryer
28. SS Charbroiler and SS Stand
29. 24" W x 24" D X 24" H SS Stand
30. SS Hood
31. New Vent Fan (Roof)
32. SS Mop Sink
33. Water Heater
34. Floor Drain
35. 27" W x 34" D SS Food Prep Table with Self Contained Refrigerator
36. Three 12" W x 12" D X 72" H Recycled Plastic 2-Tier Lockers
37. Diffuser / Grill
38. Floor Sink
39. Gypboard with Sheet Vinyl (4.4" high Coved Base) attached to Wall in Employee Service Area
40. .62" Gypboard
41. N/A
42. SS Food / Utensil / Chemical Shelves
43. Pressure Wash Dock with Organic Cleanser
44. Duct Extending Upwards through 2nd Floor of Tower
45. Original Wood Counter
46. Concrete Paving matching Original Paving
47. Air Curtain (II)
48. Air Unit for Commercial Hood
49. SS Mop Hanger
50. Six-Flavor Beverage Machine with Self-Contained Ice Machine
51. New Data Ports under Counters

Echo Park Boathouse: City-Owned Equipment List

HVAC Air Conditioner and Platform

Heat Pump and Platform

Air Curtain

Stainless Steel 4 Burner Range with Griddle

NSF Approved Stainless Steel (SS) Shelf Racks, 4 Tier

Wood Shelves

Hand washing Sink

Food Preparation Sink / Floor Sink

Three (3) Compartment Ware Washing Sink with Two Drain Boards

Floor Mounted 2-Pot Deep Fryer

SS Charbroiler and SS Stand

24"W x 24"D x 24"H SS Stand

SS Hood

New Vent Fan (Roof)

SS Mop Sink

Water Heater

27"W x 34"D SS Food Prep Table with Self Contained Refrigerator

Three 12"W x 12"D x 72"H Recycled Plastic 2-Tier Lockers

Diffuser / Grill

SS Food / Utensil / Chemical Shelves

Air Unit for Commercial Hood

SS Mop Hanger

Six-Flavor Beverage Machine with Self-Contained Ice Machine

New Data Ports under Counters

Form Gen. 87 (R. 4/09)

City of Los Angeles

Orig. City Attorney m/s 140
 Dup. Risk Manager m/s 625-24
 Trip. Dept. Area Office or Division Head

NON-EMPLOYEE ACCIDENT OR ILLNESS REPORT

Department Reporting
 Recreation and Parks

INSTRUCTIONS: All accidents, illnesses, or injuries, no matter how minor, involving non-employees while on City property, must be reported by the City employee or department in proximity. Be complete as possible. The information provided may be needed by the City Attorney in preparing the case if legal action is necessary. Use typewriter or print carefully.

PART I - PERSONAL DATA

| | | | | |
|---|------------------|---|--|------------------|
| 1. NAME (OF PERSON INJURED) (LAST) (FIRST) (MIDDLE) | | | 2a. HOME ADDRESS (STREET) (CITY) (ZIP) | 3a. PHONE NUMBER |
| | | | 2b. BUSINESS ADDRESS (STREET) (CITY) (ZIP) | 3b. PHONE NUMBER |
| 4. SEX <input type="checkbox"/> M <input type="checkbox"/> F | 5. DATE OF BIRTH | 6. IF MINOR, NAME OF PARENT OR GUARDIAN | | 7. PHONE NUMBER |

PART II - ACCIDENT/INJURY

| | | | |
|---|---------|---|--|
| 8. DATE | 9. TIME | 10. LOCATION OF PUBLIC PROPERTY INVOLVED | 11. WAS FIRST AID GIVEN? <input type="checkbox"/> YES <input type="checkbox"/> NO |
| 12. FIRST AID GIVEN BY (NAME) | | (ADDRESS) | (PHONE NUMBER) |
| 13. PHYSICIAN/HOSPITAL INJURED TAKEN TO | | (ADDRESS) | (PHONE NUMBER) |
| 14. NATURE OF INJURIES (BE SPECIFIC) | | | |
| 15. DESCRIBE ACCIDENT (IN DETAIL) | | | |
| 16. NAME AND POSITION OF PERSON IMMEDIATELY IN CHARGE OF FACILITY | | 17. WHERE WAS RESPONSIBLE PERSON AT TIME OF ACCIDENT? | |

PART III - WITNESSES

| | | | |
|----------------------------------|-----------------------------------|------------------|--|
| 18. NAME (LAST) (FIRST) (MIDDLE) | 19. ADDRESS (STREET) (CITY) (ZIP) | 20. PHONE NUMBER | CITY EMPLOYEE |
| a. | | | <input type="checkbox"/> YES <input type="checkbox"/> NO |
| b. | | | <input type="checkbox"/> YES <input type="checkbox"/> NO |
| c. | | | <input type="checkbox"/> YES <input type="checkbox"/> NO |
| d. | | | <input type="checkbox"/> YES <input type="checkbox"/> NO |

PART IV - STATEMENT OF INJURED PARTY OR WITNESS

| |
|-----|
| 21. |
|-----|

PART V - EMPLOYEE FILING REPORT

| | | |
|-----------------------|---------------|----------|
| 22. NAME AND POSITION | 23. SIGNATURE | 24. DATE |
|-----------------------|---------------|----------|

CITY OF LOS ANGELES
DEPARTMENT OF RECREATION AND PARKS
Attn: Concessions Unit
P.O. Box 86610
Los Angeles, CA 90086

REMITTANCE ADVICE FORM
THE ECHO PARK BOATHOUSE CAFÉ CONCESSION
NAME OF CONCESSIONAIRE

PERIOD COVERED: From: _____ To: _____

| CATEGORY | GROSS SALES | SALES TAX | NET SALES | RENTAL RATE | AMOUNT DUE |
|----------------------------|-------------|-----------|-----------|-------------|----------------|
| FOOD: | _____ | _____ | _____ | XX% | #VALUE! |
| BEVERAGES: | _____ | _____ | _____ | XX% | #VALUE! |
| OTHER: | _____ | _____ | _____ | XX% | #VALUE! |
| SUB-TOTAL RENT DUE: | | | | | <u>#VALUE!</u> |

UTILITIES: \$ 450.00 _____

MONTHLY RESERVE FUND FEE: \$ 200.00 _____

LATE RENT FEE: All payments are due by the 15th for the previous month. \$ -

OCCUPANCY TAX: Paid Quarterly (April / July / October / January) for preceeding three months at \$1.48 per \$1,000 or fraction thereof of rent paid \$ -

LATE OCCUPANCY TAX FEE: Occupancy Tax payments are due quarterly by the 15th of April, July, October, January for the preceding three (3) months. \$ -

SUB-TOTAL DUE: #VALUE!

ADJUSTMENTS*: Explain: _____

_____ \$ -

*NOTE: All amortizations (allowance for rent reduction for any expenditure) must be approved in writing by the Department of Recreation and Parks. Invoices and proof of payment must be submitted with the Remittance Advice for any and all months amortization is realized.

TOTAL AMOUNT DUE: #VALUE!

I hereby certify that this is a true and correct record of the period stated above:

Signature: _____ Date: _____

SPECIAL OCCURRENCE AND LOSS REPORT

REPORT NUMBER

| | | | | | |
|---|-------------------------------------|--------------------|--|---------------------------------|--|
| SEE INSTRUCTIONS ON PAGE 2 | | | | | |
| 1. NAME OF FACILITY | | DATE OF OCCURRENCE | TIME | A M <input type="checkbox"/> | P M <input type="checkbox"/> |
| 2. SUBJECT OF REPORT | | | | | |
| 3. EXACT LOCATION OF OCCURRENCE | | | | | |
| 4. DESCRIBE WHAT HAPPENED. ESTIMATE PROPERTY DAMAGE, IF ANY | | | | | |
| 5. | | | | | ESTIMATE OF DAMAGES |
| 6. LIST STOLEN ITEMS. IF ANY, (EXCEPT CASH) | | | | | |
| QUANTITY | TYPE OF ITEM OR EQUIPMENT, DESCRIBE | | DEPT NO | SERIAL NO | APPROX VALUE |
| | | | | | |
| 7. | | | | | TOTAL \$0.00 |
| 8. IF MONEY WAS TAKEN INDICATE AMOUNT AND WHERE KEPT AT TIME OF THEFT. CALL CHIEF FINANCIAL OFFICER AT (213) 202-4380 LOCATION | | | | | AMOUNT |
| 9. TOTAL LOSSES (TOTAL OF LINES 5, 7 AND 8) | | | | | TOTAL \$0.00 |
| 10. WHO DISCOVERED LOSS? NAME | | TITLE | DATE | TIME | A M <input type="checkbox"/> |
| 11. HOW WAS ENTRANCE GAINED? | | | | | |
| 12. WHO SECURED BLDG. PRIOR TO OCCURENCE? NAME | | TITLE | DATE | TIME | A M <input type="checkbox"/> |
| 13. WAS POLICE REPORT MADE? <input type="checkbox"/> YES <input type="checkbox"/> NO D.R. NUMBER | | | | | |
| 14. HAS A WORK ORDER BEEN INITIATED FOR REPAIRS? <input type="checkbox"/> YES <input type="checkbox"/> NO WORK ORDER | | | | | |
| 15. PERSONS INVOLVED: <input type="checkbox"/> WITNESS <input type="checkbox"/> VICTIM <input type="checkbox"/> SUSPECT | | | | | |
| NAME | ADDRESS | AGE | SEX | PHONE NUMBER | INDICATE <input type="checkbox"/> W <input type="checkbox"/> V <input type="checkbox"/> S |
| | | | | | <input type="checkbox"/> W <input type="checkbox"/> V <input type="checkbox"/> S |
| | | | | | <input type="checkbox"/> W <input type="checkbox"/> V <input type="checkbox"/> S |
| | | | | | <input type="checkbox"/> W <input type="checkbox"/> V <input type="checkbox"/> S |
| 16. IF VEHICLE INVOLVED. YEAR MAKE | | LICENSE NO | OWNERS NAME, ADDRESS AND INSURANCE CO. | | |
| 17. GIVE ANY REMEDIAL MEASURES / CORRECTIVE ACTIONS THAT WERE TAKEN, IF ANY | | | | | |
| 18. REPORT SUBMITTED BY: | | NAME | TITLE | DATE | |

PRINT

PAGE 2

INSTRUCTIONS: This report must be made out in reporting any damage to, theft or loss of, private or public property or any other reportable incident occurring at any department facility and report to any member of the staff. This report to be filled out and distributed within 24 hours of incident. This form is NOT to be used for injury, accident or illness to City Employees or Non-City employees. Use general forms numbers 5020 or 87 for these purposes.

If cash is taken call Chief Financial Officer at (213) 202-4380 as soon as possible.

FILL OUT FORM AS COMPLETE AS POSSIBLE USING THE

1. Name of recreation center, park etc. date and time (if known) incident occurred.
2. Subject of report may be vandalism, theft, fire, defacing public property, indecent exposure, etc.
3. Exact location of incident at facility i.e. gym, boys restroom, merry-go-round, ball diamond, etc.
4. Describe incident, give details. Use other side of form if necessary.
5. Estimate property damage, if any, incurred as a result of the described incident.
6. List stolen or lost items. Give identifying numbers and approximate replacement cost.
7. Total cost of stolen or lost items.
8. If cash taken, state amount and location. i.e. \$10.00 from coke machine, \$50.00 from safe, etc.
9. Total losses. Add up the amounts from 5,7, and 8
10. Name and title of person discovering the loss. Give date and time discovered.
11. Describe how bldg. was entered, i.e. unauthorized key, kitchen window, forced open office door, etc.
12. Name and title of person locking up premises before incident occurred. Give date and time secured.
13. When reporting incident to police, request that reporting officer call his station and obtain a D.R. number. Enter this number on line no. 13
14. If repairs are needed, initiate job order through channels and record Work Order number on line no. 14.
15. Obtain requested information on any persons involved. Be as complete as possible.
16. Give requested information on any city or non-city-owned vehicle involved in the purpose of this report.
17. Give any recommendations for corrective actions that should be taken to avoid further incidents.
18. Name and title of person making this report. Date report made out.

PRINT

Goto Page 1

Required Insurance and Minimum Limits

Name: Request for Proposals

Date: 03/21/2016

Agreement/Reference: Echo Park Cafe Concession

Evidence of coverages checked below, with the specified minimum limits, must be submitted and approved prior to occupancy/start of operations. Amounts shown are Combined Single Limits ("CSLs"). For Automobile Liability, split limits may be substituted for a CSL if the total per occurrence equals or exceeds the CSL amount.

| | Limits |
|--|---|
| <hr/> | |
| <input checked="" type="checkbox"/> Workers' Compensation - Workers' Compensation (WC) and Employer's Liability (EL) | WC <u>Statutory</u> EL <u>\$1,000,000</u> |
| <input type="checkbox"/> Waiver of Subrogation in favor of City | <input type="checkbox"/> Longshore & Harbor Workers <input type="checkbox"/> Jones Act |
| <hr/> | |
| <input checked="" type="checkbox"/> General Liability | <u>\$2,000,000</u> |
| <input checked="" type="checkbox"/> Products/Completed Operations | <input type="checkbox"/> Sexual Misconduct |
| <input checked="" type="checkbox"/> Fire Legal Liability <u>100,000</u> | |
| <input type="checkbox"/> | |
| <hr/> | |
| <input type="checkbox"/> Automobile Liability (for any and all vehicles used for this contract, other than commuting to/from work) | |
| <hr/> | |
| <input type="checkbox"/> Professional Liability (Errors and Omissions) | |
| Discovery Period <u>12 Months After Completion of Work or Date of Termination</u> | |
| <hr/> | |
| <input checked="" type="checkbox"/> Property Insurance (to cover replacement cost of building - as determined by insurance company) | |
| <input checked="" type="checkbox"/> All Risk Coverage | <input type="checkbox"/> Boiler and Machinery |
| <input type="checkbox"/> Flood | <input type="checkbox"/> Builder's Risk |
| <input type="checkbox"/> Earthquake | <input type="checkbox"/> |
| <hr/> | |
| <input type="checkbox"/> Pollution Liability | |
| <input type="checkbox"/> | |
| <hr/> | |
| <input type="checkbox"/> Surety Bonds - Performance and Payment (Labor and Materials) Bonds | 100% of the contract price |
| <hr/> | |
| <input type="checkbox"/> Crime Insurance | |
| <hr/> | |

Other: 1) Property All Risk for Replacement Cost, 80% Co-Insurance
2) If a contractor has no employees and decides to not cover herself/himself for workers' compensation, please complete the form entitled "Request for Waiver of Workers' Compensation Insurance Requirement" located at: <http://cao.lacity.org/risk/InsuranceForms.htm>.
2) In the absence of imposed auto liability requirements, all contractors using vehicles during the course of their contract must adhere to the financial responsibility laws of the State of California.

CITY OF LOS ANGELES

**INSTRUCTIONS AND INFORMATION
ON COMPLYING WITH CITY INSURANCE REQUIREMENTS**

(Share this information with your insurance agent or broker.)

1. Agreement/Reference All evidence of insurance must identify the nature of your business with the CITY. Clearly show any assigned number of a bid, contract, lease, permit, etc. or give the project name and the job site or street address to ensure that your submission will be properly credited. Provide the types of coverage and minimum dollar amounts specified on the Required Insurance and Minimum Limits sheet (Form Gen. 146) included in your CITY documents.

2. When to submit Normally, no work may begin until a CITY insurance certificate approval number ("CA number") has been obtained, so insurance documents should be submitted as early as practicable. For **As-needed Contracts**, insurance need not be submitted until a specific job has been awarded. **Design Professionals** coverage for new construction work may be submitted simultaneously with final plans and drawings, but before construction commences.

3. Acceptable Evidence and Approval Electronic submission is the preferred method of submitting your documents. **Track4LA™** is the CITY's online insurance compliance system and is designed to make the experience of submitting and retrieving insurance information quick and easy. The system is designed to be used primarily by insurance brokers and agents as they submit client insurance certificates directly to the City. It uses the standard insurance industry form known as the **ACORD 25 Certificate of Liability Insurance** in electronic format. **Track4LA™** advantages include standardized, universally accepted forms, paperless approval transactions (24 hours, 7 days per week), and security checks and balances. The easiest and quickest way to obtain approval of your insurance is to have your insurance broker or agent access **Track4LA™** at <http://track4la.lacity.org> and follow the instructions to register and submit the appropriate proof of insurance on your behalf.

Insurance industry certificates other than the ACORD 25 may be accepted. All Certificates must provide a thirty (30) days' cancellation notice provision (ten (10) days for non-payment of premium) AND an Additional Insured Endorsement naming the CITY an additional insured completed by your insurance company or its designee. If the policy includes an automatic or blanket additional insured endorsement, the Certificate must state the CITY is an automatic or blanket additional insured. An endorsement naming the CITY an Additional Named Insured and Loss Payee as its Interests May Appear is required on property policies. All evidence of insurance must be authorized by a person with authority to bind coverage, whether that is the authorized agent/broker or insurance underwriter.

Acceptable Alternatives to Acord Certificates and other Insurance Certificates:

- A copy of the full insurance policy which contains a thirty (30) days' cancellation notice provision (ten (10) days for non-payment of premium) and additional insured and/or loss-payee status, when appropriate, for the CITY.
- **Binders and Cover Notes** are also acceptable as interim evidence for up to 90 days from date of approval.

Additional Insured Endorsements DO NOT apply to the following:

- Indication of compliance with statute, such as Workers' Compensation Law.
- Professional Liability insurance.

Completed **Insurance Industry Certificates other than ACORD 25 Certificates** can be sent electronically (CAO.insurance.bonds@lacity.org) or faxed to the Office of the City Administrative Officer, Risk Management (213) 978-7616. Please note that submissions other than through

Track4LA™ will delay the insurance approval process as documents will have to be manually processed.

Verification of approved insurance and bonds may be obtained by checking Track4LA™, the CITY's online insurance compliance system, at <http://track4la.lacity.org>.

4. **Renewal** When an existing policy is renewed, have your insurance broker or agent submit a new Acord 25 Certificate through Track4LA™ at <http://track4la.lacity.org> or submit an Insurance Industry Certificate or a renewal endorsement as outlined in Section 3 above. If your policy number changes you must also submit a new Additional Insured Endorsement with an Insurance Industry Certificate.

5. **Alternative Programs/Self-Insurance** Risk financing mechanisms such as Risk Retention Groups, Risk Purchasing Groups, off-shore carriers, captive insurance programs and self-insurance programs are subject to separate approval after the CITY has reviewed the relevant audited financial statements. To initiate a review of your program, you should complete the Applicant's Declaration of Self Insurance form (<http://cao.lacity.org/risk/InsuranceForms.htm>) to the Office of the City Administrative Officer, Risk Management for consideration.

6. **General Liability** Insurance covering your operations (and products, where applicable) is required whenever the CITY is at risk of third-party claims which may arise out of your work or your presence or special event on City premises. **Sexual Misconduct** coverage is a required coverage when the work performed involves minors. **Fire Legal Liability** is required for persons occupying a portion of CITY premises. (Information on two CITY insurance programs, the SPARTA program, an optional source of low-cost insurance which meets the most minimum requirements, and the Special Events Liability Insurance Program, which provides liability coverage for short-term special events on CITY premises or streets, is available at (www.2sparta.com), or by calling (800) 420-0555.)

7. **Automobile Liability** insurance is required only when vehicles are used in performing the work of your Contract or when they are driven off-road on CITY premises; it is not required for simple commuting unless CITY is paying mileage. However, compliance with California law requiring auto liability insurance is a contractual requirement.

8. **Errors and Omissions** coverage will be specified on a project-by-project basis if you are working as a licensed or other professional. The length of the claims discovery period required will vary with the circumstances of the individual job.

9. **Workers' Compensation and Employer's Liability** insurance are not required for single-person contractors. However, under state law these coverages (or a copy of the state's Consent To Self Insure) must be provided if you have any employees at any time during the period of this contract. Contractors with no employees must complete a Request for Waiver of Workers' Compensation Insurance Requirement (<http://cao.lacity.org/risk/InsuranceForms.htm>). A Waiver of Subrogation on the coverage is required only for jobs where your employees are working on CITY premises under hazardous conditions, e.g., uneven terrain, scaffolding, caustic chemicals, toxic materials, power tools, etc. The Waiver of Subrogation waives the insurer's right to recover (from the CITY) any workers' compensation paid to an injured employee of the contractor.

10. **Property Insurance** is required for persons having exclusive use of premises or equipment owned or controlled by the CITY. **Builder's Risk/Course of Construction** is required during construction projects and should include building materials in transit and stored at the project site.

11. **Surety** coverage may be required to guarantee performance of work and payment to vendors and suppliers. A **Crime Policy** may be required to handle CITY funds or securities, and under certain other conditions. **Specialty coverages** may be needed for certain operations. For assistance in obtaining the CITY required bid, performance and payment surety bonds, please see the City of Los Angeles Bond Assistance Program website address at <http://cao.lacity.org/risk/BondAssistanceProgram.pdf> or call (213) 258-3000 for more information.

**SCHEDULE A
CITY OF LOS ANGELES
MBE/WBE/SBE/EBE/DVBE/OBE SUBCONTRACTORS INFORMATION FORM**

(NOTE: COPY THIS PAGE AND ADD ADDITIONAL SHEETS AS NECESSARY, SIGN ALL SHEETS)

| |
|----------------------|
| Project Title |
|----------------------|

| | |
|-----------------------|------------------|
| Prosper | Address |
| Contact Person | Phone/Fax |

| LIST OF ALL SUBCONTRACTORS (SERVICE PROVIDERS/SUPPLIERS/ETC.) | | | | |
|--|-------------------------------|--------------------------|-----------------------------|-----------------------------|
| NAME, ADDRESS, TELEPHONE NO. OF SUBCONSULTANT | DESCRIPTION OF WORK OR SUPPLY | MBE/WBE/SBE/EBE/DVBE/OBE | CALTRANS/CITY/MTA CERT. NO. | DOLLAR VALUE OF SUBCONTRACT |
| | | | | |
| | | | | |
| | | | | |
| | | | | |
| | | | | |
| | | | | |

| PERCENTAGE OF MBE/WBE/SBE/EBE/DVBE/OBE PARTICIPATION | | | <div style="text-align: center; margin-bottom: 20px;"> <hr style="border: 0; border-top: 1px solid black; width: 80%; margin: 0 auto;"/> Signature of Person Completing this Form </div> <div style="text-align: center; margin-bottom: 20px;"> <hr style="border: 0; border-top: 1px solid black; width: 80%; margin: 0 auto;"/> Printed Name of Person Completing this Form </div> <div style="display: flex; justify-content: space-around;"> <div style="text-align: center; width: 45%;"> <hr style="border: 0; border-top: 1px solid black; width: 80%; margin: 0 auto;"/> Title </div> <div style="text-align: center; width: 45%;"> <hr style="border: 0; border-top: 1px solid black; width: 80%; margin: 0 auto;"/> Date </div> </div> |
|---|----------------|----------------|--|
| | DOLLARS | PERCENT | |
| TOTAL MBE AMOUNT | \$ | % | |
| TOTAL WBE AMOUNT | \$ | % | |
| TOTAL SBE AMOUNT | \$ | % | |
| TOTAL EBE AMOUNT | \$ | % | |
| TOTAL DVBE AMOUNT | \$ | % | |
| TOTAL OBE AMOUNT | \$ | % | |
| BASE BID AMOUNT | \$ | | |

MUST BE SUBMITTED WITH BID

SCHEDULE B

MBE/WBE/SBE/EBE/DVBE/OBE UTILIZATION PROFILE

| | |
|----------------------|---------------------|
| Project Title | Contract No. |
|----------------------|---------------------|

| | |
|-------------------|----------------|
| Consultant | Address |
|-------------------|----------------|

| | |
|-----------------------|------------------|
| Contact Person | Phone/Fax |
|-----------------------|------------------|

| | | |
|---|----------------------------|---|
| CONTRACT AMOUNT (INCLUDING AMENDMENTS) | THIS INVOICE AMOUNT | INVOICED TO DATE AMOUNT (INCLUDE THIS INVOICE) |
| | | |

| MBE/WBE/SBE/EBE/DVBE/OBE SUBCONTRACTORS (LIST ALL SUBS) | | | | | |
|--|---|--|--|--|--|
| NAME OF SUBCONTRACTOR | MBE/WBE/ SBE/EBE/ DVBE/OBE | ORIGINAL SUBCONTRACT AMOUNT | THIS INVOICE (AMOUNT NOW DUE) | INVOICED TO DATE (INCLUDE THIS INVOICE) | SCHEDULED PARTICIPATION TO DATE |
| | | | | | |
| | | | | | |
| | | | | | |
| | | | | | |
| | | | | | |
| | | | | | |

| CURRENT PERCENTAGE OF MBE/WBE/SBE/EBE/DVBE/OBE PARTICIPATION TO DATE | | | Signature of Person Completing this Form: _____ |
|---|----------------|----------------|--|
| | DOLLARS | PERCENT | |
| TOTAL MBE PARTICIPATION | \$ | % | Printed Name of Person Completing this Form: _____ Title: _____ Date: _____ |
| TOTAL WBE PARTICIPATION | \$ | % | |
| TOTAL SBE PARTICIPATION | \$ | % | |
| TOTAL EBE PARTICIPATON | \$ | % | |
| TOTAL DVBE PARTICIPATION | \$ | % | |
| TOTAL OBE PARTICIPATION | \$ | % | |

MUST BE SUBMITTED WITH EACH INVOICE

**SCHEDULE C
FINAL SUBCONTRACTING REPORT**

| | |
|----------------------|---------------------|
| Project Title | Contract No. |
|----------------------|---------------------|

| | |
|-----------------------|----------------|
| Company Name | Address |
| Contact Person | Phone |

| Name, Address, Telephone No. of all Sub-consultants Listed on Schedule C | Description of Work or Supply | MBE/WBE/SBE/EBE/DVBE/OBE | Original Dollar Value of Subcontract | Actual Dollar Value of Subcontract* |
|--|-------------------------------|--------------------------|--------------------------------------|-------------------------------------|
| | | | | |
| | | | | |
| | | | | |
| | | | | |
| | | | | |
| | | | | |
| | | | | |
| | | | | |

* If the actual dollar value differs from the original dollar value, explain the differences and give details.

| | Total Dollars | Achieved Levels | Pledged Levels | | Total Dollars | Achieved Levels | Pledged Levels |
|--------------------|---------------|-----------------|----------------|-------------------|---------------|-----------------|----------------|
| MBE Participation | | | | WBE Participation | | | |
| SBE Participation | | | | EBE Participation | | | |
| DVBE Participation | | | | OBE Participation | | | |

Signature of Person Completing this Form _____ Printed Name _____ Title _____ Date _____

SUBMIT WITHIN 15 DAYS OF PROJECT COMPLETION



City Ethics Commission
 200 N Spring Street
 City Hall — 24th Floor
 Los Angeles, CA 90012
 Mall Stop 129
 (213) 978-1960

Bidder Certification CEC Form 50

This form must be submitted to the awarding authority with your bid or proposal for the contract noted below. Please write legibly.

Original filing Amended filing (original signed on _____; last amendment signed on _____)

Bid/Contract/BAVN Number:

Awarding Authority (Department):

Name of Bidder:

Phone:

Address:

Email:

CERTIFICATION

I certify the following on my own behalf or on behalf of the entity named above, which I am authorized to represent:

- A. I am a person or entity that is applying for a contract with the City of Los Angeles.
- B. The contract for which I am applying is an agreement for one of the following:
 - 1. The performance of work or service to the City or the public;
 - 2. The provision of goods, equipment, materials, or supplies;
 - 3. Receipt of a grant of City financial assistance for economic development or job growth, as further described in Los Angeles Administrative Code § 10.40.1(h); or
 - 4. A public lease or license of City property where both of the following apply, as further described in Los Angeles Administrative Code § 10.37.1(l):
 - a. I provide services on the City property through employees, sublessees, sublicensees, contractors, or subcontractors, and those services:
 - i. Are provided on premises that are visited frequently by substantial numbers of the public; or
 - ii. Could be provided by City employees if the awarding authority had the resources; or
 - iii. Further the proprietary interests of the City, as determined in writing by the awarding authority.
 - b. I am not eligible for exemption from the City's living wage ordinance, as eligibility is described in Los Angeles Administrative Code § 10.37.1(l)(b).
- C. The value and duration of the contract for which I am applying is one of the following:
 - 1. For goods or services contracts—a value of more than \$25,000 and a term of at least three months;
 - 2. For financial assistance contracts—a value of at least \$100,000 and a term of any duration; or
 - 3. For construction contracts, public leases, or licenses—any value and duration.
- D. I acknowledge and agree to comply with the disclosure requirements and prohibitions established in the Los Angeles Municipal Lobbying Ordinance if I qualify as a lobbying entity under Los Angeles Municipal Code § 48.02.

I certify under penalty of perjury under the laws of the City of Los Angeles and the state of California that the information in this form is true and complete.

Date: _____ Signature: _____

Name: _____

Title: _____

Los Angeles Administrative Code § 10.40.1

- (h) **"City Financial Assistance Recipient"** means any person who receives from the City discrete financial assistance in the amount of One Hundred Thousand Dollars (\$100,000.00) or more for economic development or job growth expressly articulated and identified by the City, as contrasted with generalized financial assistance such as through tax legislation.

Categories of such assistance shall include, but are not limited to, bond financing, planning assistance, tax increment financing exclusively by the City, and tax credits, and shall not include assistance provided by the Community Development Bank. City staff assistance shall not be regarded as financial assistance for purposes of this article. A loan shall not be regarded as financial assistance. The forgiveness of a loan shall be regarded as financial assistance. A loan shall be regarded as financial assistance to the extent of any differential between the amount of the loan and the present value of the payments thereunder, discounted over the life of the loan by the applicable federal rate as used in 26 U.S.C. Sections 1274(d), 7872(f). A recipient shall not be deemed to include lessees and sublessees.

Los Angeles Administrative Code § 10.37.1

(l) **"Public lease or license"**.

- (a) Except as provided in (l)(b), "Public lease or license" means a lease or license of City property on which services are rendered by employees of the public lessee or licensee or sublessee or sublicensee, or of a contractor or subcontractor, but only where any of the following applies:
- (1) The services are rendered on premises at least a portion of which is visited by substantial numbers of the public on a frequent basis (including, but not limited to, airport passenger terminals, parking lots, golf courses, recreational facilities); or
 - (2) Any of the services could feasibly be performed by City employees if the awarding authority had the requisite financial and staffing resources; or
 - (3) The DAA has determined in writing that coverage would further the proprietary interests of the City.
- (b) A public lessee or licensee will be exempt from the requirements of this article subject to the following limitations:
- (1) The lessee or licensee has annual gross revenues of less than the annual gross revenue threshold, three hundred fifty thousand dollars (\$350,000), from business conducted on City property;
 - (2) The lessee or licensee employs no more than seven (7) people total in the company on and off City property;
 - (3) To qualify for this exemption, the lessee or licensee must provide proof of its gross revenues and number of people it employs in the company's entire workforce to the awarding authority as required by regulation;
 - (4) Whether annual gross revenues are less than three hundred fifty thousand dollars (\$350,000) shall be determined based on the gross revenues for the last tax year prior to application or such other period as may be established by regulation;
 - (5) The annual gross revenue threshold shall be adjusted annually at the same rate and at the same time as the living wage is adjusted under section 10.37.2 (a);
 - (6) A lessee or licensee shall be deemed to employ no more than seven (7) people if the company's entire workforce worked an average of no more than one thousand two-hundred fourteen (1,214) hours per month for at least three-fourths (3/4) of the time period that the revenue limitation is measured;
 - (7) Public leases and licenses shall be deemed to include public subleases and sublicenses;
 - (8) If a public lease or license has a term of more than two (2) years, the exemption granted pursuant to this section shall expire after two (2) years but shall be renewable in two-year increments upon meeting the requirements therefor at the time of the renewal application or such period established by regulation.

APPROVED
OCT 02 2013

REPORT OF GENERAL MANAGER

NO. 13-244

DATE September 18, 2013

**BOARD OF RECREATION
and PARK COMMISSIONERS**

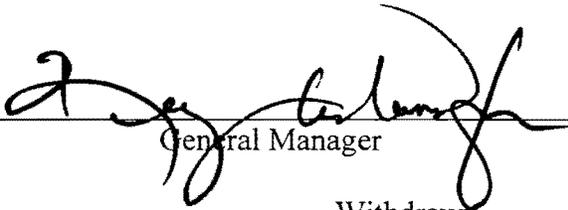
C.D. 13

BOARD OF RECREATION AND PARK COMMISSIONERS

SUBJECT: ECHO PARK CAFÉ CONCESSION – AWARD OF INTERIM CONCESSION AGREEMENT TO SQUARE ONE DINING

R. Adams _____
H. Fujita _____
V. Israel _____

K. Regan _____
M. Schull _____
*N. Williams RAJ



General Manager

Approved _____

Disapproved _____

Withdrawn _____

RECOMMENDATIONS:

That the Board:

1. Approve a proposed Interim Concession Agreement between the City of Los Angeles Department of Recreation and Parks (RAP) and Square One Dining, substantially in the form on file in the Board Office, for the operation and maintenance of the Echo Park Café Concession for a term of one (1) year with two (2) one-year renewal options, exercisable at the General Manager's sole discretion, subject to the approval of the Mayor and of the City Attorney as to form;
2. Find, in accordance with Charter Section 1022, that RAP does not have personnel available in its employ with sufficient time and expertise to undertake these specialized professional tasks and that it is more feasible and more economical to secure these services by contract;
3. Find, in accordance with Charter Section 371(e)(10) and Los Angeles Administrative Code Section 10.15(a)(10), that in order to provide continued, uninterrupted service to the public and avoid a revenue shortfall, a competitive bidding process is not practicable or advantageous at this time, and that it is therefore in the City's best interest to enter into this Interim Concession Agreement until the completion of a formal Request for Proposal (RFP) process when a multi-year agreement can be executed;

REPORT OF GENERAL MANAGER

PG. 2

NO. 13-244

4. Find, in accordance with Charter Section 372, that obtaining competitive proposals or bids for work to be performed pursuant to this agreement is not reasonably practicable or compatible with RAP's interests of offering café dining services to the public while RAP conducts a formal RFP process;
5. Direct the Board Secretary to transmit the proposed Agreement, concurrently, to the Mayor in accordance with Executive Directive No. 3, and to the City Attorney for approval as to form; and,
6. Authorize the Board President and Secretary to execute the Agreement upon receipt of the necessary approvals.

SUMMARY:

This is a newly established concession. The 1,500 square foot Echo Park Boathouse (Boathouse), originally constructed in 1932 at 751 N. Echo Park Ave. in Los Angeles, was designed in the Spanish Colonial Revival Style and is positioned over the Echo Park Lake.

Other amenities and features at Echo Park Lake include a baseball diamond, lighted indoor and outdoor basketball courts, a play area for children, a lighted football field, two swimming pools, a soccer field, and lighted tennis courts. Besides offering a variety of recreational activities to be enjoyed by patrons, the historic park has also long been a popular location for Hollywood filming.

The Boathouse has undergone several aesthetic and building system retrofits throughout the years. Phase I of the most recent rehabilitation effort, the Echo Park Boathouse Rehabilitation project, was completed in 2007. It entailed preserving the existing piles, rehabilitating the dock, and providing disabled access to the dock.

Phase II of the Echo Park Boathouse Rehabilitation project included the completion of the aesthetic, and structural retrofit of the existing building and mechanical systems. The Boathouse Rehabilitation project is a small part of the larger Echo Park Lake Rehabilitation project.

This Concession operates in the recently restored Boathouse, and a one-year interim concession agreement, with two (2) one-year renewal options, will allow the concessionaire the exclusive right and obligation to staff, equip, and operate a café dining service until completion of a formal Request for Proposal process when a multi-year agreement can be executed. The Concessionaire will offer food and non-alcoholic beverages for sale to park patrons and the neighboring community.

REPORT OF GENERAL MANAGER

PG. 3 NO. 13-244

Under a 90-Day Interim Permit, the current operator, Square One Dining, has been providing quality service to the community. Approval of this interim concession agreement will allow RAP to continue to provide uninterrupted service to the public while an RFP is developed.

Staff will develop and, with approval from the Board, release an RFP for this concession. With the RFP, RAP will seek a qualified, experienced, and financially sound operator who will meet or exceed RAP's expectations in all operational and financial areas, and optimize service to the public and profitability to the business.

90-Day Interim Permit

The Echo Park Pedal Boats and Café RFP was approved by the Board for release on December 10, 2012 (BR 12-329). The RFP was released to the public on February 14, 2013, and on March 7, 2013, a Pre-Proposal Conference was held at which representatives for eight (8) companies attended.

On April 23, 2013, the RFP proposals were due. No proposals were received due in part to the inability of the perspective bidders to manage both operations (Pedal Boats and Café) as one concession. On May 23, 2013, the Pedal Boat operation and the Café operation were bifurcated from one another. 90-Day Interim Permit proposal solicitations for each operation were sent to Pre-Proposal Conference attendees, allowing them to bid on either one or both opportunities.

On June 4, 2013, Square One Dining inquired about an opportunity to operate a Café at Echo Park. On June 7, 2013, the Interim Permit proposals were due. No proposals were received for the Café operation.

On June 12, 2013 Concessions Unit staff contacted Square One Dining to discuss their inquiry, and reviewed publically available information about their current dining operations.

On July 11, 2013, the Interim Permit between RAP and Square One Dining for the operation of the Echo Park Café Concession was executed. On July 20, 2013, the Concession opened to the public. The permit expires on October 5, 2013.

Food Service

Square One Dining operates two (2) food establishments in the Los Angeles area with an emphasis on highest quality food using fresh, locally-obtained ingredients. When possible, they utilize organic, local, and small farm produce, and all of their meat products are hormone free.

REPORT OF GENERAL MANAGER

PG. 4

NO. 13-244

Operation Plan

Offered at affordable prices, Square One Dining will sell food and beverages for breakfast and lunch. Patrons will be able to order food from inside the Boathouse, and seating is arranged both inside and outside the facility. Value-priced, pre-prepared and packaged items and beverages for quick service will also be available, and Square One Dining is allowed to make use of a mobile service cart to sell food items around the park.

Concession Agreement

For this concession, the operator is permitted to use seven (7) rooms of the Boathouse. The hours of operation will be year-round from 9:00 AM to 3:00 PM, except it will be closed on Christmas Day. Under the terms of the one-year interim concession agreement, with up to two (2) one-year renewal options, Square One Dining will provide a cash register, and tables and chairs for the operation.

The concessionaire shall pay 5% of gross receipts monthly rent. If the total rent paid after each twelve (12) month period is less than \$6,000, the concessionaire will remit the difference to RAP.

FISCAL IMPACT STATEMENT:

During the one-year term of this concession agreement, RAP will receive a minimum of \$6,000 in rent. Of that amount, \$5,400 will be deposited into Fund 302, Dept. 88 General Fund (90%), and \$600 will be deposited into Fund 302, Dept. 89, Account 89070K Concession Improvement Account (10%).

Report prepared by Shaun Larsuel, Management Analyst II, Finance Division, Concessions Unit.

REPORT OF GENERAL MANAGER

APPROVED
MAY 20 2015

NO. 15-108

DATE May 20, 2015

C.D. 13

BOARD OF RECREATION AND PARK COMMISSIONERS

BOARD OF RECREATION
AND PARK COMMISSIONERS

SUBJECT: ECHO PARK BOATHOUSE CAFÉ CONCESSION - REQUEST FOR PROPOSALS

| | | | |
|------------|-------|-------------|--|
| R. Adams | _____ | *V. Israel | <u></u> |
| R. Barajas | _____ | K. Regan | _____ |
| H. Fujita | _____ | N. Williams | _____ |


General Manager

Approved *as amended see attached* Disapproved _____ Withdrawn _____

RECOMMENDATIONS:

That the Board:

1. Approve the Echo Park Boathouse Café Concession Request for Proposals (RFP) for a three (3) year Concession Agreement (Agreement), substantially in the form on file in the Board Office, subject to review and approval of the City Attorney as to form;
2. Direct the Board of Recreation and Park Commissioners (Board) Secretary to transmit the RFP to the City Attorney for review and approval as to form;
3. Direct staff, subsequent to City Attorney review and approval as to form, to advertise the RFP and conduct the RFP process;
4. Authorize the General Manager, or designee, to make any necessary technical changes and incorporate such changes in the RFP.

SUMMARY:

The Echo Park Boathouse Café Concession (Concession) is in the fifteen hundred (1,500) square foot Echo Park Boathouse (Boathouse), located at 751 N. Echo Park Avenue in Echo Park, Los Angeles, CA 90026, on the east side of Echo Park Lake (Lake). The Boathouse was originally constructed in 1932. The design of the Boathouse is in the Spanish Colonial Revival Style. The Boathouse is a historically significant contributing element to the park surrounding Echo Park Lake (Park). The thirteen (13) acre Lake is surrounded by the Park, with eleven (11) acres of open recreational space. In 2006, the City of Los Angeles (City) designated the Park as Historic-Cultural Monument (HCM) No. LA-836.

Other amenities located close to the Lake include a baseball diamond, lighted indoor and outdoor basketball courts, a play area for children, a lighted football field, two (2) swimming pools, a

REPORT OF GENERAL MANAGER

PG. 2

NO. 15-108

soccer field, and lighted tennis courts. Besides offering a variety of recreational activities to be enjoyed by patrons, the historic Park has also long been a popular location for Hollywood filming.

The Boathouse has undergone several aesthetic and building system retrofits throughout the years. Phase I of the most recent rehabilitation effort, the Echo Park Boathouse Rehabilitation Project (Project), was completed in 2007. The Project entailed preserving the existing piles, rehabilitating the dock and providing individuals with disabilities access to the dock.

In July 2012, Phase II of the Project, including the aesthetic, and structural retrofit of the existing building and mechanical systems, was completed. The Boathouse rehabilitation was a small part of the larger Project. Two (2) long-term concessions are to be developed and located in the Boathouse, a café operation and a pedal boat rental operation.

On July 20, 2013, the Café Concession opened for operation on an interim basis, under a ninety (90) day interim permit with Square One Dining and included the exclusive right and obligation to staff, equip and operate the café. The Concession offers Park patrons and the neighboring community a moderately-priced gourmet food menu of baked goods, breakfast items, sandwiches, salads and non-alcoholic beverages.

On October 2, 2013, the Board approved and awarded Square One Dining a one (1) year concession agreement (Agreement) with two (2), one (1) year options to extend the Agreement at the discretion of the General Manager of the Department of Recreation and Parks (Department) (Board Report No. 13-244), to operate and maintain the Café Concession while an RFP for a three (3) year Agreement is developed for release. The Agreement was reviewed and approved by the Mayor's Office and the City Attorney's Office as to form. The Agreement (Contract Agreement No. 273) was executed on October 4, 2013. Square One Dining is currently operating the Café Concession. From January 2014 through December 2014, Square One Dining generated average monthly gross receipts of Forty-five Thousand Two Hundred and Twenty Dollars (\$45,220.00). An average monthly revenue share of Two Thousand Two Hundred and Sixty Dollars (\$2,260.00) was paid to the Department. The first one-year extension option was exercised. The Agreement will expire on October 10, 2015. The one (1), one (1) year option to extend the Agreement remains.

The Café Concession operation is very well received by the community. Staff anticipates continued success for the Concession. Park patrons enjoy the café's outdoor seating and moderately-priced gourmet health-conscious menu.

Staff has developed and is now ready to release, at the direction of the Board, a RFP for the operation and maintenance of the Concession. With this RFP, the Department seeks a qualified, experienced, and financially sound operator who will meet or exceed the Department's expectations in all operational and financial areas, and optimize service to the public and profitability of the Concession.

REPORT OF GENERAL MANAGER

PG. 3

NO. 15-108

Proposal and Contractual Provisions

1. Proposal Deposit: A Five Thousand Dollar (\$5,000.00) proposal deposit will be required with the submission of each proposal.
2. Term: Three (3) years.
3. Revenue-Sharing Terms: The Minimum Acceptable percentage for this RFP is nine percent (9%) of gross receipts for all food and beverage sold during the three (3) years. The annual minimum revenue-sharing payment for this Concession per calendar year will be determined by the proposer in the Pro Forma section of the selected proposal or Twenty-seven Thousand One Hundred and Forty Dollars (\$27,140.00), whichever is greater. If the annual minimum revenue-sharing payment is not met by December 31st of each calendar year, the difference between the actual revenue-sharing payment received by the Department and the annual minimum revenue-sharing fee will be due to the Department by January 15th of the subsequent year, pro-rated as necessary for the first year of operation or fractional part thereof, and pro-rated as necessary for the final year of operation or fractional part thereof.
4. Concession Improvements: No concession improvement proposals are required in the RFP. Physical improvements, repairs or physical alterations to the Boathouse are restricted due to the historical significance of the facility.

The Boathouse is a historically significant contributing element to the Park, which is designated as HCM No. LA-836 in accordance with Chapter 9, Article 1 of the Los Angeles Administrative Code. HCM No. LA-836 is listed in the California Register of Historic Resources as eligible for the National Register of Historic Places. The Boathouse is considered historically significant for California Environmental Quality Act (CEQA) purposes.

During the term of the Agreement, no improvements, repairs or physical alterations to the Boathouse may be initiated by selected proposer without prior written approval from the General Manager. In addition to written approval from the General Manager, the selected operator must also obtain the prior written approval of the Cultural Heritage Commission

for any proposed substantial alterations to the affected area, in accordance with Section 22.171.14 of the Los Angeles Administrative Code.

Any infractions, large or small, will be treated as a material breach of the Agreement and will be subject to all of the applicable laws, fines and penalties imposed by the City's Department of Building and Safety, as well as the Office of Historic Resources. Additional remedies may include the termination of the Agreement, including loss of all financial investment at the time of the breach.

REPORT OF GENERAL MANAGER

PG. 4

NO. 15-108

5. **Improvements and Reserve Fund:** The Concessionaire, in addition to submitting a monthly revenue sharing payment, shall also submit to the Department a monthly reserve fund (Fund) payment in the amount of Two Hundred Dollars (\$200.00) per month for the purpose of repair, refurbishment, or replacement of equipment and capital improvements. This Fund shall not be used for routine repair and maintenance or replacement of equipment. The Fund shall be cumulative and carry-over from year-to-year during the term of the Agreement. In the event of the Agreement termination for any reason, or at the conclusion of the Agreement term, any amount in this Fund account will remain with the Department. Annually in January, the Concessionaire may submit a request for use of the Fund for expenditures in the coming year, for review and the written approval of the General Manager. In the event of emergency, the Concessionaire shall request in writing the use of the Fund for other purposes, or the General Manager may request use of the Fund on a specific repair, refurbishment, or replacement.
6. **Utilities:** The Concessionaire shall be responsible for utility charges associated with the Concession. Charges may include, but are not limited to, deposits, installation costs, meter deposits, and all service charges for water, gas, electricity, heat, air-conditioning, trash pick-up, and other utility services to the premises, and shall be paid by the Concessionaire regardless of whether such utility services are furnished by the City or by other utility service providers. The Concessionaire will pay directly for telephone services, which will be in the name of the Concessionaire. In the event that individual utility meters are not available, the Concessionaire shall remit, on a monthly basis in conjunction with revenue-sharing and monthly reserve fund payments to the Department, the amount of Four Hundred Fifty Dollars (\$450.00) as payment for utilities. Payment of utilities will be subject to increase after the first year of operation to cover increasing utility costs.
7. **Contractual and Financial Terms:** The City will enter into an Agreement whereby the City has no financial responsibility or liability for operation of the Concession and the City will share in profits in the form of a percentage of gross revenue and annual minimum revenue sharing payment in addition to monthly reserve fund payment and utility payments if applicable.
8. **Performance Deposit:** A Performance Deposit (Deposit) will be required to be maintained for the duration of the Agreement in the amount of Five Thousand Dollars (\$5,000.00). The Deposit will be in the form of a cashier's check made out to the City of Los Angeles.

Evaluation Process

Proposals will be evaluated in two (2) Levels. Level I will be a check and review by Concessions Unit staff for required compliance to City contracting requirements and submittal documents. Level II will be a comprehensive evaluation of the proposals by a panel comprised of qualified persons not part of the Concessions Unit that may include individuals outside the Department. Proposers must successfully pass Level I to proceed to Level II.

REPORT OF GENERAL MANAGER

PG. 5

NO. 15-108

RFP Evaluation Criteria Areas

For the purposes of evaluation, the proposals that passed Level I will be evaluated on the criteria below (Level II):

- 1) Business Plan (20 points possible)
- 2) Proposed Operational Plan for the Echo Park Boathouse Café Concession (20 points possible)
- 3) Proposed Revenue-Sharing Payment (60 points possible)

The RFP documents will be advertised in the Los Angeles Daily Journal; made available on the Department's website; and posted on the Los Angeles Business Assistance Virtual Network (BAVN). A letter inviting bids will be mailed to organizations and individuals from a mailing list maintained by the Concessions Unit.

A mandatory Pre-Proposal Conference will be held approximately one (1) month after the release of the RFP in order to provide potential proposers with a review of the submittal documents, compliance documents and requirements for the Business Inclusion Program (BIP) as mandated by the Mayor's Executive Directive No. 14, Villaraigosa Series, and the Board's policy for the adoption and implementation of BIP (Board Report No. 12-050, approved February 15, 2012). Additionally, a mandatory site walk will be conducted after the conference in order for the potential proposers to view the facility to get a better understanding of the operation and maintenance of the Concession.

FISCAL IMPACT STATEMENT:

Releasing the Request for Proposals will have no impact to the Department's General Fund.

Report prepared by Felice Chen, Management Analyst II, Concessions Unit, Partnerships Division.

EXCERPT FROM THE MINUTES OF THE REGULAR MEETING
BOARD OF RECREATION AND PARK COMMISSIONERS
May 20, 2015

15-108

ECHO PARK BOATHOUSE CAFÉ CONCESSION – REQUEST
FOR PROPOSALS

The item was presented to the Board by Agnes Ko, Senior Management Analyst II of the Concessions Unit. Ms. Ko requested that the Request for Proposals (RFP) document be amended to revise the stated term of the agreement to three years so it is consistent with the term detailed in the accompanying General Manager's Report and sample concession agreement.

She further recommended that the RFP document be amended to include language requiring the successful proposer/concessionaire to work in conjunction with the Echo Park Pedal Boat Concessionaire in order to provide seamless service to the community.

Commissioner Alvarez noted that the RFP was reviewed and discussed in detail during the Concessions Task Force meeting held earlier in the day, and that issues arose relevant to this RFP as well as other RFPs to be considered by the Commission. The Board and Department staff discussed the item in detail.

Commissioner Alvarez proposed a Motion to amend the language in the Echo Park Café RFP regarding the hours of operation, to allow flexibility for the respondents to propose the days and hours of operation, adding that the language regarding the six-hour per day operating minimum could remain but proposers should be allowed to decide which days and hours the operation can be closed for holidays. The Commissioner concurred with Ms. Ko's recommendation to add language stating the selected proposer should work in conjunction with the Echo Park Pedal Boat Concessionaire, which includes coordinating the hours of operation.

Commissioner Alvarez moved, and Commissioner Zuñiga seconded, that General Manager's Report 15-108 and related documents be amended to include the three aforementioned technical changes, and that the RFP Evaluation Criteria be amended as follows:

- 1) Business Plan: **230** points
- 2) Proposed Operational Plan for the Echo Park Boathouse Café Concession: **230** points
- 3) Proposed Revenue-Sharing Payment: **640** points possible

There being no objections, the Motion was unanimously approved.

BOARD REPORTNO. 16-093DATE April 20, 2016C.D. 13**BOARD OF RECREATION AND PARK COMMISSIONERS**

SUBJECT: ECHO PARK BOATHOUSE CAFÉ CONCESSION – RESCIND THE 2015 REQUEST FOR PROPOSALS (CON-F15-003), RETAIN THE PROPOSAL DEPOSIT, REISSUE THE REQUEST FOR PROPOSALS

| | | | |
|------------|-------|-------------|---|
| A.P. Diaz | _____ | *V. Israel |  |
| R. Barajas | _____ | K. Regan | _____ |
| H. Fujita | _____ | N. Williams | _____ |



 General Manager

Approved _____

Disapproved _____

Withdrawn _____

RECOMMENDATIONS:

1. Rescind the Request for Proposals (RFP) for the Echo Park Boathouse Café Concession (CON-F15-003);
2. Retain the \$5,000.00 Proposal Deposit submitted by the sole responsive bidder, **MDDJ Four Square LLC (Four Square)**, as forfeiture due to Four Square's refusal to negotiate and execute a Concession Agreement with the annual minimum revenue-sharing terms presented in the Pro Forma Statement of Four Square's accepted proposal for the Echo Park Boathouse Café Concession (CON-F15-003);
3. Reissue the Echo Park Boathouse Café Concession Request for Proposals (RFP), with term length modification to a five (5) year Concession Agreement (Agreement) with one (1) five year renewal option at the sole discretion of the Department of Recreation and Parks (RAP), substantially in the form on file in the Board Office, subject to review and approval of the City Attorney as to form;
4. Direct the Board of Recreation and Park Commissioners (Board) Secretary to transmit the RFP to the City Attorney for review and approval as to form;
5. Direct staff, subsequent to City Attorney review and approval as to form, to advertise the RFP and conduct the RFP process; and
6. Authorize the General Manager, or designee, to make any necessary technical changes and incorporate such changes in the RFP.

BOARD REPORT

PG. 2

NO. 16-093

SUMMARY:

The Echo Park Boathouse Café Concession (Concession) is situated within the fifteen hundred (1,500) square foot Echo Park Boathouse (Boathouse), located at 751 N. Echo Park Avenue in Echo Park, Los Angeles, CA 90026, on the east side of Echo Park Lake (Lake). The Boathouse was originally constructed in 1932.

The Boathouse has undergone several aesthetic and building system retrofits throughout the years. Phase I of the most recent rehabilitation effort, the Echo Park Boathouse Rehabilitation Project (Project), entailed preserving the existing piles, rehabilitating the dock and providing individuals with disabilities access to the dock. Phase I was completed in 2007. Phase II of the Project included the aesthetic and structural retrofit of the existing building and mechanical systems and incorporation of areas for two (2) long-term concessions in the Boathouse - a café operation and a pedal boat rental operation. Phase II was completed in 2012.

On July 20, 2013, the Concession opened for operation on an interim basis, under a ninety (90) day interim permit with Square One Dining (Square One). On October 2, 2013, the Board approved and awarded Square One a one (1) year Concession Agreement (Agreement) with two (2), one (1) year options to extend the Agreement at the discretion of the RAP General Manager (through Report No. 13-244) (Attachment A). In 2015, Square One generated annual gross receipts of Five Hundred Eighty Thousand, Eight Hundred Thirty Nine Dollars (\$580,839.00), which produced revenue-share at five percent (5%) totaling Twenty-Nine Thousand, Forty-Two Dollars (\$29,042.00) that was paid to RAP.

On May 20, 2015, the Board approved and authorized the release of a RFP for a three (3) year Operation and Maintenance of the Echo Park Boathouse Café Concession (through Report No. 15-108) (Attachment B). The RFP was released on July 8, 2015 and advertised via Los Angeles Daily Journal, RAP's website, on Los Angeles Business Assistance Virtual Network, and by a mailed letter to parties on a concession interest list maintained by RAP.

On September 8, 2015, RAP received one (1) proposal - from (Four Square), whose three (3) officers form the management team of Square One, the current operators of the Concession under Concession Agreement No. 273. The proposal from Four Square was responsive and determined acceptable in the following areas: background and experience operating similar food services operations; financial capacity for commitments to the Concession; compliance with City contracting; and, annual minimum revenue-share RFP proposal requirements.

RAP was prepared to award a new Agreement to Four Square. On January 22, 2016, RAP staff met with Four Square to negotiate a new Concession Agreement, at which time Four Square stated that they could not commit to the annual minimum revenue-share figures as they had originally presented as part of the Pro Forma submitted with their proposal. Instead, Four Square proposed a reduced annual minimum revenue-sharing terms. RAP cannot reduce the proposed annual minimum revenue-sharing terms, and if Four Square is unable to execute the Agreement with the revenue-sharing terms presented in their original proposal, the \$5,000.00 proposal deposit must be retained by RAP as instructed in the RFP.

BOARD REPORT

PG. 3

NO. 16-093

RAP staff is ready to re-issue, at the direction of the Board, an RFP for the operation and maintenance of the Concession. With this RFP, RAP seeks a qualified, experienced, and financially sound operator who will meet or exceed the RAP's expectations in all operational and financial areas, and optimize service to the public and profitability of the Concession.

Proposal and Contractual Provisions

1. Proposal Deposit: Five Thousand Dollar (\$5,000.00) proposal deposit will be required with the submission of each proposal.
2. Term: Five (5) years with one (1) five (5) year renewal option exercisable at the sole discretion of RAP, along with approval of the Board of Recreation and Park Commissioners.
3. Revenue-Sharing Terms: The minimum acceptable percentage for this RFP is nine percent (9%) of gross receipts for all food and beverage sold during the term of the Agreement; or, an annual minimum revenue-sharing fee of Forty Thousand Dollars (\$40,000.00) for year one (1) of the Agreement with a three percent (3%) escalation each year thereafter - whichever is greater. If the annual minimum revenue-sharing fee is not met by December 31st of each calendar year, the difference between the actual revenue-sharing payment received by RAP and the annual minimum revenue-sharing fee will be due to RAP by January 15th of the subsequent year, pro-rated as necessary for the first year of operation or fractional part thereof, and pro-rated as necessary for the final year of operation or fractional part thereof.
4. Concession Improvements: No concession improvement proposals are required in the RFP. Physical improvements, repairs or physical alterations to the Boathouse are restricted due to the historical significance of the facility. RAP reserves the right to request a capital improvement plan upon exercising the five (5) year renewal option.

The Boathouse is a historically significant contributing element to the Park, which is designated as HCM No. LA-836 in accordance with Chapter 9, Article 1 of the Los Angeles Administrative Code. HCM No. LA-836 is listed in the California Register of Historic Resources as eligible for the National Register of Historic Places. The Boathouse is considered historically significant for California Environmental Quality Act (CEQA) purposes.

During the term of the Agreement, no improvements, repairs or physical alterations to the Boathouse may be initiated by selected proposer without prior written approval from the General Manager. In addition to written approval from the General Manager, the selected operator must also obtain the prior written approval of the Cultural Heritage Commission for any proposed substantial alterations to the affected area, in accordance with Section 22.171.14 of the Los Angeles Administrative Code.

Any infractions, large or small, to the prohibition on improving, repairing, or physically altering the Boathouse will be treated as a material breach of the Agreement and will be subject to all of the applicable laws, fines and penalties imposed by the City's Department

BOARD REPORT

PG. 4

NO. 16-093

of Building and Safety, as well as the Office of Historic Resources. Additional remedies may include the termination of the Agreement, including loss of all financial investment at the time of the breach.

5. **Reserve Fund:** The Concessionaire, in addition to submitting a monthly revenue sharing payment, shall also submit to RAP a monthly reserve fund (Fund) payment in the amount of Two Hundred Dollars (\$200.00) per month for the purpose of repair, refurbishment, or replacement of equipment and capital improvements. This Fund shall not be used for routine repair and maintenance or replacement of equipment. The Fund shall be cumulative and carry-over from year-to-year during the term of the Agreement. In the event of the Agreement termination for any reason, or at the conclusion of the Agreement term, any amount in this Fund account will remain with RAP. Annually in January, the Concessionaire may submit a request for use of the Fund for expenditures in the coming year, for review and the written approval of the General Manager. In the event of emergency, the Concessionaire shall request in writing the use of the Fund for other purposes, or the General Manager may request use of the Fund on a specific repair, refurbishment, or replacement.
6. **Utilities:** The Concessionaire shall be responsible for utility charges associated with the Concession. Charges may include, but are not limited to, deposits, installation costs, meter deposits, and all service charges for water, gas, electricity, heat, air-conditioning, trash pick-up, and other utility services to the premises, and shall be paid by the Concessionaire regardless of whether such utility services are furnished by the City or by other utility service providers. The Concessionaire will pay directly for telephone services, which will be in the name of the Concessionaire. In the event that individual utility meters are not available, the Concessionaire shall remit, on a monthly basis in conjunction with revenue-sharing and monthly reserve fund payments to the Department, the amount of Four Hundred Fifty Dollars (\$450.00) as payment for utilities. The payment for utilities will be subject to increase after the first year of operation to cover increasing utility costs.
7. **Contractual and Financial Terms:** The City will enter into an Agreement whereby the City has no financial responsibility or liability for operation of the Concession and the City will share in profits in the form of a percentage of gross revenue-based and/or annual minimum revenue-based sharing payment in addition to monthly reserve fund payment and utility payments as applicable.
8. **Performance Deposit:** A Performance Deposit (Deposit) will be required to be maintained for the duration of the Agreement in the amount of Ten Thousand Dollars (\$10,000.00). The Deposit will be in the form of a cashier's check made out to the City of Los Angeles.

Evaluation Process

Proposals will be evaluated in two (2) Levels. Level I will be a check and review by Concessions Unit staff for required compliance to City contracting requirements and submittal documents. Level II will be a comprehensive evaluation of the proposals that may consist of a review panel comprised of qualified persons. Proposers must successfully pass Level I to proceed to Level II.

BOARD REPORT

PG. 5

NO. 16-093

RFP Evaluation Criteria Areas

For the purposes of evaluation, the proposals that passed Level I will be evaluated on the criteria below (Level II):

- 1) Business Plan (30 points possible)
- 2) Proposed Operational Plan for the Echo Park Boathouse Café Concession (30 points possible)
- 3) Proposed Revenue-Sharing Payment (40 points possible)

The RFP documents will be advertised in the Los Angeles Daily Journal; made available on RAP's website; and posted on the Los Angeles Business Assistance Virtual Network (BAVN). A letter inviting bids will be mailed to organizations and individuals from a mailing list maintained by the Concessions Unit.

A mandatory Pre-Proposal Conference will be held approximately one (1) month after the release of the RFP in order to provide potential proposers with a review of the submittal documents, compliance documents and requirements for the Business Inclusion Program (BIP) as mandated by the Mayor's Executive Directive No. 14, Villaraigosa Series, and the Board's policy for the adoption and implementation of BIP (Board Report No. 12-050, approved February 15, 2012). Additionally, a mandatory site walk will be conducted after the conference in order for the potential proposers to view the facility to get a better understanding of the operation and maintenance of the Concession.

FISCAL IMPACT STATEMENT:

Re-releasing the Request for Proposals will have no impact to RAP's General Fund.

Report prepared by Stanley Woo, Management Analyst II, Concessions Unit, Partnerships Division.

2. PROPOSED OPERATIONAL PLAN AT THE PARK AND BOATHOUSE

2.1 PROPOSED MENU ITEMS/ DESCRIPTIONS

BREAKFAST MENU

- ARUGULA AVOCADO TOAST
- EGG SALAD TOAST
- BAE TOAST (BACON AVOCADO EGG)
- EGG BENEDICT TOAST
- MONTE CRISTO TOAST

LUNCH MENU

- GRILLED RATATOUILLE TOAST
- SEARED AHI TUNA SALAD
- NATURAL ANGUS BURGER
- FARM BURGER (NATURAL ANGUS PORK BLEND PATTY, DUCK BREAST BACON, FREE RANGE CHICKEN EGG, FARM FRESH VEGETABLES)
- SMOKED SALMON SANDWICH

DESSERT MENU

- CLASSIC FRENCH TOAST
- MILK BRAND ICE CREAM PRODUCTS

DRINK MENU

- MELON (FILIPINO FRESH FRUIT DRINK)
- FRESH SQUEEZED ORANGE JUICE
- WATERMELON MINT INFUSED LEMONADE

INTELLIGENTSIA BRANDED COFFEE PRODUCTS

- SPECIALTY DRINKS
 - HORCHATA FRAPPE- FRAPPE COMBINED WITH HORCHATA
 - CHOCOLATE MEXICANO FRAPPE – FRAPPE WITH REAL MEXICAN CHOCOLATE
 - VIETNAMESE ICED COFFEE BLEND- STRONG COFFEE FLAVOR. CONDENSED MILK

- MINT MOJITO ICED COFFEE – MINT. SWEET. CREAMY
- PHILHARMONIC – CARDAMOM. CINNAMON. PLUM

2.2 FULL EQUIPMENT LIST

(SEE ATTACHED EQUIPMENT LIST)

2.3 PROPOSED OPERATION SCHEDULE

OPEN 7 DAYS A WEEK

HOURS OF OPERATION: NON PEAK SEASON

MONDAY: 9AM – 3PM

TUESDAY: 9AM – 3PM

WEDNESDAY: 9AM – 3PM

THURSDAY: 9AM – 3PM

FRIDAY: 9AM – 5PM

SATURDAY: 8AM – 6PM

SUNDAY: 8AM – 6PM

HOURS OF OPERATION: PEAK SEASON

MONDAY: 8AM – 7PM

TUESDAY: 8AM – 7PM

WEDNESDAY: 8AM – 7PM

THURSDAY: 8AM – 7PM

FRIDAY: 8AM – 7PM

SATURDAY: 8AM – 7PM

SUNDAY: 8AM – 7PM

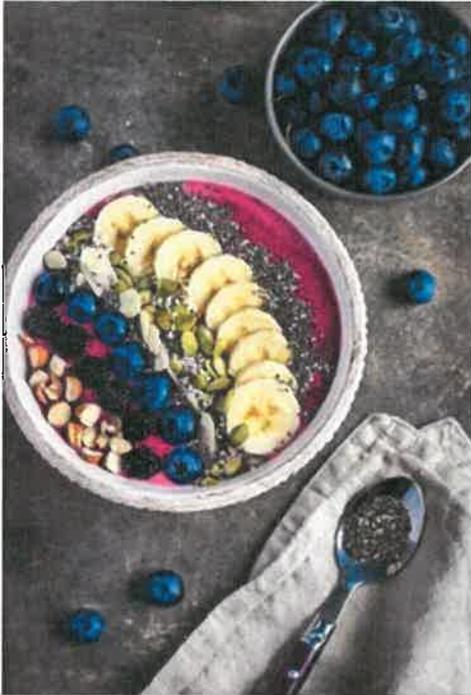
HOLIDAY SCHEDULE:

CHRISTMAS DAY: CLOSED

THANKSGIVING DAY: CLOSED

THE REST OF THE HOLIDAY SCHEDULE WILL BE DETERMINED IN CONJUNCTION WITH RAP. PENDING ON TRAFFIC LEVELS ON SOME HOLIDAYS. LEANING TOWARDS STAYING OPEN IF A HOLIDAY PRODUCES GREATER TRAFFIC FOR THE PARK

1e. Menu and Signature Items (partial short list)



Nitrogen Sunset Smoothie Bowl

Ingredients: Various fruit and vegetables with juice base (no dairy) cooled and formed by liquid nitrogen. Topped with 3-5 toppings (nuts, seeds, exotic fruits, superfoods).

Unique from the typical acai bowls as this can be made with different base flavors. Presentation and eye-catching nitrogen cooling process make the nitrogen smoothie bowls not only a healthy summer treat to taste but a sight to see. We will be serving 3-5 unique combinations concurrent with seasonal fruits and vegetables available to the area to guarantee the best flavor.

BAE Toast

Ingredients: Bacon. Avocado. Eggs. Toast. Bacon is thick in cut and crispy, Avocado in freshest green and ripe, eggs are poached and runny.

There is nothing more satisfying than this combo. Avocado toast is elevated with the always-pleasing taste of bacon and two, photogenic, soft-poached eggs. Simple, yet catchy as the combo spells out B A E.



Melon Milk Tea

Ingredients: Fresh melon balls from ripe melons, Jasmine or oolong tea, vanilla coconut milk, ice, simple syrup

This combination is the "California girl" version of Lola's Melon.



1c. Meal Periods/Opening Hours

Café Curate will be open for *breakfast, brunch, and lunch* seven days a week, year round. Operating hours will be Monday – Friday from 8am – 7pm in the summer peak season and 8am – 5pm in the winter non-peak season. The cafe will be closed on *Thanksgiving Day, Christmas Eve, Christmas Day, and New Years Day.*

In the event of the occasional community pop-ups for up and coming chefs, we may extend our hours in the evening. With this, we aim to expand Echo Park’s attendance base by offering a new, unique experience for the culinary community.

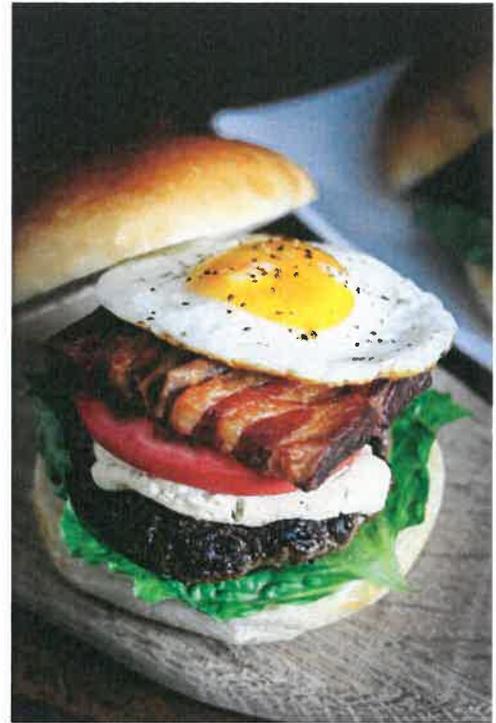
1d. Guest Experience

We plan to leverage the historic lighthouse building, canvassed by the beautiful greenery of the park and the soothing sensations of being right on the water. We want to expand upon the natural feelings of vigor, serenity, and rejuvenation when you visit Echo Park. By offering rewards points for recycling, monthly gift card drawings for Cute Dog of the Month, and offering discounts to paddleboat patrons, we aim to elevate our guest experience. Serving the community ever popular gourmet one of a kind toasts, burgers & sandwiches made with organic meats sourced from our own farms, sustainably grown coffee, and hand crafted smoothie bowls that look visually appealing as well as just the right sustenance to fuel your day at the park. Packaged in eco-friendly origami wrapping boxes, which will double as a plate and encourage our guests to recycle and keep the park pristine. We want to knock the socks off and change the paradigm of the park goer’s experience. We’re going for, “WOW, I never thought I could eat food that great at a small café at our own neighborhood park!”

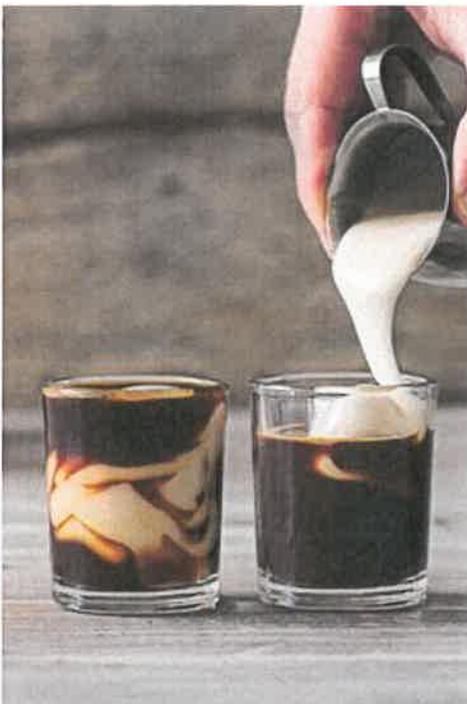


The Farm Burger

Ingredients: Duck breast bacon
Natural Angus Beef with
Berkshire pork blend, paired with
Free range organic chicken egg
Goat cheese
Farm fresh vegetables
on a golden brioche bun



Everything from a
farm on this Farm
Burger Classic



Coffee

Ingredients: Dark
roast ground coffee

1f. Pricing

At *Curate Café*, *gourmet toasts* will range from \$4.00 to \$9.00 each; sandwiches will range from \$7.00 to \$11.00 each, smoothie bowls from \$6.50 - \$8.50 each, and desserts will be \$5.00 each. We will sell *coffee beverages* for \$2.00 to \$5.00, *homemade juices* for \$6.00 to \$9.00 per *bottle*. This price point offers a competitive, yet affordable menu for high quality, chef-driven items at a reasonable price to be enjoyed by guests. The intended food and beverage cost percentage across the entire menu will be 25%.



5d. Key Design Features

The overall design for Curate Café is intended to be quaint, cozy, and evoke a familiar feeling. Key elements of the design are the weather resistant tables and chairs, as well as taking advantage of the openness of the FOH layout to display our products in a beautiful manner. The images below show the look and feel we hope to achieve in Curate Café.

Please see below for images that reflect the feel intended for the exterior, the presentation of the food and packaging. These images are not meant to be literal representations of how the restaurant will actually be designed, but are rather to serve as inspiration and to help communicate the proposed restaurant.





